

Harvard University
The Program in Ethics and the Professions
Annual Report 1987-88

HARVARD UNIVERSITY

The Program in Ethics and the Professions

79 J.F.K. Street

Cambridge, Massachusetts 02138

Dennis F. Thompson
Director

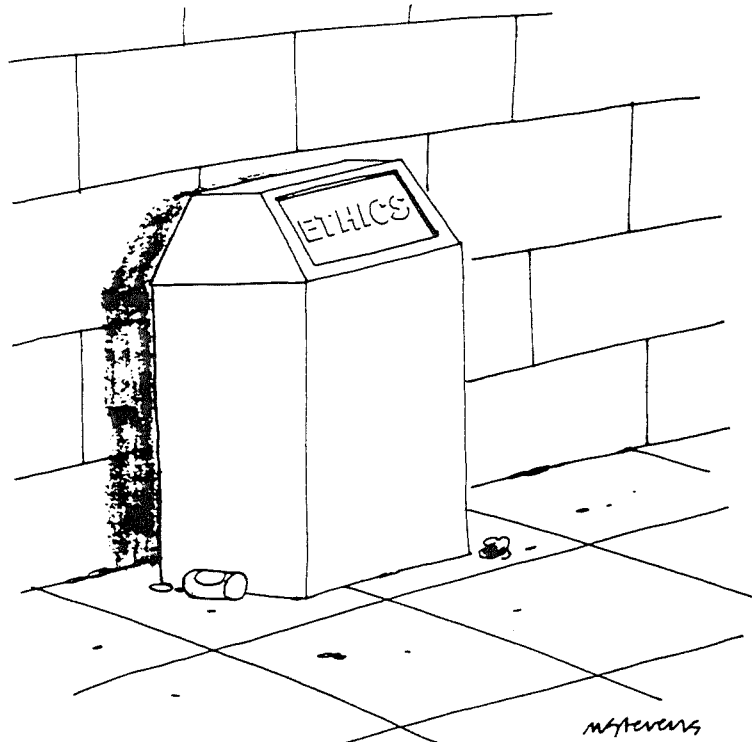
(617) 495-1336

7 June 1988

President Derek Bok
Massachusetts Hall
Harvard University

Dear Derek:

I am writing to report on the activities of the Program in Ethics and the Professions during 1987-88. Although this is the second year of the Program, it is the first year in which Fellows have been in residence. Their presence, and the significant progress we made in other areas, gave me some confidence that the Program actually exists in more than my mind. At times during the first year, I began to think of the Program in in these terms:



The First Fellows

The quality of the presentations and discussions in the Fellows Seminar exceeded my expectations. I had no doubt about the individual abilities of the Fellows, but I was concerned that the diversity of their backgrounds and interests would keep our collective efforts from reaching the intellectual level of a faculty seminar. For all of us, the seminar turned out to be stimulating and productive. The Fellows speak for themselves in their own reports (which are attached as Appendix III). In my own case, the seminar helped advance my thinking in a number of ways--most significantly, by demonstrating that practical ethics is a subject suitable for serious scholarly inquiry. We did not neglect pedagogical questions, and nearly every session concluded with a discussion of the implications for teaching. At several of the most successful sessions, visitors participated: David Luban responded to criticisms of his new book on legal ethics, and Sissela Bok led a discussion on Kant and the use of examples in applied ethics.

In addition to the seminar, the Fellows spent time talking to each other about their work, and participated in a wide variety of activities in the professional schools. Their own reports mention some of these activities, and in general confirm my sense that all of them found that the year made important contributions to their professional development. They are better prepared to continue, or in some cases begin, their careers as teachers and scholars of practical ethics. Interviewed at several schools of public policy and business, Arthur Applbaum accepted an appointment as an assistant professor at the Kennedy School. Ezekiel Emanuel finished his Ph.D. in Government, and will continue his medical education next year at Beth Israel, one of the most prestigious medical residencies in the country. The Business School has offered Robert Massie support through next fall to finish his dissertation, and two faculty members are interested in engaging him in the spring to help in projects on teaching ethics. Robert Rosen, who will return to the University of Miami Law School, has through his writing and participation in scholarly conferences during the year become more widely known as one of the most promising younger scholars in legal ethics.

The New Fellows

It is now clear that recruiting Fellows will always be a ongoing, one-on-one process--more like recruiting faculty than admitting graduate students. Although the Program is much better known this year than last, and receives a large number of unsolicited applications, most of the strongest come from persons whom I have identified (often as a result of suggestions from our faculty and Senior Fellows) and personally encouraged to apply.

We received 72 complete applications, about the same number as last year, but they came from more universities and from more foreign countries (Australia, South Africa, Germany, Great Britain, Finland, Israel, Poland and Canada). The applicants ranged in age from 26 to 69 (the average: 42). Sixteen women (22 per cent of the total), two blacks, and one native American applied. Four of the women, including one black, were on the Committee's list of the top 15 candidates.

Surveying the applications by field (indicated by the terminal degree), we found that law again claimed the largest number (17), followed by philosophy (13), public policy (11), medicine (8), religion (5), and business (6). The remaining candidates (12) came from a variety of fields, including education, journalism, nursing, and sociology. The largest number of outstanding applications were in medicine and in philosophy. The Faculty Committee agreed with me that the overall quality was significantly higher this year than last; we could have chosen a respectable class of at least 15, though the quality dropped off sharply after about the twentieth person on the list.

All of the finalists chosen by the Committee (except one) accepted the Fellowship. The exception was David Luban, who (as last year) had to decline for personal reasons. Our first alternate in legal ethics accepted. The quality of this class is extraordinary. (See the biographical descriptions of each Fellow in Appendix I.) After the public announcement of the new Fellows, we received letters from administrators, faculty, alumni and some disappointed applicants expressing praise and some surprise about the excellence of the qualifications of the new Fellows.

The Fellows appear so well qualified that one might reasonably ask if we should have appointed some applicants who need the Program more. Should we not be seeking, for example, physicians of outstanding professional reputation who have an interest but no background in philosophy or ethics? In the future, we may wish to (and may have to) include some Fellows who fit this description, but at least during the early years of the Program, the ideal Fellow, I now believe, is someone who has excellent training in one of the professions and some background in philosophy or a related discipline. If the Fellows begin with no relevant disciplinary base, they will spend too much of their time learning about ethics and too little of their time developing ways to integrate ethics into education and research in the professions—which is the primary purpose of the Fellowship. Fellows who, like many in next year's class, are well prepared (though not equally prepared) in both their profession and in ethics are most likely to benefit from a year devoted to this aim. They are also more likely to turn out to be leaders in the field—whose teaching and writing will set a high standard of excellence for others to emulate.

