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The Perils of Preemptive War

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The Perils of Preemptive War

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Introduction

On June 1, 2002 at West Point, President George W. Bush set forth a new doctrine for US security policy. The successful strategies of the Cold War era, he declared, are ill suited to national defense in the twenty-first century. Deterrence means nothing against terrorist networks; containment will not thwart unbalanced dictators possessing weapons of mass destruction. We cannot afford to wait until we are attacked. In today's circumstances, Americans must be ready to take "preemptive action" to defend our lives and liberties.

On August 26, 2002, Vice President Dick Cheney forcefully applied this new doctrine to Iraq. Saddam Hussein, he stated, is bolstering the country's chemical and biological capabilities and is aggressively pursuing nuclear weapons. "What we must not do in the face of a mortal threat," he declared, "is to give in to wishful thinking or willful blindness . . . Deliverable weapons of mass destruction in the hands of a terror network or murderous dictator or the two working together constitutes as grave a threat as can be imagined. The risks of inaction are far greater than the risks of action."

After an ominous silence lasting much of the summer, a debate about US policy toward Iraq has finally begun. Remarkably, Democratic elected officials are not party to it. Some agree with Bush administration hawks; others have been intimidated into acquiescence or silence. The Senate Foreign Relations

After an ominous silence lasting much of the summer, a debate about US policy toward Iraq has finally begun.

Committee hearings yielded questions rather than answers and failed to prod Democratic leaders into declaring their position. Meanwhile, Democratic political consultants are advising their clients to avoid foreign policy and to wage their campaigns on the more hospitable turf of corporate fraud and prescrip-

tion drugs. The memory of the Gulf War a decade ago, when the vast majority of Democrats ended up on the wrong side of the debate, deters many from re-entering the fray today.

The Democratic Party's abdication has left the field to Republican combatants—unilateralists versus multilateralists, ideologues versus "realists." The resulting debate has been intense but narrow, focused primarily on issues of prudence rather than principle.

Arguments from Prudence

This is not to suggest that the prudential issues are unimportant, or that the intra-Republican discord has been less than illuminating. Glib analogies between Iraq and Afghanistan and cocky talk about a military cakewalk have given way to more sober assessments. President Bush's oft-repeated goal of "regime change" would likely require 150,000 to 200,000 US troops, allies in the region willing to allow us to pre-position and supply those forces and bloody street battles in downtown Baghdad. With little left to lose, Saddam Hussein might carry out a "Samson scenario" by equipping his Scud missiles with chemical or biological agents and firing them at Tel Aviv. Senior Israeli military and intelligence officials doubt that Israeli Prime Minister Ariel Sharon would defer to US calls for restraint, as Yitzhak Shamir's government did during the Gulf War. Israeli retaliation could spark a wider regional conflagration.

Assume that we can surmount these difficulties. The Bush administration's goal of regime change is the equivalent of our World War II aim of unconditional surrender, and it would have similar postwar consequences. We would assume total responsibility for Iraq's territorial integrity, for the security and basic needs of its population, and for the reconstruction of its system of governance and political culture. This would require an occupation measured in years or even decades. Whatever our intentions, nations in the region (and elsewhere) would view our continuing presence through the historical prism of colonialism. *The Economist*, which favors a US invasion of Iraq, nonetheless speaks of the "imperial flavour" of such a potential occupation.

But the risks would not end there. The Bush administration and its supporters argue that the overthrow of Saddam Hussein would shift the political balance in our favor throughout the Middle East (including among the Palestinians). Henry Kissinger is not alone in arguing that the road to solving the Israeli-Palestinian conflict leads through Baghdad, not the other way around. More broadly, say the optimists, governments in the region would see that opposing the United States carries serious risk, and that there is more to be gained from cooperating with us. Rather than rising up in injured pride, the Arab "street" would respect our resolve and move toward moderation, as would Arab leaders.

Perhaps so. But it does not take much imagination to conjure a darker picture, and the performance of our

An invasion of Iraq would be one of the most fateful deployments of American power since World War II.

intelligence services in the region does not inspire confidence in the factual basis of the optimists' views. If a wave of public anger helped Islamic radicals unseat Pakistan's General Pervez Musharraf, for example, we would have exchanged a dangerous regime seeking nuclear weapons for an even more dangerous regime that possesses them.

All this, and I have not yet mentioned potential economic and diplomatic consequences. Even a relatively short war would likely produce an oil-price spike that could tip the fragile global economy into recession. Moreover, unlike the Gulf War, which the Japanese and Saudis largely financed, the United States would have to go it alone this time, with an estimated price tag of US\$ 60 billion for the war and \$15 billion to \$20 billion per year for the occupation.

Our closest allies have spoken out against an invasion of Iraq. Gerhard Schröder, leading a usually complaisant Germany but locked in a tough re-election fight, had gone so far as to label this possibility an "adventure," sparking a protest from our ambassador. Some Bush administration officials seem not to believe that our allies' views matter all that much. Others argue, more temperately, that the Europeans and other protesters will swallow their reservations after the fact, when they can see the military success of our action and its positive consequences. They may be right. But it is at least as likely that this disagreement will widen the already sizeable gap between European and American worldviews. Generations of young people could grow up resenting and resisting America, as

they did after the Vietnam War. Whether or not these trends in the long run undermine our alliances, they could have a range of negative short-term consequences, including diminished intelligence sharing and cooperation.

Broader Implications

Republicans have at least raised these prudential issues. For the most part, however, they have ignored broader questions of principle. But these questions cannot be evaded. An invasion of Iraq would be one of the most fateful deployments of American power since World War II. A global strategy based on the new Bush doctrine of preemption means the end of the system of international institutions, laws and norms that we have worked to build for more than half a century. To his credit, Kissinger recognizes this; he labels Bush's new approach "revolutionary" and declares, "Regime change as a goal for military intervention challenges the international system." The question is whether this revolution in international doctrine is justified and wise.

I think not. What is at stake is nothing less than a fundamental shift in America's place in the world. Rather than continuing to serve as first among equals in the postwar international system, the United States would act as a law unto itself, creating new rules of international engagement without the consent of other nations. In my judgment, this new stance would ill serve the long-term interests of the United States.

There is a reason why President Bush could build on the world's sympathy in framing the US response to al Qaeda after September 11, and why his father was able

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to sustain such a broad coalition to reverse Saddam Hussein's invasion of Kuwait. In those cases our policy fit squarely within established doctrines of self-defense. By contrast, if we seek to overthrow Saddam Hussein, we will act outside the framework of global security that we have helped create.

In the first place, we are a signatory to (indeed, the principal drafter of) the United Nations Charter, which explicitly reserves to sovereign nations "the inherent right of individual or collective self-defense," but only in the event of armed attack. Unless the administration establishes Iraqi complicity in the terrorism of 9/11, it cannot invoke self-defense, as defined by the charter, as the justification for attacking Iraq. And if evidence

Liberal Pluralism

**The Implications of Value Pluralism for Political
Theory and Practice**

William A. Galston

Isaiah Berlin first advanced the moral theory of value pluralism in the 1950s and it subsequently was developed by a number of distinguished scholars, including Galston. In *Liberal Pluralism*, Galston defends a version of value pluralism for political theory and practice. Against the contentions of John Gray and others, Galston argues that value pluralism undergirds a kind of liberal politics that gives great weight to the ability of individuals and groups to live their lives in accordance with their deepest beliefs about what gives meaning and purpose to life. This account of liberal pluralism is shown to have important implications for political deliberation and decision-making, for the design of public institutions, and for the division of legitimate authority among government, religious institutions, civil society, parents and families, and individuals.

Liberal pluralism leads to a vision of a good society in which political institutions are active in a limited sphere and in which, within broad limits, families and civil associations may organize and conduct themselves in ways that are not congruent with the principles that govern the public sphere.

William A. Galston is a distinguished political philosopher whose work is informed by the experience of having served from 1993-1995 as President Clinton's Deputy Assistant for Domestic Policy. He is Saul I. Stern Professor of Civic Engagement at the School of Public Affairs, University of Maryland; Director at the Institute for Philosophy and Public Policy; and Director of the Center for Information and Research on Civic Learning and Engagement (CIRCLE). He is the author of numerous articles and several books, including *Liberal Purposes* (Cambridge, 1991), which won the Spitz Prize. He is also a Senior Advisor to the Democratic Leadership Council and the Progressive Policy Institute.

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of Iraqi involvement exists, the administration has a responsibility to present it to Congress, the American people and the world, much as John F. Kennedy and Adlai Stevenson did to justify the US naval blockade of Cuba during the 1962 missile crisis.

The broader structure of international law creates additional obstacles to an invasion of Iraq. To be sure, such law contains a doctrine of "anticipatory self-defense," and there is an ongoing argument concerning its scope. Daniel Webster, then secretary of state, offered the single most influential statement of the doctrine in 1837: There must be shown "a necessity of self-defense . . . instant, overwhelming, leaving no choice of means, and no moment for deliberation." Some contemporary scholars adopt a more permissive view. But even if that debate were resolved in the manner most favorable to the Bush administration, the concept of anticipatory self-defense would still be too narrow to support an attack on Iraq: The threat to the United States from Iraq is not sufficiently specific, clearly enough established or shown to be imminent.

The Bush doctrine of preemption goes well beyond the established bounds of anticipatory self-defense, as many supporters of the administration's Iraq policy privately concede. (They argue that the United States needs to make new law, using Iraq as a precedent.) If

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self-defense*

the administration wishes to argue that terrorism renders the imminence criterion obsolete, it must do what it has thus far failed to do—namely, to show that Iraq has both the capability of harming us and a serious intent to do so. The abstract logical possibility that Saddam Hussein could transfer weapons of mass destruction to stateless terrorists is not enough. If we cannot make our case, the world will see anticipatory self-defense as an international hunting license.

Just War Theory

We must also examine the proposed invasion of Iraq through the prism of just war theories developed by philosophers and theologians over a period of centuries. Just war theory begins with the proposition that universal moral reasoning can and should be applied to the activity of war, thereby helping us determine together whether a particular use of force is just or unjust. One of its most distinguished contemporary exponents, Michael Walzer, puts it this way: First

strikes can occasionally be justified before the moment of imminent attack, if we have reached the point of “sufficient threat.” This concept has three dimensions: “a manifest intent to injure, a degree of active preparation that makes that intent a positive danger, and a general situation in which waiting, or doing anything

Even if an invasion of Iraq succeeds in removing a threat here and now, it is not clear whether a policy of preemption would make us safer in the long run.

other than fighting, greatly magnifies the risk.” The potential injury, moreover, must be of the gravest possible nature: the loss of territorial integrity or political independence.