Faculty and Curricular Development at Harvard

The Program stepped up efforts to provide advice and encouragement to faculty members in the various professional schools at Harvard, who with varying degrees of commitment and success are trying to improve the teaching of ethics in their own faculties. I continue to be grateful for the work of the members of our Faculty Committee and our Senior Fellows, who have been among the most valuable contributors to all of these efforts. I am also pleased that Amartya Sen agreed to join our roster of Senior Fellows.

Throughout the year, I have tried to keep in close contact with key faculty members in each of the four major professional schools. There is now beginning to develop an "ethics underground" on which the Program can rely, if not yet for full scale revolution at least for covert action. I can mention only a few of the activities in which the schools have been engaged this year.

At the **Kennedy School**, the most remarkable exercise in ethics this year followed a fund raising venture which caused some to remark upon ethics of the School itself. At the initiative of the Dean, a committee composed of some of the leading faculty of the School met several times (including an entire Saturday) to identify the most serious ethical problems in the School and set an agenda for wider discussion of them. (You may think our name—the "Committee on Core Values"—somewhat pretentious, but I assure you that it is to be preferred to the name that it began to acquire—"The Thompson Committee.") The Committee produced an informal report, candidly raising the most common criticisms made of the School, and identifying nine areas where we thought some discussion and action should be taken: conflict of interest, independence of research, secrecy in research, fundraising, curriculum, sexism and racism, personal conduct, free speech, and governance. Two full faculty meetings were devoted to discussion of several of these areas, and further meetings will be held next fall. Some new policies were adopted, and several new Committees established.

For the first time, the Kennedy School this year offered three separate courses specifically on ethics (one emphasizing the duties of public officials taught by Ken Winston, a second on the press and politics taught by Judith Lichtenberg, and the third on policy taught by me). Winston and Lichtenberg are visiting lecturers, whom the School expects to appoint again next year. In addition (as noted above) the School appointed a new assistant professor, one of our Fellows, who will teach political management as well as political ethics.

The "Policy Values" seminar, which the Program sponsors and which I chair, completed its second year, marked by even higher turnout and more stimulating discussion. (Bob Reich and Steve Kelman served with me as the co-conveners of this seminar.) By providing a forum for discussing the ethical dimensions of faculty research in progress, the seminar helps fulfill a need in the School for more explicit attention to these questions. Among the highlights this year were presentations by Tom Schelling on AIDS, Amartya Sen on gender discrimination, Mary Jo Bane on the concept of the "underclass," and Graham Allison on nuclear ethics.

At the Medical School, a Committee chaired by Ken Ryan, and on which I sit, has been meeting to consider a proposal to establish a Division of Medical Ethics. Our deliberations will continue this summer, and it seems likely that we will present a favorable recommendation next fall to the full faculty. The Division could serve as a valuable focal point for the growing educational and research activities in the School and the associated hospitals. We believe it would be an important step forward--organizationally as well as symbolically--in our efforts to give ethics a more prominent role in medical education here.

At the initiative of Lynn Peterson, who chairs another Medical School committee on which I serve, the annual George W. Gay Lecture on medical ethics will be expanded from a standard one-hour lecture to a three-day event, in which a distinguished visitor will give several talks, and participate in seminars at the Medical School and on the main campus under the auspices of our Program. The hope is that the lectureship will come to be seen as the ethics counterpart to the prestigious scientific lectureship now held each spring.

Among other activities at the Medical School, I attended the orientation program for incoming medical students, and held individual tutorials on ethics for senior faculty members who may apply to be Fellows in the future. A number of other projects are still in the planning stages at the Medical School (a new course for residents and interns at the Brigham, and some fundraising initiatives), but comments on these had better wait until we can report some success.

At the Law School, one of our Fellows met regularly with the faculty teaching in the course on Legal Profession. Incidentally, more than half of the sections of that course were taught this year by regular full-time faculty, a significant increase from the previous year. I still believe that the School needs several senior faculty whose principal field of specialization is legal ethics, and preferably at least one person in this field with substantial philosophical training. I have had some conversations with the Dean and other members of the faculty on this subject, and hope that we will eventually make some progress on this front. The first step would be to appoint more visiting faculty in this field. A modest but important instance (facilitated by Andy Kaufman) is the scheduled appointment of David Luban to teach legal ethics during the January term next year.

The Program has also encouraged efforts to raise ethical questions beyond the course on the Legal Profession. A member of our Faculty Committee, Martha Minow, is actively pursuing this goal through her teaching in the integrated section for first-year students. Her comments on this subject were featured in the spring edition of the *Law School Bulletin*, which was devoted to "Ethics: Teaching and Practicing Professional Responsibility." I was pleased that I was asked to write a short statement for the same issue, and encouraged to see that a number of other faculty and students in the School are seriously interested in expanding the role of ethical discussion in the curriculum.

At the **Business School**, we are beginning to see the results of a year and a half of study and planning that have involved many faculty members, including some of us in the Program. Tom Piper, a member of our Faculty Committee, is the leader of these efforts and deserves the major credit for the success so far. The most important developments, it seems to me, are the projected changes in the M.B.A. curriculum. Next year all students will be required to take "Decisionmaking and Ethical Values," a three-week module consisting of seven 90-minute classes. Research associates (one who was the top Alternate in this year's pool of applicants for the Program) have been hired to work with the faculty heads of several of the required first-year courses to consider ways to give more emphasis to ethics in cases and class discussion. Workshops on ethics will be held for the faculty teaching in "Marketing" and "Production and Operations Management." A faculty seminar on truth-telling, in which representatives of our Program will participate, is scheduled to meet regularly next year, with the aim of planning a series of workshops for other Business School faculty.

As a part of my own education, I tried to gain a better sense of what goes on in the classrooms at the Business School by auditing several sections of two different courses ("Marketing" and "Production and Operations Management"), deliberately choosing these because they were said to be typical, not because they were especially relevant to ethics. My impressions are that at least in these courses the method of teaching is not so different from classes that use the case method with which I am familiar in the Kennedy School including my own, that the quality of the teaching is outstanding, and (perhaps more surprising) that the style of the teachers and the students seemed more cooperative than competitive, and encouraged serious discussion of broader issues (including occasionally what I would have regarded as ethical issues, though the instructors did not refer to them in those terms.)

To sustain the enterprise that Tom Piper and others have so impressively begun, the Business School needs more faculty who will devote themselves to the teaching of ethics—not only to students but to other faculty. This need can be met only in part by enlisting some current faculty in the cause. Some new appointments must be also made, and here the progress is bound to be slower. I am involved with several efforts to recruit faculty for this purpose, though of course senior faculty at the School are taking the lead.

In the **College**, the principal contributions of the Program have come through the American Express Fund for Curricular Development. Although we began only last fall, we awarded 11 grants to faculty members who are interested in developing materials that would improve the teaching of ethics in their courses. (A brief description of the projects is in Appendix II.) As you will recall, I did not expect to interest so many faculty so soon in this enterprise. There are more projects and potentially more courses in the works now in the first year than we had originally projected for the first three years of the Fund. Nor did we expect to attract many faculty outside of fields that traditionally raise ethical issues in the ordinary course of their teaching. One of the most striking features of the set of projects we are

supporting is the range of disciplines represented: the faculty members come from Chemistry, English, Expository Writing, International Relations, Medical Anthropology and Psychiatry, Political Theory, Psychology, Public Management, and Romance Languages.

It is nevertheless true that we should expect to engage the largest number of faculty in the early years, and we may have already identified most of those most predisposed toward the teaching of ethics. To supplement the talent here, we are looking for faculty at other universities who can be persuaded to come to Harvard, at least on a visiting basis, to work with our faculty to develop course materials to be used here and elsewhere.

I hope I may be excused for mentioning my own contribution, which though perhaps modest in its educational effect on my students, was major in its exertional effect on me--my undergraduate course on "Political Ethics and Public Policy." Its enrollment doubled this spring compared to last spring. One of the incidental advantages of this course is that it seems to serve as a vehicle to interest some teaching fellows (including law students) in the teaching of practical ethics.

One further development in the FAS for which the Program can take no credit, but in which it takes a great interest, should be noted: the promotion of Michael Sandel to tenure. As a member of our Faculty Committee, he has been a source of creative advice not only on the direction of the Program and the selection of Fellows, but also in identifying and recruiting Fellows and faculty members for the activities of the Program.

Although we have devoted most of our time to the four largest professional schools and the College, we have not entirely ignored the rest of Harvard. At the School of Dental Medicine, I gave a talk on the relation of medical ethics to dentistry, and later offered some advice on an ethics course the School is planning (you might be excused for wondering if my claim to expertise here rested mainly on the number of fillings I have had). At the Divinity School, Ron Theimann and I continued our discussions about how that School and the Program might establish a closer relationship. Ron and I agree about the importance of such cooperation, but we both recognize that the School needs to add some regular faculty who could play the role we have in mind. In addition, I established some relationships with faculty in the schools of Education and Public Health, and contributed to activities in several centers, including the Center for International Affairs, and the Center for Lifelong Learning (an institution of which I had not been aware, and the existence of which I find reassuring).

Colloquia and Lectures at Harvard

The Program has been besieged with invitation to speak about ethics, and although I have had to decline most of them, I have accepted almost all those issued by Harvard-affiliated groups, which this year ranged from a society of dental students to the National Security Fellows at the Kennedy School (or is that not such a great range after all?). I confess that I have directed some outside invitations to the Fellows and members of the Faculty Committee, and at least one to your office (which two days later, with appropriate justice, came right back to me).

The single most important event was the three-day session, organized by Bob Hastings with our advice and participation, for the Board of the Harvard Alumni Association. A panel of representatives from our Faculty Committee (Martha Minow, Lynn Peterson and I) opened the event, and others (notably, Michael Sandel) gave presentations later in the program. Bob reported that the attendance was

unusually high and the reaction most positive, indicating that moral education has captured the interest of many alumni.

The series of lectures that the Program presented stimulated discussion of ethical issues in the professions among a wide range of faculty and students who do not usually interact. The audiences were made up of faculty and students from diverse backgrounds, including people from the Schools of Business, Law, Medicine, Government, Divinity, and Education. We also attracted a number of persons from the local community.

The first lecture of the year provided the occasion for a lively discussion of the role of philosophy in understanding practical problems. Robert Fullinwider, a philosopher at the Center for Philosophy and Public Policy at the University of Maryland, gave an incisive and witty lecture, entitled "Applied Philosophy—A Cautionary Tale." What he cautioned against is the tendency of many philosophers to try to apply comprehensive moral theories without giving attention to the context of the particular problems being addressed. Many members of the audience—not only the philosophers—took some exception to his critique, while conceding that he had raised some serious issues.

In March, Charles Fried, the lawyer-philosopher who is currently the Solicitor-General of the United States, offered some "Reflections on Ethics and Office." He outlined a theory of ethical duties for public officials, which implied that appointed officials should act on their own moral principles and promptly resign if they are asked to compromise those principles even for the sake of other important principles. One member of the audience asked pointedly whether Fried would therefore agree that Robert Bork (as Nixon's Solicitor-General) should have resigned instead of firing Archibald Cox during the dispute over the White House tapes. Fried's difficulty in answering this question foreshadowed the actual difficulty he himself was to have only a month later in deciding whether to remain in office under an Attorney-General whose probity he questioned.

Leon Kass, a Professor associated with the Committee on Social Thought at the University of Chicago and a physician-philosopher with a deep attachment to Aristotle, lectured on "Neither for Love nor Money: Doctors, Killing, and the Medical Ethic." He presented an eloquent condemnation of physician-assisted euthanasia, arguing that it violates the ideal of the profession of medicine. Several physicians in the audience replied that they have a moral obligation to respond to the (now increasingly common) requests from their patients for assistance in dying humanely. Kass continued to insist that no motive ("neither love nor money") could justify such a violation of the moral calling of the physician.

Finally, I take note of one of our more pleasant occasions of the year—the dinner in honor of Lester Kissel, which you and many of the Faculty Committee and Senior Fellows attended. Although we had not planned any formal presentation, the impromptu discussion that followed not only gave Mr. Kissel and his friends a better idea of what the Program is trying to accomplish, but also I think stimulated many of the rest of us to think about some of the issues we face in the future.