Saddam Hussein may well endanger the survival of his neighbors, but he poses no such risk to the United States. And he knows full well that complicity in a 9/11-style terrorist attack on the United States would justify, and swiftly evoke, a regime-ending response. During the Gulf War, we invoked this threat to deter him from using weapons of mass destruction against our troops, and there is no reason to believe that this strategy would be less effective today. Dictators have much more to lose than do stateless terrorists; that is why deterrence directed against them has a good chance of working.

In short, the US cannot claim it undertakes a war of national defense. Iraq has not attacked the US and, in spite of determined efforts by some in the administration, it is not yet clearly implicated in attacks on us by others. The just war tradition suggests that four criteria exist that can justify preemption, and each of them is a continuum of possibilities rather than an on/off switch. These criteria are: 1) the severity of the threat; 2) the degree of probability of the threat; 3) the imminence of the threat; and 4) the cost of delay. But if one tests the proposed intervention in Iraq against these criteria, I suggest one finds the following: 1) the threat is high in the worst case—that is, the acquisition of transferable nuclear weapons; 2) the probability of the threat is contested—many experts have argued that a transfer of nuclear weapons by Saddam Hussein to terrorists is contrary not only to his past behavior but also to his clear and present interests; 3) no one has argued that the threat of attack is imminent; and 4) the cost of delay is low if it is measured in months as the US tries to exhaust other options.

According to this four-part analysis, then, the case has not been made that Iraq poses a sufficient threat to justify a preemptive strike. Further, in its segue from al

Qaeda to Saddam Hussein, and from defense to preemption, the Bush administration has shifted its focus from stateless foes to state-based adversaries, and from terrorism in the precise sense to the possession of weapons of mass destruction. Each constitutes a threat. But they are not the same threat and do not warrant the same response. It serves no useful purpose to pretend that they are seamlessly connected, let alone one and the same.

The United Nations, international law, just war theory—it is not hard to imagine the impatience with which policy makers will greet arguments made on these bases. The first duty of every government, they will say, is to defend the lives and security of its citizens. The elimination of Saddam Hussein and, by extension, every regime that threatens to share weapons of mass destruction with anti-American terrorists, comports with this duty. To invoke international norms designed for a different world is to blind

It is an illusion to believe that the United States can employ new norms of action while denying the rights of others to do so as well.

ourselves to the harsh necessities of international action in this new era of terrorism. Now that we have faced the facts about the axis of evil, it would be a dereliction of duty to shrink from their consequences for policy. Even if no other nation agrees, we have a duty to the American people to go it alone. The end justifies—indeed requires—the means.

These are powerful claims, not easily dismissed. But even if an invasion of Iraq succeeds in removing a threat here and now, it is not clear whether a policy of preemption would make us safer in the long run. Specifically, we must ask how the new norms of international action we employ would play out as nations around the world adopt them and shape them to their own purposes. (And they *will*; witness the instant appropriation of the United States’ antiterrorism rhetoric by Russia and India, among others.) It is an illusion to believe that the United States can employ new norms of action while denying the rights of others to do so as well.

Also at stake are competing understandings of the international system and of our role within it. Some administration officials appear to believe that alliances and treaties are in the main counterproductive, constraining us from most effectively pursuing our national interest. Because the United States enjoys unprecedented military, economic and technological preeminence, we can do best by going it alone. The response to these unilateralists is that there are

many goals that we cannot hope to achieve without the cooperation of others. To pretend otherwise is to exchange short-term gains for long-term risks.

Even after we acknowledge the important distinctions between domestic and international politics, the fact remains: No push for international cooperation can succeed without international law and, therefore, without treaties that build the institutions for administering that law. This is one more reason, if one were needed, why the United States must resist the temptation to set itself apart from the system of international law. It will serve us poorly in the long run if we offer public justifications for an invasion of Iraq that we cannot square with established international legal norms.

But if There Be War . . .

I have argued that war with Iraq *is* avoidable and *should be* avoided. But if the US does go to war, I contend that there are better and worse ways of prosecuting such a war. The US must make a visible and credible effort to explore and exhaust all other *reasonable* options—not logically possible options—but all reasonable ones. The US also must state a public rationale that focuses on enforcement within some viable international system. And most important of all, if regime change means the unconditional surrender of Iraq and abdication by Saddam Hussein of all reins of power, then the US must commit itself to doing for Iraq what it did for Germany after World War II. The US must commit itself to political, economic, and social reconstruction of Iraq such that a decent regime capable of standing on its own will be the likely outcome of US efforts. If that means an occupation measured in decades rather than months, and it means the expenditures of tens of billions of dollars a year in order to sustain that—then we must commit ourselves to that here and now, because if what we really have in mind the destruction and abandonment of a nation, that, in my judgment, is absolutely the worse outcome imaginable.

We are the most powerful nation on earth, but we must remember we are not invulnerable. I conclude by stressing that to safeguard our own security, we need the assistance of the allies whose doubts we scorn, and the protection of the international restraints against which we chafe. We must therefore resist the easy seduction of unilateral action. In the long run, our interests will best be served by an international system that is as law-like and collaborative as possible, given the reality that we live in a world of sovereign states.

William A. Galston
Institute for Philosophy and Public Policy
School of Public Affairs
University of Maryland
wg14@umail.umd.edu

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Sources: The text of President Bush's June 1, 2002 address at West Point is available at, among other sources, <http://www.whitehouse.gov/news/releases/2002/06/20020601-3.html>; Vice President Dick Cheney's August 26, 2002 remarks can be found, among other places, at: <http://www.whitehouse.gov/news/releases/2002/08/20020826.html>; Henry Kissinger's remarks concerning regime change can be found in the *Washington Post*, opinion and editorial section (August 12, 2002) and repeated in interviews in various media. The United Nations Charter, Ch. VII, art. 51; Daniel Webster's views of the necessity of self-defense were occasioned by the *Caroline* incident of 1837, in which the American ship was attacked by a Canadian naval force to end the ship's supplying of armed rebels plotting the liberation of French Canada. Michael Walzer, *Just and Unjust Wars* (Basic Books, 1977).

Is Development an Effective Way to Fight Terrorism?

Lloyd J. Dumas

Recently columnist Thomas Friedman and economist Alan B. Krueger, both writing in the *New York Times*, have argued that development is not an effective tool for fighting terrorism. Many terrorists, the argument goes, are not poor—certainly not desperately poor—and many people living in poverty do not become involved in terrorism. But other analysts, such as Richard Sokolsky and Joseph McMillan, research fellows at the Institute for National Strategic Studies of

To productively address the issue of the possible relation between terrorism and the need for development, one must understand more clearly the nature of terrorism.

the National Defense University, have argued that development is crucial to countering terrorism. They contend that poverty and the frustration it breeds are key elements in creating the conditions that foster and support terrorism worldwide.

To productively address the issue of the possible relation between terrorism and the need for development, one must understand more clearly the nature of terrorism. One must also distinguish terrorism from both the classic military actions of rebels and ordinary criminal violence. One must also understand the values, conditions, and motivations that lead people to engage in appallingly destructive acts of terrorism.

The Nature of Terrorism

Not every violent, destructive, or antisocial act is terrorism. Terrorism is defined by its tactics and strategy: it is violence or the threat of violence carried out with the express purpose of creating fear and alarm. An armed gang of bank robbers that shoot bank guards commit a violent crime, not an act of terrorism. The robbers' intent in attacking the guards is to prevent the guards from interfering with the theft, not to frighten

the wider population. But when a gang randomly plants bombs on city buses, it is not trying to stop the passengers from interfering with its activities; it is trying to frighten people. This is a terrorist gang because the purpose of its acts is to terrorize. Unlike the bank robbers, this gang intends its acts to have effects that, in space and time, reach far beyond the immediate damage they have inflicted.

Unlike other criminals, further, terrorists usually try to draw attention to themselves, often claiming "credit" for their acts. In many ways, terrorism is a perverse form of theater in which terrorists play to an audience whose actions—and opinions—they hope to influence. When terrorists kidnap journalists or tourists, for instance, they play to an audience of government officials who possess the power to grant such typical demands as the release of the terrorists' imprisoned comrades. But even in these cases, the terrorists are playing to the public at the same time, with a view toward creating enough public pressure to compel those in power to do what the terrorists want done.

It is the nature of terrorism to encourage public vulnerability, insecurity, and helplessness. Commonly,

In many ways, terrorism is a perverse form of theater in which terrorists play to an audience whose actions—and opinions—they hope to influence.

choosing victims more or less at random is the best way to accomplish this goal. Randomness works—if there seems no clear pattern regarding which particular bus is blown up, airliner hijacked, or building bombed, then there exist no obvious or certain ways for a bystander to avoid becoming a victim, no clear strategy to guard against danger. As a consequence, fear and anxiety grow—and remain a part of life of the average member of the public.

**Civil Society, Democracy,
and Civic Renewal**

Robert K. Fullinwider, editor

Civic 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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Acts intended to frighten the public, committed against more-or-less randomly chosen victims, who themselves are powerless to meet the attackers' demands, define terrorism and set it apart from other forms of violence. By contrast, bombing the barracks of an occupying military force is not an act of terrorism, but a violent and murderous act of war. Its victims are not randomly chosen innocent bystanders, but those who are directly involved in carrying out policies and activities the attackers oppose. Similarly, the act of a

habitual sex offender who kidnaps, rapes, and murders a more-or-less randomly chosen victim is a vicious and brutal crime, but it also is not terrorism. Though predatory crimes often instill fear in the public, such crimes are neither committed for that purpose nor intended to influence public opinion or behavior. Suicide bombing an urban marketplace to precipitate a change in government policy is an act of terrorism because, although its more-or-less randomly chosen victims cannot directly change government behavior, the indiscriminate slaughter caused by suicide bombing is intended to shock and frighten people into demanding changes in government policies sought by the terrorists. So long as the public believes that it remains in danger of further random attack until those policies change, it will insist all the more urgently on government action.

Note that this conceptual definition of terrorism as a tactic—committing acts intended to instill public fear, against more-or-less randomly chosen victims who themselves are powerless to meet their attackers' demands—has nothing to do with the ultimate goals of those who choose this tactic. Regardless whether a group is trying to overthrow a democratic government and establish a dictatorship, create a homeland for a disenfranchised people, trigger a race war, or get more food distributed to the malnourished—if it uses terrorist means, it is a terrorist group.

Because terrorism is a tactic and not an end in itself, as many motivations and goals exist as there are people who might resort to terrorism. At one end of the spectrum are those who are deeply disturbed, mentally and emotionally. The economic and political conditions of such deranged individuals are wholly

*The perpetrators of the September 11 attacks
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disadvantaged or politically oppressed. Most
were of the middle class, and they were
reasonably well educated.*

irrelevant to their desire to commit mayhem. At the other extreme are those motivated by a desire to achieve specific and relatively limited political objectives—such as freeing Northern Ireland from British control, or ending the Israeli occupation of the Palestinian territories. These individuals have chosen terrorism on the basis of a rational, though horrific, calculation (which may or may not be correct) that terrorism will publicize their cause and build enough pressure to help them accomplish their goals.