Activities Beyond Harvard

Although we have to limit strictly our participation in outside activities because they could easily interfere with our primary responsibilities at Harvard, the Program should not remain isolated from others who share our interests. Not only should we try to influence ethics education elsewhere, but we can also learn from what other institutions are doing in this area. Our most important new contact this year was with

the Poynter Center at Indiana University, which considers the teaching of ethics its main mission. The Center held a conference in the spring on "Teaching Professional Ethics," at which I delivered the keynote address. From a dozen colleges and universities mostly in the Midwest, faculty who are teaching, or preparing to teach, practical ethics in colleges and professional schools gathered to share information as well as frustrations. In the future, we are planning a summer workshop, jointly with the Poynter Center.

We hosted a meeting here with another sister institution--the Dartmouth Institute for Applied and Professional Ethics--and we plan more extensive collaboration with their faculty and fellows next year. We have also begun discussions with the new Program in Ethics and Public Life at Cornell, where Henry Shue has just been named Director. At the Olsson Center for Applied Ethics at the University of Virginia, I took part in a two-day conference on "The State of the Art of Business Ethics," where I had a chance to become better acquainted with many of the leading teachers of business ethics in this country. Finally, I agreed to serve on the Advisory Board of the newly established Public Policy Program at William and Mary--partly out of a desire to make sure that the Program includes ethics, and partly out of a (no doubt illusory) hope that my participation will compensate for modest contributions to annual giving.

Reaching beyond our usual audiences, we organized a day-long seminar on "Ethics in Public Life" at the Smithsonian in Washington. The audience included a wide variety of governmental officials, physicians and attorneys, and members of the local community; the discussion that followed encouraged me to believe that, had we the personnel and time, the Program could make worthwhile contributions outside academic environments. In June, as you know, I will be presiding over an American Council on Education colloquium on "Moral Leadership in Higher Education" for another even more unusual group--college and university presidents.

Future Issues

As I look to the future, three issues seem to me to deserve serious attention:

First and most obvious is our need for more **resources**. The Program will come in under budget this year, and will probably stay within the budget approved for next year. But this solvency is the result of a combination of factors on which we cannot, or should not, rely indefinitely for the future--some concessions from the home institutions of the Fellows, unusual success in securing support from other sources for the Fellows, substantial contributions from some of the professional schools at Harvard, and what might be called strenuous frugality. (Of the last factor, you may want to say that it builds character. But as far as I can see no other Program or office with which we come into contact maintains such a spartan standard of living, with the exception of the Office of the President.) In any case, our plans are and should be more ambitious for the future. We should be seeking a substantial endowment, as well as some term support for the Fellows. Some such support probably will be necessary to continue our activities even at their present levels, as we discovered this year in the many hours we spent this year--too many, in my opinion--defending our expenditures to several different budget offices in the university. In a separate memorandum, I have reported on our fundraising initiatives so far, and I look forward to our discussions on this subject.

Second, with the first class of Fellows we have become acutely aware of the limitations of our **space**. Although the Fellows all have offices in the same building (a set of rented offices in an old building on Winthrop Street), they share space with other programs of the KSG, and do not have a common area in which they can hold

informal conversations. My office and the administrative offices of the Program are located in the main KSG building, about five minutes from the Fellows. Geographical proximity is important in creating and sustaining any interdisciplinary enterprise, but is essential in a Program such as this that supports work in separate professional schools while at the same time seeks to establish intellectual and collegial connections among them. We hope to acquire space in the new building on Eliot Street. But it is by no means certain that we will have either the funds or the priority to secure this space. Final decisions will have to be made soon.

Third and most important, we need more **faculty** at Harvard who are prepared to devote time and energy to the Program, to the curriculum in the College and the professional schools, and to seminars and workshops that could help other faculty become more comfortable with discussing ethical issues in their courses. I mentioned this issue last year, and probably will mention it every year for the foreseeable future. I can begin to see some progress, but I cannot point to any appointments at the senior level.

Despite these problems (which in the spirit of an annual report I should have called "challenges"), the second year of the Program has been no less stimulating than the first--and intellectually more so, because of the presence of the Fellows. I continue to believe that the issues to which the Program is dedicated are among the most significant facing higher education today.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Dennis". The signature is fluid and cursive, with a large initial "D" and a trailing flourish.

Dennis F. Thompson

APPENDIX I
Fellows in Professional Ethics
1988-89

Judith Andre, 46, is Associate Professor, Department of Philosophy, and Director, Institute of Applied Ethics, at Old Dominion University in Norfolk, Virginia, where she has arranged programs for the general public on a wide variety of subjects such as college athletics, terrorism, and nursing. She has spoken on ethical issues to naval officers, financial executives, and other professional groups. She received her Ph.D. and M.A. degrees from Michigan State University and has been a three-time recipient of Fellowships from the National Endowment for the Humanities in their Summer Seminar for College Teachers program. She has taught courses on ethics in several fields, including business and public policy, and on topics such as feminism and relativism. Her articles have appeared in *Ethics*, *Canadian Journal of Philosophy*, *Women's Studies Quarterly*, and *Analysis*. Her major project during the Fellowship year will be a book-length manuscript on "what should be for sale," a study concerning the values involved in commodification in medicine, law, public policy and business. She will also work on a moral taxonomy of the professions, exploring the ethical implications of the concept of "professional" in various fields.

Troyen Brennan, 33, is Associate Physician at Brigham and Women's Hospital, Boston. As a Rhodes Scholar, he received an M.A. in philosophy at Oxford University. He received medical and public health degrees at Yale Medical School; he also holds a J.D. from Yale Law School. He trained in internal medicine at the Massachusetts General Hospital, has been a Law-Science Fellow at the Natural Resources Defense Council, and has received an American College of Physicians Research and Teaching Scholarship. His writings on legal and ethical issues in medicine and public health have appeared in the *Environmental Law Review*, *Duke Law Journal*, *Annals of Internal Medicine*, and *Cornell Law Review*. During the Fellowship year, he will complete a book on the relationship of medical ethics to the law governing health care.

J. Gregory Dees, 37, currently Assistant Professor of Management at Yale School of Management, received his Ph.D. in philosophy from Johns Hopkins University and his Masters in Public and Private Management from the Yale School of Management. He has been employed by McKinsey and Company, Inc., New York, and the United States Fidelity and Guaranty Co., Baltimore. His teaching and research deal with various aspects of business ethics, having published "Deception in Negotiation: A Study of the Relationship Between Self-Interest and Ethics" (with Peter Cramton) in Yale School of Organization and Management's *Working Papers*, and "The Ethics of 'Greenmail'" in *Research in Corporate Social Performance and Policy*. His research during the Fellowship year will focus on the ethical limits on methods of cooperation and competition, especially the use of coercion within the context of management. In addition, he intends to examine the ways in which research in various management disciplines and in the social sciences are relevant to teaching and research in management ethics.

Lachlan Forrow, 32, currently holds a Faculty Development Fellowship in General Medicine at Harvard Medical School and Beth Israel Hospital. He received his M.D. from Harvard Medical School in 1983 and completed his internal medicine residency training at Rhode Island Hospital and Brown University. He serves on the Executive Advisory Board of International Physicians for the Prevention of Nuclear War and the National Board of Directors, currently as Director of the New England Region, of Physicians for Social Responsibility. He is also a director of the Albert Schweitzer

Fellowship of America. He has taught at Tufts University School of Medicine and in the Rhode Island Hospital and Brown University Program in Medicine, in addition to Harvard Medical School. He has conducted research on clinical decision-making and informed consent involving both healthy ambulatory patients and critically ill hospitalized patients. He is co-author of a proposal for a national program, sponsored by the Society of General Internal Medicine, to promote the teaching of clinical ethics to house officers in internal medicine. His research during the Fellowship year will focus on the ethical dimensions of clinical decisions, especially as they affect patients with diminished competence; and on the ethics of public professional activism.

Henry S. Richardson, 33, is Assistant Professor of Philosophy at Georgetown University in Washington, DC. He holds the Ph.D. in philosophy from Harvard University, the J.D. from Harvard Law School, and the M.P.P. from the Kennedy School of Government at Harvard. As a recipient of a National Endowment for the Humanities Summer Stipend, he wrote on the "Commensurability as a Prerequisite of Rational Choice," a project on which he will continue to work during the Fellowship year. Seeking a better way of conceiving the relation between theory and practice in professional and practical ethics, Richardson is developing a theory of practical reasoning that could be relevant to moral judgment in many different professions.

David T. Wasserman, 35, currently a Marden and Marshall Fellow at the Center for Research in Crime and Justice, New York University School of Law, holds the J.D. from the University of Michigan Law School and the M.A. in psychology from the University of North Carolina. He has been a staff attorney at the New York Legal Aid Society, has taught at the University of Connecticut Law School, and is presently completing a study of indigent appellate representation in New York City. He has recently published "Justifying Self-Defense" in *Philosophy and Public Affairs*, which examines the argument from self-defense as a justification for taking life. At Harvard next year, he will continue to examine moral issues in criminal law and adversary dispute resolution.

Andries B. du Toit, 49, Professor of Political Studies at the University of Cape Town, South Africa. He is a leading critic of apartheid in South Africa and has long been active in causes of reform and human rights. Du Toit earned both the M.A. and D. Phil. degrees in philosophy from the University of Stellenbosch and a doctorate from the Rijksuniversiteit of Leiden in the Netherlands; he was an Associate Fellow in 1978 and a Fellow in 1981 with the Southern African Research Program at Yale University. Among his published works are *Afrikaner Political Thought, Analyses and Documents: 1780-1850* (vol. I, with Hermann Giliomee); "The Problem of Political Alternatives," in *South Africa's Political Alternatives*, and "Understanding Rights Discourses and Ideological Conflicts in South Africa" in *Essays on Law and Social Practice*. While at Harvard, he will work on "The Moral Foundations of Professional Practice in the Context of a General Legitimation Crisis." Du Toit will also be a Visiting Professor in the Department of Government.

APPENDIX II
Grants Awarded
By the American Express Fund

James Butler, Gordon McKay Professor of Applied Chemistry, will prepare new cases and lectures for his General Education course, "Environmental Quality and its Management." He plans to supplement the discussion of the the economic, political and scientific aspects of environment with a new unit devoted explicitly to ethical problems. The unit will consider issues such as toxic waste management, tropical deforestation, and global ocean and atmospheric pollution.

Judith Beth Cohen, an Expository Writing Preceptor, will prepare case studies for a section of "Social and Ethical Issues." The course, designed to help writers transform their opinions about controversial social and ethical problems into well-structured arguments, is one of the largest sections of Expository Writing, a course required for freshmen. Some of the case topics include the liability of tobacco companies for lung cancer deaths, the Boston Church of Christ's recruiting methods, and the NCAA's position on drug testing and college athletics.

Stanley Hoffmann, Professor of Government, is preparing for publication materials based on his popular course, "Ethical Issues in International Relations," which he teaches in the Moral Reasoning section of the Core Curriculum. The course discusses ethical questions on such topics as the use of force, war crimes and terrorism, interventions, and human rights.

Arthur Kleinman, Professor of Medical Anthropology and Psychiatry in FAS and the Medical School, is developing a new core course on anthropological approaches to ethical issues raised by the personal experience and cultural meaning of human suffering. Among the topics to be considered using these approaches are chronic illness, disability, natural disasters, torture, urban poverty, the Chinese Cultural Revolution, and the Holocaust.

Stephen Macedo, Assistant Professor of Government, will develop a course for the Moral Reasoning section of the undergraduate Core Curriculum on "Public and Private Morality," dealing with the relationship between public and private ethics. Using writings in political theory and case studies, the course will address a set of moral questions in areas such as the secular humanism debate and problems connected with property and the family.

Professor **Mark Moore** of the Kennedy School, along with Malcolm Sparrow, a KSG Lecturer, will prepare commentaries for a casebook on ethics in public management. The casebook will be available for use in both undergraduate and graduate courses that deal with the ethical dimensions of public office.

Marlies Mueller, Senior Preceptor in Romance Languages, is producing several bilingual (French/English) videotapes for training teaching assistants to teach ethical issues in foreign language courses. The videotapes show class discussions on matters of public and private morality as well as positive and negative examples of conduct as provided by outstanding French literary masterpieces.

Frederick Neuhouser, Assistant Professor of Philosophy, is developing a new course to be taught as part of the Moral Reasoning section of the Core Curriculum. The course, "Autonomy and Alientation," will raise such questions as: Can one be truly

autonomous in any kind of society, or are there social conditions which must obtain in order for individuals to be self-determining?