In arguing against the efficacy of development in fighting terrorism, Alan Kreuger contends that good

empirical evidence exists to show that the commission of hate crimes is unrelated to either the education level or economic condition of the perpetrators of those crimes. Since hate crimes are a "close cousin" to terrorism, he argues, education level and economic conditions are irrelevant to the making of a terrorist. It may well be true that the commission of hate crimes bears no significant relation to socioeconomic status, since these crimes tend to be driven by pure bigotry, which is not the private domain of any particular socioeconomic group. But hate crimes are not "close cousins" of terrorism. They are not even second cousins twice removed. No doubt hatred fills the hearts of at least some terrorists, but terrorism is an entirely different phenomenon.

The Terrorist Perspective

All but the most insane, most isolated terrorists (such as Ted Kaczynski, the Unabomber) to some extent depend on and try to build support among a broader public, at least for their cause if not for their tactics. Most terrorists lack the benefit of a wealthy patron like Osama bin Laden, or the active support of a state. But even those who do enjoy some form of high-level patronage must still succeed at a variety of practical, and usually expensive tasks. These include recruiting new members, training them, finding methods that enable them to travel, planning and coordinating activities and logistics, and storing matériel and equipment—all without detection. Terrorists are much more likely to successfully accomplish these practical tasks if they can count on a base of support among a wider public.

Although a terrorist group could rely on deranged or financially desperate individuals to meet its recruitment needs, such people are dangerous to the group's discipline, effectiveness, and stability. The group is better served by members possessing financial means and skills, and mental stability. Among other things, a core membership of people who seem more solidly based allows the group to more easily recruit others who themselves have some financial means and are relatively stable psychologically. But the problem then becomes how to motivate such recruits to take extreme—even terminal—risks.

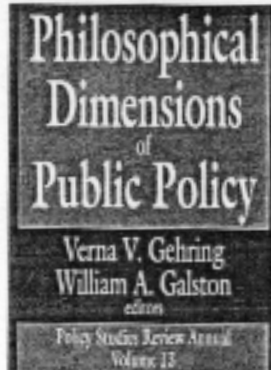
Among the most successful recruitment appeals is the call to the service of some group or force greater than the individuals themselves. This appeal to heroic participation in a greater cause encourages recruits to feel that by engaging in terrorism, the recruit becomes the avenger of some great wrong, the voice of the voiceless, a soldier for the weak and oppressed. Experience has shown that the right kind of appeal to heroic participation in a "great cause" can make recruits not just ready but eager to perpetrate extreme

Philosophical Dimensions of Public Policy

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acts of violence against innocent people who have never directly done them any harm.

Those who consider themselves (or their close friends and families) victims of economic and political oppression and marginalization are easiest to recruit to “fight back” against their perceived victimizers. Retaliation can take the form of either direct engagement in terrorism or support of its activities. A wider public that becomes convinced it is part of the oppressed group may condone or support terrorism. For example, it seems not only that the Irish Republican Army (IRA) terrorists were less disadvantaged than many other Catholics in Northern Ireland, but also that many of the IRA’s financial supporters in the US were also far from destitute. But both the terrorists and their supporters considered themselves fighters against the forces responsible for the economic and political marginalization of “their people.”

Similarly, the perpetrators of the September 11 attacks were certainly not themselves either economically disadvantaged or politically oppressed. Most were of the middle class, and they were reasonably well educated. At the same time, they saw themselves as striking a blow for “their oppressed people,” their “Muslim brothers” who were forced to bear the insult of “foreign infidels” (American military forces) occupying their holiest of lands of Saudi Arabia and enjoying the support of the powerful Saudi government. The September 11 attackers might also have seen themselves as striking a blow against America as the strong supporter of Israel, “fighting back” on behalf of their “Muslim brothers” in Palestine, who are indisputably in dire straits.

Terrorism, which by definition is always directed against innocent, uninvolved civilians, is never justifiable. Nevertheless, understanding terrorist motivations and worldview does not imply sympathy with either their means or their goals. Instead it is important because it helps to explain why terrorists do what they do. Their attention to and interest in maintaining wider public support, for example, are not just incidental but are critical to both solving their practical problems and encouraging added public pressure to achieve their goals.

Terrorism and Development

The more that inclusive economic and political development increase the economic well-being and political status of the wider group of which terrorists and their supporters feel they are a part, the more difficult it becomes for terrorists to recruit operatives and to find others who will support the terrorists’ cause. It is in this sense, then, that economic and political development will in the long run help dry up the pool of potential terrorists, as well as the wider public support on which they depend.

To believe that one’s people are not respected and that one’s views and needs are not taken seriously by the rest of the world are powerful motivations toward violence. But these motivations can be short-circuited by opening political avenues for peaceful dialogue to air grievances and to present views and goals. One possibility is giving terrorists a seat at the political table—but not necessarily a seat at the head of the table. Within its own political system, Israel for instance has from time to time brought together politicians advocating vastly disparate views into “national unity” governments. But not every participant in these government coalitions has been influential in a wide range of key policies.

Perhaps a better example is a scene I recall from a 1980s public television documentary about Costa Rica. The documentary included an in-depth look at Costa Rican political attitudes. At one point the North American interviewer, shocked to learn that the communists held about four percent of the seats in the national legislature, said something like, “You’ve got COMMUNISTS in the legislature!” To which the Costa Rican official he was interviewing said, in effect: “Yes, we do. We decided we’d rather have them in the legislature shouting at us than in the hills shooting at us.”

The best way to deal with terrorism that arises from individual mental illness or group psychosis is through first-rate intelligence and police work, not political accommodation or economic development. But terrorism that arises from political and economic marginalization can be more effectively short-circuited by giving voice to a wide array of groups with genuine political agendas (not doomsday religious cults or psychopaths). Civil participation dissolves the frustration and marginalization that encourages terrorism or supports it. Political development, which provides avenues for the peaceful participation of groups representing widely diverse interests, is an integral part of an effective counter-terrorist strategy.

One important question to ask is why disenfranchised groups turn to terrorism rather than to more traditional forms of civil rebellion or to guerrilla warfare. Of course, some groups do choose to become rebels or guerillas. Successful rebellion depends in part on the ability to raise large enough forces for direct confrontation with the government. If a disenfranchised group can raise significant forces—and especially if the government is relatively weak—it may tend to form guerrilla groups. If it cannot—and especially if the governmental opposition is likely to be strong—the disenfranchised group might choose terrorism. The group might also turn to terrorism if it viewed its “real” enemy as a foreign government or corporate cabal that is either far beyond its borders, too powerful to confront directly, or both.

Maximizing the Counter-Terrorist Effects of Development

Some approaches to development will be more effective than others in fighting terrorism. I have argued that, regardless of the socioeconomic status of either the terrorists themselves or their financial supporters, the crux of the problem lies in the economic and political marginalization, frustration, and humiliation of the group to which the terrorists and their supporters feel connected. If so, then the approach to development likely to prove most effective against terrorism is one that both reaches out directly to the most marginalized, disaffected, and disadvantaged of those people, and also allows individuals a sense of empowerment, self-worth, dignity, and respect. The most effective program will also be one that simultaneously addresses the challenges of both economic and political development.

On the economic side, I am a strong advocate of microlending. Putting a little capital—and the responsibility for repayment of that capital—in many different impoverished hands helps overcome the barriers created by lack of access to the means of self-investment, as well as the lack of self-confidence and hope. It is also possible, even necessary, to seamlessly incorporate an educational element into microlending programs. One of the most interesting and encouraging

The approach to development likely to prove most effective against terrorism is one that both reaches out directly to the most marginalized, disaffected, and disadvantaged . . . and also allows individuals a sense of empowerment, self-worth, dignity, and respect.

examples of the ability of microlending to bring real economic improvement and social empowerment to the poor is the Grameen Bank of Bangladesh.

Founded in 1976 by economist Muhammad Yunus, the Grameen Bank has enabled millions of poor Bangladeshis to start or upgrade their own small businesses. The Grameen Bank makes very small loans—often less than a few hundred dollars—to five-person borrower groups. Most of these loans were made to women, a particularly disadvantaged, economically (and politically) marginalized part of that nation's population. This approach has been impressive in its outreach ability. As impressive is the astonishing loan repayment rate of over 90 percent, achieved by the design of culturally sensitive loan programs that consider the needs of its borrowers. The success of the Grameen approach makes it clear that any microlending program must rely on knowledge of the cultural

environment in order to design procedures that assure responsible use of funds and their timely repayment.

On the political side, democratization must extend beyond the mere formalities of holding elections. It must guarantee the right to organize political parties that offer meaningful alternatives. The process of democratization also must protect (and, in some circumstances, establish) the freedom of speech and of the press, and it must allow avenues for peaceful political participation. Greater opportunity for political expression also requires the protection of those whose views lie outside the political mainstream, and the protection of ethnic minorities. Greater opportunity for peaceful participation in political and economic life benefits those who would otherwise be disenfranchised—and also the wider society, which can choose from among a wider pool of ideas and talents of the population.

International organizations as large as the World Bank and the International Monetary Fund can best assist by not becoming directly involved in microlending. Such organizations should encourage the establishment and funding of a variety of microlending institutions in developing countries. International organizations can also help assure that both transparency and the inclusion of corrective feedback systems are part of the design and implementation of programs.

In both the economic and political arenas, the creation of institutions that encourage, support, and facilitate the development of non-governmental organizations (NGOs) can be vital in achievement of the kinds of deep and wide outreach that thwart the allure of terrorism. Care must be taken to assure that these organizations are genuine real grassroots groups and not "Astroturf" NGOs—those that look like grassroots organizations from a distance, but actually represent

Putting a little capital . . . in many different impoverished hands helps overcome the barriers created by lack of access to the means of self-investment, as well as the lack of self-confidence and hope.

the interests of influential business or governing elites in the country. If counter-terrorism is to succeed, the voiceless must be given voice. The genuine grassroots NGO will invigorate active participation in political and economic life. Large, government-based organizations dealing with international development (such as the World Bank or the US Agency for International Development) should not directly involve themselves in the creation of NGOs. NGOs that are born of the efforts of local activists are far more effective at repre-

senting local interests and creating a real sense of empowerment. The involvement of international organizations could prove counterproductive if, for instance, their enactment or management of programs is based on a misunderstanding or misrepresentation of local interest. International organizations contribute best when they help fund and encourage the creation of those institutions that provide the substrate on which genuine grassroots NGOs grow and flourish.