Janet Farrell Smith, Visiting Professor at the Divinity School, will develop a course on the ethics of property, to be offered next year at the University. Using readings in philosophy, religion, law, and political theory, Professor Smith will examine ethical questions in the control of property and the relation between property and the family, and policy questions on new forms of property produced by modern technologies.

Philip J. Stone, Professor of Psychology, is working on project, "Using Psychology to Produce Ethical Behavior in Business," which is to provide material for both an upper-level and a prospective core course. Professor Stone will examine how business practices reinforce psychological traits that create special ethical problems, and how psychology can be enlisted to motivate socially responsive behavior.

Patricia Yaeger, Assistant Professor of English and Head Tutor in History and Literature, is preparing course materials on ethical issues in childbirth and childhood in Anglo-American literature. The course she is developing will examine the ways in which literary works decipher and encode the changing ethical principles that affect our attitudes toward childbirth and childhood in modern life.

APPENDIX III
Reports by the Fellows
1987-88

APPENDIX III

Fellows in Professional Ethics

1987-88

Arthur Isak Applbaum, 29, is a founding member of Harvard Business School's Negotiation Roundtable, a research group that applies negotiation analysis to problems in management strategy. He will complete his Ph.D. in Public Policy at Harvard this summer with a dissertation entitled *Knowledge, Interest, and Negotiation: Learning Under Conflict, Bargaining Under Uncertainty*. Mr. Applbaum co-teaches courses in negotiation and management at Harvard's Kennedy School of Government. He is the author of a widely used case study of strategic management in a federal agency, and currently is preparing a volume of commentaries on management cases. He is a Research Associate of the Program on Negotiation at Harvard Law School and a member of the editorial policy board of *Negotiation Journal*. A former Fulbright Fellow, Mr. Applbaum studied ethics at Princeton University and holds a Master of Public Policy from the Kennedy School. His research through the Program in Ethics and the Professions will focus on the interplay of moral, inductive, and strategic reasoning.

Ezekiel Jonathan Emanuel, 29, is currently a Ph.D. candidate in Political Science at Harvard University and an M.D. candidate at Harvard Medical School. He received an M.Sc. in biochemistry from Oxford University and a B.A. in chemistry and philosophy from Amherst College. His dissertation is entitled *The Ends of Human Life: Medical Ethics in a Liberal Polity*. Mr. Emanuel has taught courses in moral reasoning and social theory at Harvard College, and among his previous honors are the Charlotte Newcombe Fellowship and Danforth Teaching Awards. He has published in *Dissent*, *Nature*, *The Hastings Center Report*, and *The New Republic*. His research focuses on how current medical dilemmas might be informed by political philosophy.

Robert K. Massie, Jr., 30, is an ordained priest in the Episcopal church, having received his Master of Divinity degree from Yale University. He currently serves as priest-in-charge at Christ Church, Somerville, and is working on his doctorate in Business Administration at the Harvard Business School, concentrating in business policy and business ethics. He has served as assistant rector at Grace Episcopal Church in Manhattan and as the outside member of the Ethics Advisory Committee of Children's Hospital in Boston. His research focuses on the effect of shareholder activism on corporate decision-making in the South African divestment campaign.

Robert Eli Rosen, 34, is Associate Professor at the University of Miami School of Law, having received a Ph.D. in sociology at the University of California at Berkeley and a J.D. from Harvard Law School. He also holds an M.A. in sociology from the University of California-Berkeley. He serves on the Board of Directors of the Greater Miami Legal Services Corporation and is editor of the Florida Bar's *Law Office Economics Newsletter*. He has published in the *Berkeley Journal of Sociology* and the *Stanford Law Review* and has taught courses in legal ethics and the sociology of law. His research deals with the relation between the concepts of fiduciary trust and paternalism.

ARTHUR APPLBAUM

As I map out a course in political management that I will teach next year at the Kennedy School of Government, I see the influence of the ethics fellowship at every turn. This, I suppose, is the most telling measure of how the Program in Ethics and the Professions has helped me. I now bring to this course, and to others in which I will have a hand, a commitment to integrate the normative enterprise of reasoning about public purposes with the strategic enterprise of acting efficaciously in the service of those purposes. Though these courses are not explicitly about professional ethics, I have begun to acquire both the wherewithal and the mandate to nudge them in a direction that takes moral reasoning seriously. I joined the program to fulfill a long-standing wish--to revisit the study of ethics in light of the research in instrumental politics that characterized my graduate work. I think that I am well on my way to this goal.

The most important part of the fellowship by far has been the ongoing conversation with Dennis Thompson and the fellows. Thompson has the uncommon talent of taking another's argument seriously, on its own terms, and responding constructively, even if he disagrees. I can't

think of anyone I would rather have comment on my work. The interaction with other fellows has been extraordinary, both in the core seminar and in countless informal discussions. We took a great deal of interest in each other's professional and substantive concerns, and challenged one another with different views and intellectual styles. Some recurring themes emerged: deliberation and its vulnerabilities; the relationship between goods internal to a practice, common morality, and democratic politics; liberalism's uneasy account of paternalism. I come away with a greater understanding of and respect for the liberal tradition (though I still tend to side with sociological and civic republican critiques of it); and I see much more clearly what is at stake in professionalism for a market society.

More concretely, I wrote or am in the midst of writing several pieces, and gave a number of seminar presentations this year:

Final chapter of doctoral dissertation. This, especially the sections "Conflict and its masking" and "Towards an account of political judgment," was influenced by the early seminar discussions.

Seminar presentations at the Kennedy School, Harvard Business School, Princeton's Woodrow Wilson School, University of Chicago Graduate School of Business, and University of Pennsylvania's Wharton School.

Paper and presentation, "Failure in the Marketplace of Ideas," Policy Values Workshop, Kennedy School.

Presentation, "Ethics and Negotiation: Three False Factual Claims," Program on Negotiation, Harvard Law School.

Paper, "Bets, Bias, and Bargains: A Case Commentary about Knowledge and Negotiation" (accepted for publication.)

Paper, "Political Advocacy and Moral Reasoning" (to be completed this summer.)

Short essay, "If ethics pays, why am I so poor?"

Suggestions for the future

Consider, in some cases, offering a two year appointment. One year is fine for a professor on leave who has a book to write. But fellows of post-doctoral status who are on the academic job market may find that the year passes all too quickly. Similarly, older fellows with backgrounds in the professions who are coming to develop expertise in moral philosophy may profit from a longer stay.