Conclusion

Because terrorism is such a violent tactic, because it inflicts so much pain on the innocent, it fills us with anger and the urge to strike back even more violently against those whom we judge have encouraged—let alone committed—such despicable acts. Strong emotional reactions to terrorism are easy enough to understand. But a response based on emotion leads only to more pain, more destruction, more taking of innocent lives. This kind of response is not only profoundly immoral, it is profoundly ineffective.

Anyone who needs proof of the futility of this kind of response as a counter-terrorist strategy should consider the Israeli-Palestinian conflict. For decades, Israel has doggedly followed a policy of responding to any act of terrorism with violent military retaliation. Many have died as a result; yet not only has this policy failed to stop the terrorism, but there exists today more terrorism directed against Israel than ever before. What has this vicious cycle of violence accomplished? Neither side has achieved its objectives. The only result one sees with this policy is the creation of a situation in which Israelis live in fear and Palestinians live in misery—clearly an intolerable life for anyone.

There exist far more effective responses to terrorism and—even more important—more effective efforts to prevent terrorism. In the short run, high-quality intelligence gathering and police work are critical. But in the long run, encouraging economic and political

development is the single most effective counter-terrorist approach. Only carefully crafted development programs can fully and directly address terrorism's root causes: the marginalization, frustration, and humiliation that breeds not just terrorism, but also other forms of violence and inhumanity that characterize deprived populations. In the long run, if they follow the right sorts of policies, the institutions of international development will prove to be a far more potent counter-terrorist force in the world than military forces could ever hope to be.

Terrorism is a complex phenomenon. Like other forms of violence, there is no single reason why people engage in acts of terrorism, and no simple solution to the problems it poses. But if we wish to move beyond vengeance and seek a solution, we must try to understand and effectively address the conditions that give rise to terrorism and help it grow. In our search for a solution, there is no doubt that economic and political development play a critical role. They are not the whole answer, but they are an important part of it.

Lloyd J. Dumas
Professor of Economics and Political Economy
School of Social Sciences
University of Texas (Dallas)
ljdumas@utdallas.edu

Sources: Thomas Friedman and Alan B. Kreuger expressed their reservations about development as effective in combating terrorism in the "Economic Scene" column of the *New York Times* (December 13, 2001); Richard Sokolsky and Joseph McMillan, "Foreign Aid in Our Own Defense," *New York Times* (February 12, 2002); more information on the Grameen Bank can be found in: Muhammad Yunus with Alan Jolis, *Banker to the Poor: Micro-lending and the Battle Against World Poverty* (Public Affairs, 1999); further thoughts on the nature of terrorism and the threat it poses can be found in: Lloyd J. Dumas: *Lethal Arrogance: Human Fallibility and Dangerous Technologies* (St. Martin's Press/Palgrave, 1999).

Development Ethics and Globalization

David A. Crocker

Development—conceived generally as desired or desirable social change—is the work of policy-makers, project managers, grassroots communities, and international aid donors, all of whom confront daily moral questions in their work with poor countries. Seeking explicit and reasoned answers to those questions is the particular work of development philosophers and other ethicists. Among the general questions they address are: What should be meant by “development”? In what direction and by what means should a society “develop”? Who is morally responsible for beneficial change? What are the obligations, if any, of rich societies to poor societies? How should globalization’s impact and potential be assessed ethically? The purpose of this article is to outline briefly the history of development ethics, and then discuss what the moral assessments of development reveal about globalization and its challenges.

A Brief History of Development Ethics

Development ethics traces its beginnings to the last half of the twentieth century. In the 1940s, activists and social critics—such as Mohandas Gandhi in India, Raúl Prébisch in Latin America, and Frantz Fanon in

Development ethicists aim not merely to understand the nature, causes and consequences of development, but they also promote specific conceptions.

Africa—criticized colonialism and orthodox economic development. In the early 1960s, American Denis Goulet—influenced by French economist Louis-Joseph Lebret and social scientists such as Gunnar Myrdal—championed the view that development must be “redefined, demystified, and thrust into the arena of moral debate.” Goulet also insisted that because what is called

“development” so often increases human suffering, development can amount to “anti-development.”

In the 1970s, Peter Singer’s utilitarian arguments for famine relief and Garrett Hardin’s “lifeboat ethics” fueled debates about whether affluent nations (or their citizens) have moral obligations to aid starving people in poor countries and—if they do—to establish the basis and extent of those obligations. By the early eighties, consensus formed in arguing that financial relief and food aid only partly addressed the problems of hunger, poverty, underdevelopment and international injustice. Development ethicists began insisting on a more comprehensive, empirically informed, and policy relevant “ethics of Third World development.” These ethicists also began to recognize that ethical assessment must include sensitivity to a society’s culture, including its values.

Contemporary development ethicists—Paul Streeten and Amartya Sen are two notable examples—address such problems as global economic inequality, hunger, and underdevelopment by explicitly applying ethical principles. Building on Streeten’s work, Sen argues that development cannot be understood as economic growth, industrialization, or modernization, which are at best means, but must be viewed fundamentally as the expansion of people’s “valuable capabilities and functionings:

The valued functionings can vary from such elementary ones as avoiding mortality or preventable morbidity, or being sheltered, clothed, and nourished, to such complex achievements as taking part in the life of the community, having a joyful and stimulating life, or attaining self-respect and the respect of others.

Consensus and Disagreement

Development ethicists typically make explicit and seek systematic answers to a number of related questions: What should count as (good) development? Should one continue to speak of “development” instead of, for example, “progress,” “transformation,” “liberation,” or “post-development alternatives to



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development"? What basic economic, political, and cultural goals and strategies should a region, nation, or community pursue, and what principles should inform their selection? What moral issues emerge in development policymaking and practice, and how should they be resolved? Who (or what institutions) bear responsibility for preventing or bringing about development—a nation's government, civil society, or the market? What role—if any—should more affluent states, international institutions, and nongovernmental associations and individuals have in the self-development of poor countries? What is the role of citizens? What are the most serious local, national, and international impediments to good development? How is "globalization" to be understood, and what moral assessments can be given of its promises and risks? Who should decide these questions and by what methods? What are the roles of theoretical reflection and public deliberation?

Development ethicists aim not merely to understand the nature, causes and consequences of development, but they also promote specific conceptions. Aware that what has been called "development" has created as

many problems as it has solved, development ethicists generally agree that development projects and aid givers must aim to achieve both human well-being and a healthy environment. Economic growth, industrialization, and modernization that result in a high or improving gross domestic product may not necessarily promote "good" development. Most development ethicists would reject two models of "development": (1) economic growth as the increase of opulence without regard to an increase in human living conditions (what Sen and Jean Drèze call "unaimed opulence"), and (2) development in which physical needs are satisfied at the expense of political liberties.

Development ethicists also believe that an accurate assessment of development requires the scrutiny of ethicists of many nationalities and cultural identities in order to be culturally sensitive to the needs and concerns of different societies, and to properly determine whether efforts toward development alleviate deprivation worldwide.

Despite their many points of agreement, development ethicists also continue to consider a number of unsettled issues, one of which is the scope of develop-

ment ethics. Although development ethics originated as the “ethics of Third World Development,” and development ethicists tend to agree that the “First-Second-Third World” trichotomy should be eliminated, there exists no consensus about whether development ethics should extend beyond its central concern of assessing the development needs of poor societies. Some agree that human deprivation exists in rich countries and regions, and therefore these “underdeveloped” areas properly fall within the scope of development ethics. Others suggest that the socioeconomic model that the developed northern hemisphere has been exporting to the less developed South results in the underdevelopment of both. Still others insist that attention to pockets of deprivation within developed nations of the North or West only serves to divert attention from the world’s most destitute countries and regions.

Among other unresolved debates, development ethicists argue over whether rich countries should restrict themselves to direct assistance to a poor country, or whether more diffuse involvement—in migration and environmental treaties, for instance—are also justifiable. Also unresolved remains whether development ethics should address such topics as trade, the Internet, drug trafficking, military intervention, the conduct of war, peace keeping, and the proposed international criminal court when—or to the extent that—these topics have no causal relationship to absolute or relative poverty.

A final, but important, unresolved issue that divides development ethicists is the status of various moral norms. Among the numerous positions that have emerged, two are dominant. One group, “universalists” (who embrace such ethical approaches as utilitarianism and deontology), argue that development goals

Important areas of further work include addressing the question of which moral notion ought to have priority in understanding and securing human well-being and development.

and principles are valid for all societies. But another group, “particularists” (who tend to favor communitarianism and postmodern relativism), commonly reply that universalism masks ethnocentrism and (Northern or Western) cultural imperialism. Particularists either reject the existence of universal principles or affirm only the *procedural* principle that each nation or society should draw on its own traditions and decide its own development ethic and path. Some approaches (including one advanced, for instance, by Amartya Sen, Martha Nussbaum,

Jonathan Glover, Seyla Benhabib and this author)—try to avoid the standoff between universalists and particularists by insisting that development ethics can forge a cross-cultural consensus in which a political community’s own freedom to make development choices is one among a plurality of fundamental norms.

Important areas of further work include addressing the question of *which* moral notion ought to have priority in understanding and securing human well-being and development. Among many candidates, some advocate utility or preference satisfaction as most fundamental, others suggest that income and wealth are most important, still others advocate autonomy. Capability ethicists, such as Sen and Nussbaum, emphasize valuable and valued human freedoms (capabilities) and achievements (“functionings”).

Development Ethics and Globalization

A new and pressing task faced by development ethics is the ethical evaluation of “globalization.” As with the term “development” in the 1960s, in the 1990s, “globalization” has become a cliché and buzzword celebrated by the mainstream and condemned by dissenters. Among the crucial questions development ethicists must answer are: What is globalization, and what are the salient interpretations of its possible effects? Is it likely to result in the demise, resurgence, or transformation of state power? Will it eliminate, accentuate, or transform the power inequities between the developed Northern hemisphere and the less developed Southern hemisphere? Does globalization (or some its different varieties) undermine, constrain, enable, or promote ethically defensible development? Can and should globalization be resisted, contested, modified, or transformed?

One informal, but helpful, definition of globalization has been offered by David Held, Anthony McGrew, David Goldblatt, and Jonathan Perraton:

Globalization may be thought of as the widening, deepening and speeding up of worldwide interconnectedness in all aspects of contemporary social life, from the cultural to the criminal, the financial to the spiritual.

Although the effects of globalization’s interconnectedness are vigorously debated, three main interpretations have emerged, which may be labeled (i) hyperglobalism, (ii) skepticism, and (iii) transformationalism.