If the fellowship is to be attractive to faculty from professional schools outside of Harvard, the program must work to provide these fellows a warm welcome from and access to the corresponding school at Harvard. This seems to be one of the more important contributions that the senior fellows and the inter-faculty committee can make.

June 1988

Ezekiel J. Emanuel

A) PERSONAL ACHIEVEMENTS:

There are two tangible products of this program for me. One is the article on the physician's obligation to treat AIDS patients. Its form and content was a direct result of our discussions on medical ethics, and after I produced a draft, of specific comments by you, Arthur, and Rob.

The second is clearly my dissertation. Here influence of the program is two-fold. First is the influence on making me clarify what I consider the relationship between medical ethics and political philosophy. Reading Luban's book, our seminar with him, and my presentation of my own views were integral in clarifying for me the ways in which political philosophy must "complete" the ethic inherent in the practice of caring for the sick. The seminar with Luban made me clarify the way in which political philosophy and medical ethics are not two separate spheres which need to be balanced against each other, but integrally related, medical ethics being a subfield of political philosophy. The seminar in which I presented my own view helped me clarify this relationship--as well as to clarify the four alternative approaches to medical ethics. In specific I now see all professions as dedicated to moral ideals for the benefit of a specific client. Specifying and balancing the internal relationship between these ideals and the external relationship between these professional ideals and other moral ideals requires political philosophy. The seminar has made this clearer to me and made me see its importance in

the addressing ethical issues confronting the professions. Second, the seminar gave me a good opportunity to hear criticism of my own work on allocating resources and my alternative schemes.

For my other research, the seminar on paternalism lead by Rob was pivotal. Discussing the different views of the professional-client relationship, the problems with, what I now call, the information model of this relationship, and what constitutes paternalism, was critical. This allowed me to see an important defect in the information model, namely that its has a superficial notion of autonomy. It also permitted me to elaborate two alternative models, the interpretive model emphasizing autonomy understood as interpreting the client's values and the deliberative model emphasizing autonomy and other values the client should have. I have begun trying to work out what these different models entail both in terms of their theoretical underpinnings and for actual professional-client interactions. So this seminar has laid the groundwork for an important future project in professional ethics.

Third, the seminar has caused me to re-read certain books on ethics and political philosophy more closely. In particular the seminar made me read Williams, MacIntyre, and Walzer, especially the last two, more critically. In particular it made me appreciate the weakness of their criticism against liberalism better. It also gave me a chance to re-read Nagel.

Finally the program forced me to think more critically about my own political philosophy. It has generally made me appreciate the finer problems of articulating a positive political philosophy, and certain areas in need of more attention. One area in need of more attention is to specify the relationship between a person's moral self-understanding and commitment to a particular community and its values. At the moment this relationship is too vague in my

own mind and I think in many theorist's works. It is important because it might distinguish liberalism from communitarianism. A second area in need of attention is to specify the kinds of institutions necessary for communal deliberations and the kind of deliberation that might be aspired to.

B) THE PROGRAM'S CONTRIBUTION:

One important positive contribution made by the program was the lunch-seminars. The lunches were very important, not just for socializing but also because they gave us a chance to discuss public moral issues in a fairly rigorous way. Over the year we had a chance to discuss teaching ethics when discussing Robert Coles and courses in moral reasoning, Boesky, Edelman and business as a profession, and other assorted ethical issues. In addition, as I have already mentioned, the seminar has been invaluable for me. I learned much and had a chance to bounce ideas off others, thereby clarifying my own thoughts. The three seminars I would highlight in this regard are the Luban seminar, my own seminar on diverse approaches to medical ethics, and Rob's seminar on paternalism.

A second important positive contribution made by the program was the your personal support, especially in spending the time to read my work and discuss it in tremendous detail. These opportunities were educational because the critical comments made on manuscripts were sympathetic criticisms, made from the inside of my work —in the spirit of forcing me to express myself more clearly, to make me sharpen my own points, rather than trying to impose an alternative position on me. In addition there was the sense of respect for

my views— no matter how ill formed and wrongheaded, they were not dismissed but discussed seriously.

A third important positive contribution made by the program was just the opportunities granted by the provision of time and space. The opportunity to write without distraction of teaching was helpful. Materially, probably the laser printer was the single most important contribution.

C) FUTURE DIRECTIONS:

We have already discussed the importance of altering the physical layout of the place both for work and for more on-going informal interactions. This is a vital change for the benefit of the program and should not be underestimated.

I think as far as the seminar goes, I would make several changes. First I would lengthen the time by 45-60 minutes, especially with more fellows. Second, at the start of the year I would add seminars so each fellow can give a presentation on his or her work to familiarize the fellows with each other's interests. This would help informal, if not formal, collaboration. Third, I would think about producing a volume each year with contributions by the fellows on a theme which runs through the various professions. The volume might come from seminar papers given during the spring. Thus the topic should come from the research of the fellows. Possible topics which might have been appropriate our year would include commerce and professions or professional-client relations. Each fellow could then prepare an article on the topic relating to his or her profession and they could be synthesized into a single volume and possibly published. I think this would provide some additional unity to the various fellows of the program.

The other matter which I think needs some attention is integration of the "junior" fellows with the "senior" fellows and also with the professional schools themselves. As it stands we have little or no interaction. There are, of course, many good reasons for this, but I think it actually detracts from the program. Some way should be found to bring the senior fellows into the seminar regularly, or on specific topics. This will be especially important as more fellows come from outside Harvard and have no personal relations with people here. As best as I can see the professional schools's attitude toward, at least, this year's fellows has been one of benign neglect. We have had to forge our own links. There should be some more formal links so fellows can participate with the professional schools, adding their knowledge and talents. I understand that the main potential energy barrier may be at the professional schools and not in the program, but I think this should be a high priority because it is an important way to influence professional education at Harvard.

I hope you find these comments worthwhile and helpful.

Robert K. Massie, Jr.

1) ADDED EXPOSURE TO NEW AREAS

I spent the three years prior to entering the program wrapped up completely in the problems and educational environment of the business school. The program was enormously helpful in pulling me away from an increasingly parochial view of professional problems and in compelling me to examine the common elements with other professions. It also provided me, whose principal training has been in theological ethics, with a useful continued exposure to contemporary moral philosophy. However, it is also true that during the year in the program I lost touch with developments at the business school, in part because in the minds of many there I was spending a year "across the river."