Hyperglobalism. Economist Jadish Bhagwati and journalist Thomas L. Friedman exemplify the hyperglobalist position, which conceives of globalization as a worldwide age of economic (capitalist) integration characterized by open trade, global financial flows, and the triumph of multinational corporations. The emergence of a single world market signals the erosion of state power and legitimacy. Hyperglobalists predict

that the Northern hemisphere/Southern hemisphere dichotomy will be supplanted by a global entrepreneurial order governed by economic “rules of the game,” such as those codified by the World Trade Organization (WTO). Hyperglobalists accept short-term winners and losers, but insist that, in the long run, the rising global tide will eventually lift all national and individual boats—except for those who resist the all-but-inevitable progress promised by globalization. As development economist Dani Rodrik observes, “global integration has become, for all practical purposes, a substitute for a development strategy.” Consequently, advocates of this view claim, governmental attention and resources should be directed toward rapid (and often painful) removal of tariffs and other devices that block access to the globalizing world. British Prime Minister Tony Blair has succinctly expressed the hyperglobalist faith:

[We] have an enormous job to do to convince the sincere and well-motivated opponents of the WTO agenda that the WTO can be, indeed is, a friend of development, and that far from impoverishing the world’s poorer countries, trade liberalization is the only sure route to the kind of economic growth needed to bring their prosperity closer to that of the major developed economies.

Skepticism. The skeptic of globalism’s promise offers another interpretation, which takes one of two forms. Skeptics such as international relations theorists Stephen Krassner and Samuel Huntington reject the hyperglobalist view that worldwide economic integration is taking place at all. Krassner argues that regional

Transformationalists are both less enthusiastic than hyperglobalists and less pessimistic than skeptics.

trading blocks and some national governments are becoming stronger. Huntington contends that resurgent fundamentalist cultures either insulate themselves from or clash with alien cultures (especially those shaped by Western consumerism).

A second brand of skepticism is characterized by the work of economist Herman Daly, who in these pages conceded that hyperglobalist trends exist but argues that states *should* remain the dominant economic and cultural force. Daly contends that states should resist economic openness and instead emphasize national and local well-being. Skeptics such as Daly insist, further, that economic integration, cross-boundary financial investment, the digital revolution, and multinational power do not extinguish the Northern hemisphere/Southern hemisphere divide. To the contrary, poor countries in the South will face even greater

poverty because, as Rodrik, has argued, poor nations focus on international integration, will “divert human resources, administrative capabilities, and political capital away from more urgent development priorities such as education, public health, industrial capacity, and social cohesions. This emphasis also undermines nascent democratic institutions by removing the choice of development strategy from public debate.”

Transformationalism. A third interpretation, transformationalism, views the phenomenon of globalization as an historically unprecedented and powerful set of processes (with multiple causes) that result in a more interconnected and organizationally multifaceted world. But, contends the transformationalist, it is too simple to say that state power is *either* eroded *or* reinforced—it is more accurate to conclude that the nation state is increasingly reconstituted as part of regional, hemispheric, and global institutions, with some nations gaining and other losing power. In particular, the old Northern hemisphere/Southern hemisphere dichotomy will be replaced. As Held and his colleagues predict:

North and South are increasingly becoming meaningless categories: under conditions of globalization distributional patterns of power and wealth no longer accord with a simple core and periphery division of the world, as in the early twentieth century, but reflect a new geography of power and privilege which transcends political borders and regions, reconfiguring established international and transnational hierarchies of social power and wealth.

According to this view, three new distributional patterns will emerge, with some individuals and institutions characterized as “elite,” others “contented,” and a third group “marginalized.”

Transformationalists are both less enthusiastic than hyperglobalists and less pessimistic than skeptics. The globalizing world exhibits neither the intrinsic good that the hyperglobalists celebrate nor the unmitigated evil that the skeptics worry about. Instead, transformationalists insist, globalization at times impedes—but at times enables—good human and communal development.

The Capabilities Approach

Relying on both empirical and normative inquiry, development ethicists should offer ethical appraisals of globalization and make suggestions for better ways of managing new and evolving global interconnectedness. Typically, globalization’s uneven, and frequently changing influences on individuals and communities can be understood by empirical disciplines and addressed by policy tools. But it is not enough to inquire how or why globalization affects human choice and institutional distribution. Understanding the significance of globalization’s consequences requires application of ethical criteria and a theory of justice.

The most promising approach to the normative

dimensions of development ethics and globalization is the capabilities perspective. The development ethicist advocating the capability perspective will scrutinize the effects different kinds of globalization have on *everyone's* capabilities for living lives that are—among other things—long, healthy, secure, autonomous, socially engaged, and politically participatory. Because these valuable capabilities are the basis for human rights and duties, this type of development ethicist also examines how globalization helps or hinders individuals and institutions as they fulfill their moral duties to respect rights. Good national and global development protects, secures, and restores an adequate level of morally basic capabilities for everyone in the world—regardless of nationality, ethnicity, age, gender, or sexual preference. Such global phenomena as worldwide networks of terrorism, money laundering, illegal drug distribution, sex tourism, and forced migrations should be resisted. On the other hand, global dispersion of human rights and democratic norms should be promoted. The ethical status of other aspects of globalization—such as open trade, foreign direct investments, and the growth of multinational corporations—is less clear. The extent to which these elements of globalization enhance, secure, or restore human capabilities will depend on context and especially on how a national polity integrates and shapes global forces.

Although the capabilities approach challenges national and regional communities to promote human capabilities, it also challenges territorial political communities and transnational agencies—the European Union, United Nations, World Trade Organization, World Bank, International Commission of Human Rights, Human Rights Watch, and the ICC, among others—to take responsibility for setting policies that improve the chances of all persons to live decent lives. Further, these overlapping political communities should themselves be civilized and democratized, allowing individuals to exercise such capabilities as political participation and democratic deliberation.

Humanizing and Democratizing Globalization: Three Projects

Development ethicists have identified three projects that respond to the normative challenges presented by globalization. If development ethics has the task, as Goulet once observed, of “keeping hope alive,” one way to do so is to identify best practices and promising projects for globalization with a human and democratic face.

(i) **Liberal-Internationalism.** One project, expressed in, among other sources, the Commission on Global Governance's *Our Global Neighbourhood*, advocates introduction of democratic practices in those sovereign

Genetics and Criminal Behavior

David Wasserman and Robert Wachbroit, Editors

This volume brings together a group of essays by leading philosophers of science, ethicists, and legal scholars, commissioned for an important and controversial conference on genetics and crime. The essays address basic conceptual, methodological, and ethical issues raised by genetic research on criminal behavior but largely ignored in the public debate. They explore the complexities in tracing any genetic influence on criminal, violent, or antisocial behavior, the varieties of interpretation to which evidence of such influences is subject, and the relevance of such influences to the moral and legal appraisal of criminal conduct. The volume provides a critical overview of the assumptions, methods, and findings of recent behavioral genetics.

Contributors: Robert Wachbroit, Elliott Sober, Kenneth F. Schaffner, Kenneth A. Taylor, Ian Hacking, Allen Gibbard, Marcia Baron, Peter Van Inwagen, Patricia S. Greenspan, Michael Slote, Jorge L.A. Garcia, and David Wasserman.

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nation-states and international organizations that lack them. To encourage democratic reform, favorable loan terms and loan forgiveness, and the help of such international judicial institutions such as the recently ratified International Criminal Court (ICC), which will have jurisdiction over war crimes and other violations of internationally-recognized human rights. It is anticipated that, with the existence of the ICC, the UN can more effectively express the will of the majority of participating states rather than that of the members of the Security Council.

(ii) **Radical republicanism**, expressed clearly in, for instance, Richard Falk's *On Humane Governance: Toward a New Global Politics*, seeks to weaken—if not dismantle—existing nation-states and international institutions in favor of self-governing *alternative* communities committed to the public good and harmony with the natural environment. Radical republicanism gives priority to those grassroots and indigenous communities that resist globalization in all its forms. This bottom-up approach advocates the use of communications technology to allow diverse grassroots or local groups to become a global “civil society” united by similar con-

[All three political projects] argue that a variety of human organizations can become platforms for democratization.

cerns and aspirations for action. If radical republicanism succeeds, one can anticipate that institutions such as the World Bank would become obsolete or decentralized, and even institutions such as the ICC, which would be seen as dominated by elites, would be dismantled in favor of national or, better, local judicial processes. The radical republican insists that indigenous communities, regardless whether they are located within only one nation-state, should govern themselves according to their own rules and traditions, and democracy should be largely direct and local and decisions should be made by consensus.

(iii) **Cosmopolitan democracy** rejects both the liberal internationalist's goal of reform and the radical republican's goal of abolition. Instead, the cosmopolitan seeks a kind of global governance that consists in a “double democratization.” The first part of double democratization advocates nation-states either initiating or further promoting popular rule, resulting in a decentralization of political power. The second part of double democratization calls for the promotion of robust public debate and democratic deliberation that extends beyond national boundaries. The cosmopolitan also anticipates that nation-states can come to share

sovereignty with transnational bodies of various sorts (regional, intercontinental, and global), and that these bodies themselves would be characterized by democratic control.

Institutional democratization requires crafting new and complex individual moral identities, and a new ideal of multiple citizenship. People would no longer view themselves as nothing more than members of a particular local, ethnic, religious, or national group; instead, they see themselves as human beings with moral responsibilities to all other humans. One can anticipate that citizenship will become multi-layered and complex—one might come to see oneself as the citizen of a neighborhood, a nation, and also accept cosmopolitan citizenship. The notion of citizenship would take seriously a commitment to human rights, including the right of democratic participation, and the duty to promote human development in all aspects of human organization. As Held and his colleagues contend:

Democracy for the new millennium must allow cosmopolitan citizens to gain access to, mediate between and render accountable the social, economic and political processes and flows that cut across and transform their traditional community boundaries. The core of this project involves reconceiving legitimate political authority in a manner which disconnects it from its traditional anchor in fixed borders and delimited territories and, instead, articulates it as an attribute of basic democratic arrangements or basic democratic law which can, in principle, be entrenched and drawn on in diverse self-regulating associations—from cities and subnational regions, to nation-states, regions and wider global networks.

Although all three political projects emphasize different normative commitments, they all argue that a variety of human organizations can become platforms for democratization. They differ most in their views of how “deep” the democratization can—or must—go and the extent to which the current world order is inimical to democratization and international justice. While liberal internationalists and cosmopolitan democrats share many democratic and participatory values with radical republicans, they judge radical republicans too utopian about grassroots reform and too pessimistic about the democratic potential of national or transnational institutions. The challenges of globalization expand—rather than narrow—the agenda of development ethics. Interdisciplinary and cross-cultural dialogue and forums of democratic deliberation allow development ethicists to *understand and secure* genuinely human development at all levels of political community and in all kinds of regional and global institutions. As Sen remarks in concluding “How to Judge Globalism:”

The central issue of contention is not globalization itself, nor is it the use of the market as an institution, but the inequity in the overall balance of institutional arrangements—which produces very unequal sharing of the benefits of globalization. The question is not just whether the poor, too, gain something

from globalization, but whether they get a fair share and a fair opportunity. There is an urgent need for reforming institutional arrangements—in addition to national ones—to overcome both the errors of omission and those of commission that tend to give the poor across the world such limited opportunities. Globalization deserves a reasoned defense, but it also needs reform.

David A. Crocker
Institute for Philosophy and Public Policy
School of Public Affairs
University of Maryland
dc134@umail.umd.edu

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Sources and annotated bibliography: *World Hunger and Moral Obligation*, edited by W. Aiken and H. LaFollette (Prentice Hall, 1976) (Expands material on philosophical debates in the early seventies over the ethics of food aid); *World Hunger and Morality*, edited by W. Aiken and H. LaFollette (Prentice Hall, 1996, second edition) (Expands material on the philosophical recasting of ethics of food aid to an ethics of development and international justice); D. Archibugi, D. Held, and Martin Köhler: *Re-imagining Political Community: Studies in Cosmopolitan Democracy* (Stanford University Press, 1998) (A collection of essays advocating transformationalism and cosmopolitan democracy); *International Justice and the Third World*, edited by R. Attfield and B. Wilkins (Routledge, 1992) (British essays on development ethics and international justice); P. Berger: *Pyramids of Sacrifice: Political Ethics and Social Change* (Basic Books, 1974) (Challenging essay linking "political ethics" and Third World poverty); L. Camacho, *Ciencia y tecnología en el subdesarrollo*, (Editorial Tecnológica de Costa Rica, 1993) (Leading Latin American philosopher of development and technology); *Our Global Neighborhood*, a publication of the Commission on Global Governance (Oxford University Press, 1995) (Defends a liberal-internationalist project for humanizing globalization); D. A. Crocker, *FloreCIMIENTO humano y desarrollo internacional: La nueva ética de capacidades*, (Editorial de la Universidad de Costa Rica, 1998) (An analysis and positive assessment of the ethical foundations of Sen and Nussbaum's capability approach); D. A. Crocker, "Toward Development Ethics," *World Development* 19 (1991) (An introductory survey and bibliography of the nature, methods, and value of development ethics); D. A. Crocker, Luis Camacho, and Ramón Romero: "Globalization, Consumption Patterns, and Human Development: The Cases of Costa Rica and Honduras," background paper for United Nations Development Programme, *Human Development Report*, 1998. (An application of a version of the capabilities approach to assess the impact on human development of globalization and especially Northern consumption norms in two Central American countries); Herman E. Daly, "Globalization and its Discontents," *Philosophy & Public Policy Quarterly*, vol. 21, no. 2/3 (2001); N. Dower, "What is Development?—A Philosopher's Answer," *Centre for Development Studies Occasional Paper Series*, 3 (University of Glasgow, 1988)

(Argues for the role of philosophers in development studies and for the normative meaning of "development" as "a process of socio-economic change which ought to take place"); N. Dower, *World Ethics: The New Agenda* (Edinburgh University Press, 1998) (A leading development ethicist addresses development in the context of international relations and a "world ethic"); *Ethics of Environment and Development: Global Challenge, International Response*, edited by J. R. Engel and J. G. Engel (University of Arizona Press, 1990) (An international collection that explores different ways of relating environmental and development ethics); A. Escobar, *Encountering Development: The Making and Unmaking of the Third World* (Princeton University Press, 1995) (Postmodernist "deconstruction" of development theory and practice as imperialist and destructive of traditional life); R. Falk, *On Humane Governance: Toward a New Global Politics* (Polity Press, 1995) (This international law scholar defends a radical republican project for humanizing globalization); T. L. Friedman, *The Lexus and the Olive Tree: Understanding Globalization*, (Farrar, Straus & Giroux, 1999) (A popular defense of hyper-globalism); D. Gasper, "Development Ethics: An Emergent Field?" in *Market Forces and World Development*, edited by R. Prendergast and F. Stewart (St. Martin's Press, 1994) (A helpful stocktaking that defends development ethics as a "multi-disciplinary field" that closes the gap between abstract philosophy and practical experience in order to promote desirable change in poor countries); D. Goulet, *The Cruel Choice: A New Concept in the Theory of Development* (Athenaeum, 1971) (The classic text by a development ethics pioneer); D. Goulet, *Development Ethics: A Guide to Theory and Practice* (Zed, 1995) (A collection of Goulet's articles since 1971 with some new essays); *Ethical Dilemmas of Development in Asia*, edited by G. Gunatilleke, N. Tiruchelvam, and R. Coomaraswamy (Lexington Books, 1988) (Accessible international collection addressing ethical, empirical and political aspects of Asian development); D. Held, A. McGrew, D. Goldblatt, and J. Perraton, *Global Transformations* (Stanford University Press, 1999) (A helpful analysis and assessment of three approaches to globalization—hyperglobalism, skepticism, and transformationalism—and an important effort to defend the latter as a systematic theory of globalization). To complement the informal definition of "globalization," David Held and his colleagues more formally characterize globalization as: "A process (or set of processes) which embodies a transformation in the spatial organization of social relations and transactions—assessed in terms of their extensity, intensity, velocity and impact—generation of transcontinental or interregional flows and networks of activity, interaction, and the exercise of power." P. Hirst and G. Thompson, *Globalization in Question: The International Economy and the Possibilities of Governance* (Polity Press, 1996) (A skeptical critique of globalization, arguing that globalization is a myth that masks the continuing role of powerful nation states advancing their interests through regional trading blocks); S. P. Huntington, *The Clash of Civilizations and the Remaking of the World Order*, (Simon and Schuster, 1996) (A critic of hyper-globalism, this skeptic argues that the world is fragmenting and clashing along cultural and religious fault lines); B. Kliksberg, "El rol del capital social y de la cultura en el proceso de desarrollo," in *Capital social y cultura: Claves Estratégicas para el desarrollo*, edited by B. Kliksberg and L. Tomassini (Banco Interamericana de Desarrollo, 2000) (An important essay arguing that "social capital" is both an end in itself and means to genuine development); *Global Sustainable Development in the 21st Century*, edited by K. Lee, A. Holland, and D. McNeill (Edinburgh University Press, 2000) (A recent collection that probes the concept of sustainable development as a way of balancing conservation and development); M.

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Peter Levine

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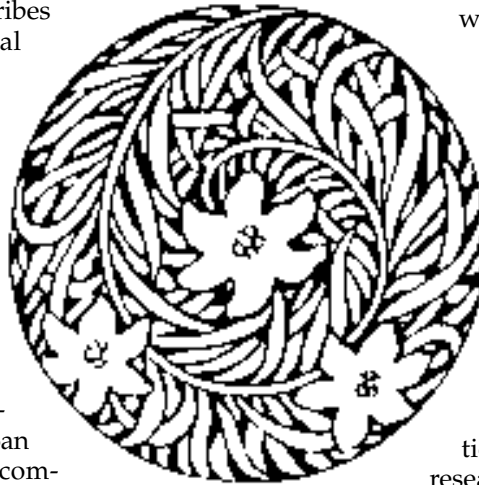
Nussbaum, *Women and Human Development: the Capabilities Approach* (Cambridge University Press, 2000) (Nussbaum's most important statement of her version of the capabilities approach applied to women's deprivations and opportunities); *Women, Culture and Development*, edited by M. Nussbaum and J. Glover (Clarendon Press, 1995) (A valuable international collection of advanced essays explaining, assessing, and applying the capabilities ethic to the issue of gender equality in developing countries); *The Quality of Life*, edited by M. Nussbaum and A. Sen (Clarendon Press, 1993) (Advanced essays that clarify and evaluate the capabilities and other approaches to quality of life in both rich and poor countries); K. Ohmae, *The End of the Nation State* (Free Press, 1995) (This volume defends a hyperglobalist approach to globalization); O. O'Neill, "Ending World Hunger," in *Matters of Life and Death*, edited by T. Regan (Allen & Unwin, 1993) (A critique of utilitarian approaches to world hunger and an accessible statement of the author's Kantian duty-based ethic of aid and development); O. O'Neill, *Faces of Hunger: An Essay on Poverty, Justice and Development* (London: Allen & Unwin, 1986) (O'Neill's Kantian refocusing of the ethical challenge from aid to development); D. Rodrik, "Trading in Illusions," *Foreign Policy*, (March/April 2000) (A trenchant critique of hyperglobalism's claims that global economic integration causes economic growth and democratization in poor nations); J. M. Segal, "What is Development?" in *Philosophical Dimensions of Public Policy*, edited by Verna V. Gehring and William A. Galston (Transaction Publishers, 2002) (First appearing in the mid-80s, this influential paper argues for an ethically-based concept of development and evaluates three development models: growth, growth with equity, and basic needs); A. Sen, *Resources, Values and Development*, (Harvard University Press, 1984) (Contains several of Sen's important early papers on the capabilities approach to development); A. Sen, "Development Thinking at the Beginning of the 21st Century," in *Economic and Social Development into the XXI Century*, edited by Louis Emmerij (Inter-American Development Bank, 1997); A. Sen, *Development as Freedom*, (Knopf, 1999) (Sen's most recent and accessible articulation of his agency-centered capabilities approach.); A. Sen, and J. Drèze, *Hunger and Public Action*, (Oxford University Press, 1989) (An application of the capabilities approach—its normative foundations and policy implications—to famine and chronic malnutrition in poor countries); A. Sen, "How to Judge Globalism," *American Prospect* (Winter 2002); P. Streeten, P. with S. J. Burki, M. Haq, N. Hicks, and F. Stewart, *First Things First: Meeting Basic Needs in Developing Countries* (Oxford, 1981) (The classic statement of the basic-needs approach to change in poor countries); United Nations Development Programme (1998, 1999, 2000) *Human Development Report* (Oxford University Press) (These three UNDP reports operationalize the capabilities approach to appraise, respectively consumption, globalization, and human rights.)

Intellectual Property and Indigenous Knowledge

Cynthia Townley

One common justification for intellectual property rights treats knowledge as a commodity whose production can and should be maximized. This justification is unsatisfactory. Often the authority of experts and the promise of the utility of knowledge eclipse such considerations as the cultural sensitivities of indigenous populations, which have prior claims to knowledge and different understandings of it. Until recently, for instance, American museum curators and researchers refused to return the bodies of Native Americans to their home tribes for proper burial. Instead, the official position was to insist that these human remains were artifacts to be studied, and the promise of knowledge trumped any other considerations. Further, all too often no recognition is given—and no compensation is paid—to those indigenous knowers from whom information is obtained. Thus, for instance, controversy has erupted over a new obesity treatment derived from a plant traditionally used for appetite control by the San people of South Africa, because no compensation is planned for the use of this intellectual heritage. In such cases, indigenous knowers are regarded as instruments and sources of knowledge, but not as morally relevant parties whom researchers or “prospectors” must engage responsibly.