2) REFINEMENT OF OWN THINKING

At the beginning of the year I was mildly disturbed by the almost exclusive focus of the program on moral reasoning, but I was not able to articulate why. As the year progressed I realized more and more clearly how much I believe that moral reasoning can and should only be a part of moral education -- that a balanced and effective program for moral education in professional schools must include attention to experience, role models, and other institutional messages. That is why I was particularly pleased with President Bok's 1986-1987 Report which stressed just such an interpretation of moral education. The development in my own thinking, which came from our many seminars, also freed me to see and appreciate the proper role of moral reasoning within a larger pedagogical package.

3) ADVANCEMENT OF RESEARCH

I submitted a first draft of my dissertation proposal last June, and when I look back on that skimpy document I realize how far I have come in my research in the last twelve months. The strides have been both practical -- the collection of enormous amounts of data -- and theoretical, and I attribute both to the program. I made the earliest presentation of the theory underlying my work to the fellows and director who offered many helpful comments; I think one of the best things about the program is the trust that is built over time between the participants which allows them to try out new ideas. After this year of discussion I now see with greater clarity the contribution my work may make, that is, of documenting and explaining the role of large institutions as the adjudicator of moral claims brought to bear on corporations through the capital markets.

WHAT FEATURES OF THE PROGRAM CONTRIBUTED POSITIVELY AND NEGATIVELY TO THESE ACHIEVEMENTS?

1. POSITIVE CONTRIBUTIONS

First of all, I would point to the excellence of the director. Professor Thompson was able to strike a near perfect balance between informal creative discussion and seriously reasoned deliberation. His ability to draw our often far-ranging (if not to say far-fetched) debates back to the central questions; his fair and open-minded analysis; his ability to cross intellectual and professional boundaries with ease and clarity; and his evident personal commitment to moral education inspired us and set the tone for everything we did.

Secondly, as mentioned earlier, the genuine cross-disciplinary nature of all the Program's events was extremely stimulating. The weekly Program seminars, the occasional speakers, and the presentations in the Policy Values Seminar were all much-needed models for how diverse disciplines can contribute to one another.

The structure of the weekly Program seminar -- moving from examining the distinctive features of each profession to examining problems in common -- was well-conceived and should be repeated.

I also benefited greatly from the assistance of the program administrator, the availability of an office and computer, and especially the use of a research assistant. The latter was particularly important since it was sometimes physically difficult for me to gather the volume of information I needed.

2. NEGATIVE ASPECTS

The only negative aspect of the year was how pressed I was for time. I had known that this was likely to be the case since we had our first child last summer and I knew I would have substantial child care responsibilities. The lack of time meant that I had to miss some events and that I was not able to benefit fully from the freedom the program offered.

WHAT DIRECTIONS SHOULD THE PROGRAM TAKE IN THE FUTURE?

ADDITION OF THEOLOGICAL PERSPECTIVE: I was very surprised that there was not more contact between the Program and the Divinity School. I do not know whether this is because the program is resolutely secular in focus or whether the divinity school is pursuing its own agenda, but I find it perplexing that this professional school -- which has its own powerful ethical traditions -- was not more in evidence.

I would recommend that next year you invite persons from seminaries around the country to present papers. Of the top of my head I would suggest James Gustafson, Jim Fowler, Steven Tip-ton, and Jon Gunnemann from Emory; Margaret Farley from Yale; Charles McCoy from the Pacific School of Religion; Christine Mitchell from Boston Children's Hospital; David Hallenbach from

Weston; Elizabeth Bettenhausen from Boston University; and Sharon Parks from Harvard.

DEVELOPMENTALISM: I also think greater and earlier attention should be paid to developmental theories of moral education in order to understand more clearly what teaching moral reasoning can and can't, should and shouldn't do. I would suggest looking at the works of Kohlberg, Fowler (now at Emory), Parks of Harvard, and others.

PEDAGOGY: I also believe that there should be greater discussion of pedagogical methods. This may occur naturally as you select fellows with more experience in teaching. It might be nice even to take some "field trips" to watch case method teaching at the law and business schools or to learn about the New Pathways program at the Med School. It might also be useful to continue to develop a relationship with Chris Christensen from HBS or with people from the School of Education.

Robert E. Rosen

I've never been good with causation. Let me not recount the effects on me of the Program. Let me just suggest elective affinities.

The Program fostered focussed reasoned deliberation. We - the Fellows and Director - argued about cases and readings, voiced our research and speculations, and responded to each other's writings and character. We were the best of colleagues.

I studied fiduciary paternalism, as I had proposed, along more and less profitable avenues. I came to appreciate arguments that I had dismissed as light. I drafted all or part of five articles.

I wrote "Ethical Soap: *L. A. Law* and the Privileging of Character." In this consideration of a use of popular culture in legal ethics courses, I discuss teaching the importance of the good will and the cultural validation of an ethic of character. I recount how my students partake of *L. A. Law*'s vision of legal ethics and imagine playing as lawyers more characters than can be played within the roles of shepherds and sheep.

In "Checks Without Balances," a review of Joel Handler's *The Conditions of Discretion*, I consider whether administrative regimes of empowered participation are justified by their capacities for realizing justice. I emphasize that justice is but one good, conflict resolution but one institutional goal and revelation but one consequence of participation.

"Independence: With and Without Responsibility" is an account of the allocation of work between inside and outside corporate counsel. As an empirical report, it uses rudimentary transaction-cost analysis to explain the changing role of inside counsel. As a normative report, it uses the burden of the legal profession's past to suggest a misreading of legal ethics in outside counsel's justification of independence without responsibility.

"Philosophy for the Non-Practicing Lawyer" is my reclamation of Lon Fuller's essay in a review of David Luban's *Lawyers and Justice*. The best of this essay was composed in conversations with Ezekiel Emmanuel and, especially, Arthur Applbaum.

"Inconvenient Divestment" is a first fruit of my project on fiduciary paternalism. It is an account of the 1855 case in which the President and Fellows of Harvard College requested leave to withdraw as trustees of funds to advance, I suggest, Unitarian education. It tells a story of fiduciaries denying their parochialism. It tells a story of fiduciaries forced into paternalism. It is a legal history shaped by unitarianism, not republicanism. Like the others, it is still being written.