While many complex issues—including race, colonial exploitation, views of social justice—contribute to a full understanding of indigenous intellectual property rights, in this article I suggest that the re-evaluation of claims about *what constitutes knowledge* is a promising start. While exposing dubious epistemological assumptions will not eliminate unjust practices, such disclosures help undercut the apparent justifications for those practices. I conclude the article with the proposal for a more appropriate basis for intellectual property negotiations.



Knowledge as Intellectual Property

In the Western tradition, rights to property are associated with activity and innovation or discovery, classically expressed through eighteenth-century political theorist John Locke's influential claim that “The labour that was mine, removing them out of that common state they were in, hath fixed my property in them.” To obtain intellectual property rights one must have

exerted oneself in some way to produce new

knowledge. The Lockean view opens the way, for instance, for the “discovery” of

information, new plant varieties, and medicinal remedies, by Western

researchers who learn the uses of botanical materials from indige-

nous healers. The knowledge and rights to that knowledge become those of the scientists,

so the argument goes, because before their investigations, there

existed no knowledge recognizable according to the Western sci-

entific model of knowledge. There first existed only traditional prac-

tices and traditions, to which the researchers added their “labor” to create

knowledge.

Contemporary accounts of the justification for intellectual property remain faithful to Locke. Philosopher Edwin Hettinger, for instance, has recently invoked utilitarian justifications for intellectual property. He claims that more value is produced with property rights and the restrictions that such rights involve, than would be produced without the institutions of intellectual property, copyright and trade secret protection. The optimal output of intellectual products requires restrictions:

Granting property rights to producers is here seen as necessary to ensure that enough intellectual products (and the countless other goods based on these products) are available to users. . . . This approach . . . establishes a right to restrict the current availability and use of intellectual products for the purpose of increasing the production and thus future availability and use of new intellectual products.

For Hettinger, intellectual property rights (copyright and the right to trade secrets) are justified on the grounds that such protections and regulations provide incentives that promote further intellectual progress. The development of medicines (from traditional herbs or otherwise) is said both to advance human knowledge and to promote human welfare. Learning information from small local groups, and then incorporating it into the stock of global pharmacological and botanical data is part of a worthwhile project (even a scientific duty) to increase human knowledge.

This description, however, obscures the fact that knowledge will benefit some more than others—and may come at the expense of some, maybe many. Hettinger's endorsement of rewards to "producers" reinforces a view of knowledge as a commodity derived from raw material, and that is not considered owned until it is a *restricted* product ready for commercial transaction.

As Hettinger admits, there is something paradoxical about the argument that *restrictions* on the flow of information are justifiable by appeal to *greater* knowledge production. But, he argues, the paradox is not so puzzling after all, if one draws a distinction between

There is something paradoxical about the argument that restrictions on the flow of information are justifiable by appeal to greater knowledge production.

short-term and long-term knowledge. Restricting knowledge in the short term allows for greater knowledge with greater utility in the future. He also stresses the importance of rewarding and supporting those willing to labor to make new discoveries. Even further, those with a track record of producing new knowledge should be encouraged—financially and with public recognition or other incentives—to continue their work. This utilitarian view relies on the justification of practices that yield an overall increase in knowledge.

Among other difficulties with this view, rarely can one calculate overall *quantities* of knowledge and evaluate the *quality* of contributions. Discerning and evaluating types of contributions to the increase of knowledge-dissemination versus innovation, for example—is no simple matter. Leaving aside these difficulties, I will suppose that Hettinger can perhaps provide a plausible account of measuring knowledge productivity. Instead, I examine his implicit presumption that knowledge is best understood as a product or commodity that can be understood as detached from knowers, which can be quantified and proliferated, and, unlike physical property, can be shared with no

loss to the initial knowers.

Admittedly, the acquisition of knowledge commonly involves joint projects, and typically knowledge is considered "commonable," or able to be shared. But the commonability of knowledge is not the same as public knowledge, and even if all knowledge *can be shared*, that does not mean that all sharing of knowledge *is alike*. Just as there exist degrees and kinds of privacy, so there exist degrees and kinds of publicity.

Transmissions of knowledge occur in relationships where discretion, discrimination and trust may be as or more important than increasing the amount of available knowledge.

Transmissions of knowledge occur in relationships where discretion, discrimination and trust may be as or more important than increasing the amount of available knowledge. One must be sensitive to different kinds of knowledge; the information contained within the phone book, for instance, does not usually require any special responsibilities, but information that is confidential, sacred, or private often does. Hettinger's account, like intellectual property law, is blind to the importance of these epistemic considerations.

A Troubling Case

One recent Australian case illustrates some of the ways that intellectual property regulation accepts the Lockean attitude toward knowledge at the expense of an appreciation of the complexities of ownership and dissemination of information. The case of *Yumbulul v. Reserve Bank of Australia* involves a conflict over the use of a ceremonial image on a commemorative bank note. Terry Yumbulul is an established Australian artist of the Warimiri clan group, who, through his mother's people, the Galpu, inherited the right to create Morning Star Poles. These poles have sacred power deriving in part from the images they bear, and they are exchanged between clan groups and used in ceremonies concerning spirits of the dead. As well as creating Morning Star Poles for ceremonial use, Terry Yumbulul crafted five poles for display in selected museums, one of which became the subject of legal conflict. Although, as in this instance, cultural tradition permits poles to be made by one individual, authority with respect to the pole and to the images and stories connected with it belongs to the clan, which guards the rights to use the identifying attributes proper to each group. Yumbulul's production of the museum poles was acceptable to the members of the clan and there was no explicit restriction on subsequent use or repro-

duction of these exhibited poles.

The Reserve Bank of Australia sought and obtained consent from Terry Yumbulul to reproduce an image of the Morning Star Pole, then on display in the Australian Museum in Sydney. And here is the source of the conflict, since, when the Bank issued a 1998 Bicentennial commemorative ten-dollar banknote that depicted the pole, Terry Yumbulul legally alleged the infringement of customary law. Although he had signed a license, he insisted that he had not intended the Morning Star Pole to be reproduced on currency.

In its defense, however, the Bank pointed out that "[Australian copyright provisions] allow the reproduction of a sculpture that is on permanent display without the permission of the copyright holder." The Federal Court of Australia ruled in favor of the Reserve Bank. It could not legally accommodate the distinction made by indigenous people between two

In some cases, an individual or group is assigned the responsibility of possession and proper exercise of knowledge.

kinds of public display. Displaying the pole in a museum maintained the confidential nature of its meaning. Reproducing the pole on currency, however, would destroy that meaning.

In *Yumbulul*, the mere public display of the Morning Star Pole in the museum did not negate the confidential nature of its sacred meaning, since that particular use was authorized under customary law. However, when the pole was reproduced in a manner that contravened indigenous law, the aspect of confidentiality was lost.

The case of the Morning Star Pole shows an unintended, but undesirable, consequence of the proliferation of information—which in this instance does damage to the cultural meaning of a revered object. From the view of the original owners, the Morning Star Pole possesses a meaning that requires a certain kind of respectful or confidential treatment. Subsequent to its initial display, however, the original owners lost authority over that meaning because the replication of the image on currency was, under the Australian copyright law, presumed to be a normal part of its use.

In this case there also existed the further issue of whether the ascription of ownership to the individual artist reflected the communal rights of the indigenous group. Justice Michael Kirby commented that "the Federal Court of Australia found that communal rights were not protected by Australian copyright laws." The

individualist, utilitarian, and Lockean understanding of knowledge is thus apparent in these regulations.

Indigenous Knowledge and Social Engagement

Another important aspect of knowledge lost on those who accept a standard account of intellectual property concerns social engagement. John Browder, a specialist in Amazon regional development, points out that

... indigenous knowledge is associated with a system of social accountability absent in modern society. Someone (eg. a shaman) is held responsible for the application of indigenous knowledge, whereas no one is responsible for (mis)application of modern knowledge.

On the view Browder presents, knowledge always carries responsibilities; further, these epistemic responsibilities cannot be reduced to the mere maximization of knowledge. In some cases, an individual or group is assigned the responsibility of possession and proper exercise of knowledge. And even when the community as a whole is the possessor of knowledge, it is sometimes ethically irresponsible to disseminate that knowledge indiscriminately. Further, knowledge properly disclosed in one context cannot be considered properly disclosed in all contexts. Wide disclosure of knowledge often transforms its meaning. Also, often what is *not* disclosed might be as important as what *is* revealed and, finally, transmissions of knowledge involve relationships of discretion, discrimination and trust. Indigenous knowers are parties to these elements and not mere possessors of knowledge.

The attitudes to knowledge and the public domain highlighted in the *Yumbulul* case do not apply only to cases of knowledge possessed by indigenous peoples. Valuing knowledge based only on its utility treats

Often what is not disclosed might be as important as what is revealed . . .

knowledge as a mere commodity from which to derive profit. Attitudes of knowers and relationships among knowers are rendered invisible, with a loss of meaning to knowledge, and a loss of respect and dignity to the knowers.

To reject the treatment of knowledge as atomistic bits of information to be made useful and profitable, to reject the assumption that knowledge can always be detached from knowers and their community, allows one to accept that with knowledge comes responsibil-

Truth v. Justice: The Morality of Truth Commissions

Robert I. Rotberg and Dennis Thompson, Editors

The truth commission is an increasingly common fixture of newly democratic states with repressive or strife-ridden pasts. From South Africa to Haiti, truth commissions are at work with varying degrees of support and success. To many, they are the best—or only—way to achieve a full accounting of crimes committed against fellow citizens and to prevent future conflict. Others question whether a restorative justice that sets the guilty free, that cleanses society by words alone, can deter future abuses and allow victims and their families to heal. Here, leading philosophers, lawyers, social scientists, and activists representing several perspectives look at the process of truth commissioning in general and in post-apartheid South Africa. They ask whether the truth commission, as a method of seeking justice after conflict, is fair, moral, and effective in bringing about reconciliation.

"This book discusses the vast and complex range of choices in between blanket amnesty and total accountability through criminal justice, and does so with engaged and critical sympathy."

—Albie Sachs, Justice of the Constitutional Court of South Africa

"The case for truth commissions is strongly and persuasively presented in these essays, which bring together a remarkable group of lawyers, political theorists, and historians, all of them intelligently engaged with each other's concerns."

—Michael Walzer

In addition to the editors, the contributors are Amy Gutmann, Rajeev Bhargava, Elizabeth Kiss, David A. Crocker, André du Toit, Alex Boraine, Dumisa Ntsebeza, Lisa Kois, Ronald C. Slye, Kent Greenawalt, Sanford Levinson, Martha Minow, Charles S. Maier, Charles Villa-Vicencio, and Wilhelm Verwoerd.

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ity. In learning from another, I ought to think about *what this knower wants to teach me*, not just about what information *I think it would be useful to acquire*. I should consider trust and trustworthiness, both as part of my own practice, and as attributes that might be understood differently by knowers from a different community. I ought to think about confidentiality and disclosure, and the possibility that these are understood in many ways, depending on context and culture. In general, I should think about my interactions as contributing to relationships with the knower with whom I am conversing. Am I treating every knower I encounter as evidence, or have I made epistemic commitments to trust, and have I lived up to those who trust me? Fundamentally, am I treating other knowers with respect, or merely as an instrument for my own epistemic ends?

Thinking about questions such as these allows one to think more carefully about the ethical and social responsibilities that accompany knowledge acquisition. No longer can it be assumed that knowledge maximization and dissemination are the only important epistemic values.

Knowledge as a Gift

In the remainder of this article, I explore a promising alternative to understanding knowledge as a commodity, a neutral object with no connections to persons except as a source of profit. Instead, knowledge could be understood in a way that reflects relationships among knowers, and values the virtues of social engagement. The phrase "the gift of knowledge" is already familiar in Western contexts, and the concepts

Knowledge could be understood in a way that reflects relationships among knowers, and values the virtues of social engagement.

of gift and knowledge are also associated in some descriptions of indigenous knowledge. Thinking of knowledge as a gift allows one to consider the many ways that gifts function in a community, and makes the concept a rich source of ideas for models of knowledge.

Philosopher Laurie Ann Whitt explicitly draws the distinction between knowledge as a commodity and knowledge as a gift: "[l]ike life itself, genetic information and knowledge more generally are for many indigenous peoples understood to be given, not produced. They are gifts, not commodities." Whitt suggests that some indigenous communities understand the relationship between knowledge and the natural

world, and the relationship between knowers within a community, in a way very different from that of the Western scientific view. Anthropologist Frédérique Apffel-Marglin, reports the relationship between indigenous cultivators and their land and environment in this way:

We have great faith in what nature transmits to us. These indicators are not the result of the science of humans nor either the invention of people with great experience. Rather, it is the voice of nature itself which announces to us the manner in which we must plant our crops.

The knowledge of such farmers is clearly not, in their own view, detached from and independent of the land and its produce. The environment does not merely furnish evidence, but is acknowledged as an informant, an “announcer,” a trusted expert.

Instead of regarding knowledge as detached information atoms available for distribution, collection and purchase, we might consider that exchanges of knowledge also carry relational significance.

Knowledge is a gift from nature, possible only within a set of relationships based on respect. Rejecting the view of knowledge as property to be acquired, sold, or stolen, in favor of viewing knowledge as a gift encourages attention to the relationships that exist among knowers and those who wish to know. It demands that we consider such questions as: What bonds have been (and must be) forged or reinforced? What responsibilities or obligations must accompany sharing knowledge? Receipt of a gift is different from discovering or collecting an item that is detached from any relationships with other people.

Gifts differ, of course; some come with “no strings attached,” while others establish definite responsibilities. Merely using the phrase “no strings attached” reveals the possibilities of confusion around gift giving and receiving and ambiguities surrounding the complex expectations these activities engender. Typically, obligations with respect to gifts are not located in individual rights, but in norms and practices that are socially instituted. Gifts can be ways of continuing, establishing, or confirming relationships between members of a group, and giving or receiving a gift can be a way of acknowledging and demonstrating respect for others. A gift does not always have the same role and significance throughout transactions: if I give you an heirloom, and you give it to charity, very different engagements may be indicated. The timing of exchanges may also be important—perhaps that sequence of events must be understood differently depending on whether the intervening time is days, or

years. Furthermore, since gifts have different roles in different cultures, one cannot assume that what is an appropriate form of gift giving in one community is considered appropriate in another. As in many matters in life, in giving and receiving gifts one must proceed with caution—in theory and in practice—and develop sensitivity to the possibility of inadvertent disrespect. Although my telephone number can be found in the phone book, I have felt uncomfortable in some situations when a friend has passed on that information. And certainly, for some groups, information such as names or one’s image must be treated with discretion. It is unacceptable simply to learn and state, publish or broadcast a name, or to photograph an individual without explicit permission. Like the heirloom, knowledge of names and telephone numbers, for instance, carry many cultural-and context-dependent meanings. The proprieties of transactions vary enormously and are not given once and for all.

My argument is not that knowledge ought never be treated as a commodity, or that payment for information is never appropriate. Nor am I arguing that a particular form of gift exchange ought to be the unique model. Knowledge is no more monolithic in Western than in indigenous cultures. Rather, I suggest that gifts have the capacity to reveal, sustain and create relationships among persons. Instead of regarding knowledge as detached information atoms available for distribution, collection and purchase, we might consider that exchanges of knowledge also carry relational significance. While there exist anonymous or “no strings attached” gifts, a gift often is part of an ongoing relationship, enriching the gift and relationship with added meaning. Sharing information that is secret or

When knowledge is understood as a gift, not a commodity, it is impossible to retain the view that maximizing the production and collection of knowledge is all that counts.

confidential can indicate trust and can build friendships, but these kinds of disclosures in professional or collegial contexts, for instance, also build the bonds necessary for epistemic communities. Communities are not sustained by maximizing revelations, but discretion, discrimination, and selectivity are central to the strength of many communities, both professional and cultural.

Although knowledge can be stolen, appropriated, or purchased, the responsible knower rejects not just these kinds of transactions but also the proposition that learning is nothing more than the opportunity to collect so-called independent or autonomous informa-

tion. When knowledge is understood as a gift, not a commodity, it is impossible to retain the view that maximizing the production and collection of knowledge is all that counts. The responsible knower is at the same time a responsible giver and recipient, sensitive to what knowledge is offered, and eager to establish and maintain relationships in which gifts of knowledge are possible.

Cynthia Townley
Assistant Professor
Department of Philosophy
University of Nevada at Las Vegas
Box 455028
Las Vegas, Nevada 89154-5028
Cynthia.Townley@ccmail.nevada.edu

This paper was first given at the Inland Northwest Philosophy Conference, 2002, and has benefited from the constructive comments received there and afterwards.

Sources: Indigenous Australians face challenges similar to US Native Americans in their efforts to repatriate ancestral remains from British and European institutions. On the controversy over the obesity treatment derived from the plant used by the San people, see Rena Singer, "African plant's promise puts spotlight on tribal remedies" *Boston Globe* (December 3, 2001). I thank Vicki Spelman for pointing out the analogy between the treatment of indigenous knowledge as intellectual property and the treatment of indigenous knowers as flora, part of the natural world ready for harvesting. John Locke: "The Second Treatise of Government," edited by D. Wootton, in *John Locke Political Writings* (Penguin,

1993); E.C. Hettinger, "Justifying Intellectual Property," *Philosophy and Public Affairs*, 18 (1989). On the notion of knowledge as "commonable," see, for example, M. Welbourne, "The Community of Knowledge," *The Philosophical Quarterly*, 31 (1981) and L. Code, *Epistemic Responsibility* (University Press of New England, 1987). In describing the source of the controversy regarding the Morning Star Pole, Joseph Githaiga finds that "Terry Yumbulul was authorised by tribal elders to craft the Morning Star Pole ('the pole') and license its display in selected museums. The Reserve Bank of Australia commissioned an agent to obtain authorisation from Yumbulul for the use of the pole on a ten-dollar banknote." Conceivably, breach of confidence could provide a legal remedy, but Gilgaitha suggests that this would be a "piecemeal solution" and he favors more radical legislative reform. For reasons of space, I will not discuss the details of Gilgaitha's proposal for legislative reform, but I merely note that it is an attempt to respond to the different understandings of knowledge, ownership and custodianship that the Yumbulul case reveals. "Intellectual Property Law and the Protection of Indigenous Folklore and Knowledge," *E Law—Murdoch University Electronic Journal of Law*, 5 (1998). On additional elements of the case, see also *Re: Terry Yumbulul and: Reserve Bank of Australia; Aboriginal Artists Agency Limited and Anthony Wallis* No. D G26 of 1989 FED No. 448. M. Kirby, Address to a UNESCO workshop, at the University of Waikato, New Zealand (1998); J. O. Browder, "Redemptive Communities: Indigenous Knowledge, Colonist Farming Systems, and Conservation of Tropical Forests," *Agriculture and Human Values*, 12 (1995); L. A. Whitt, "Metaphor and Power in Indigenous and Western Knowledge Systems." Unpublished paper (1996); *The Spirit of Regeneration: Andean Culture Confronting Western Notions of development*, edited by F. Apffel-Marglin and PRATEC (Andean Peasant Technologies Project) (Zed Books, 1998). The words are credited to "a Bolivian peasant."

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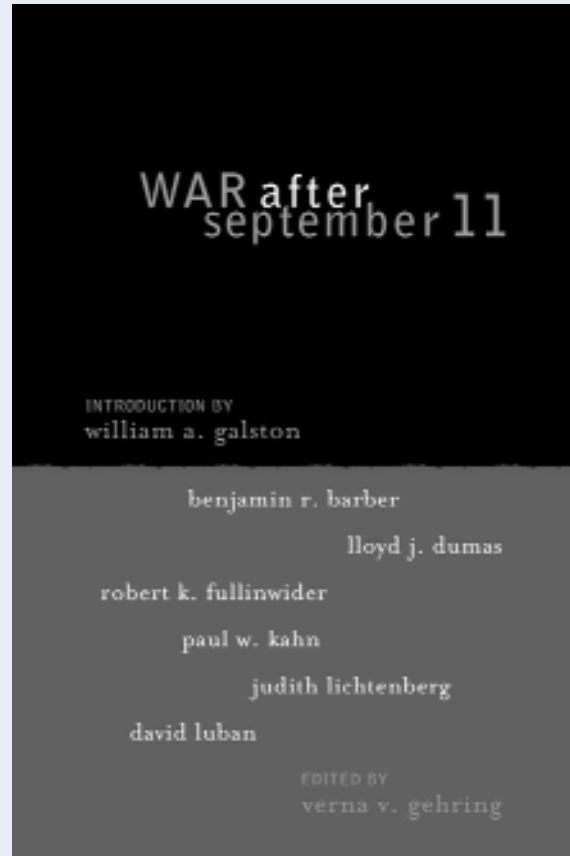
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