

HARVARD UNIVERSITY
PROGRAM IN ETHICS AND THE PROFESSIONS

ANNUAL REPORT 1988-89

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HARVARD UNIVERSITY

The Program in Ethics and the Professions

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Director

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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 1988-89.

Having recently returned from testifying before the U.S. House of Representatives Bipartisan Task Force on Ethics, I can report that ethics commands the attention of more people in high places than ever before. Alas, the motives for this interest are not always the most noble ("...file a charge against your opponent before the Ethics Committee...to leave a cloud hanging over [his] head..."), and the conceptions of ethics are not always the most edifying ("No one learns his ethics in Congress...All I really need to know I learned in kindergarten"). Former Congressman Otis Pike did concede that we could stand to learn something more about ethics: "We don't know how to define ethics, and we aren't sure whether the word is singular or plural."

The aims of the Program are somewhat more ambitious than Mr. Pike's research agenda, and (I hope) somewhat more elevated than the Congress's recent efforts to repair its reputation. Although these and other ethical crises in public life certainly deserve some attention from the Program, we continue to concentrate on longer range goals, centered primarily within higher education. If we can build a community of scholars who devote themselves to improving the quality of teaching and research on ethical issues, we will have left a more enduring legacy than any contribution we might make to current public problems.

The Fellows of '89

Many of the members of this class of Fellows, somewhat older and more established than those of our first group, are already beginning to play the kind of leadership role the Program seeks to encourage. As their reports indicate (Appendix III), all of them found that the year in the Program enhanced their ability in significant ways to contribute to ethics education. The collegial relationships they formed with each other, as well as with people here in various faculties, marked an important beginning of the building of the kind of community of scholars we hope the Program will foster. In this respect, I was

especially pleased that three of the Fellows from the first class who are still at Harvard took part in many of the Program's activities this year.

The content of the Program Seminar was somewhat broader (and therefore also somewhat less coherent) than in the first year. This was a natural and not unwelcome development in response to the greater range of interests and backgrounds of the Fellows. My initial worry that the group was too diverse for in-depth discussion proved exaggerated. Even before the fall term was over we had found a level and common language that allowed us to probe several problems of practical ethics more deeply than I have seen in most interdisciplinary groups. In particular, I thought that we made some advances on the problem of the nature of practical reasoning (how the process of applying ethics principles should be understood), the role of social science in ethical reasoning and teaching, the ethical status of the adversary system (and its analogues in business, government and medicine), the basis of informed consent, and the problem of paternalism. A session on the role of professional ethics in an unjust society, led by our South African Fellow, was not only interesting on its own terms but also turned out to have implications for understanding professional ethics in our (more nearly) just society. Also for the first time, we added a session on feminist ethics, with special reference to the growing literature on its relevance to the professions.

Three of the Fellows will remain at Harvard next year, actively engaged in ethics education in their respective faculties. Greg Dees, who during the year decided to leave the Yale School of Organization and Management and accept an offer from our Business School, will become a key member of the team that is developing the ethics curriculum in the MBA program. Troy Brennan and Lachlan Forrow will join the new Division of Medical Ethics at our Medical School. In addition, Brennan will continue his work in medical law in the law school, and Forrow will lead a major national program to promote the teaching of clinical ethics to house officers in internal medicine. The other Fellows will spread the gospel elsewhere. Judy Andre, who won another competitive fellowship, will spend next year writing on applied ethics and developing material for her courses in business and medical ethics. Henry Richardson will return to Georgetown more eager and able than before, he says, to teach more practical and professional ethics. David Wasserman will spend next year at the Maryland Center for Philosophy and Public Policy, continuing work on legal ethics and (for the first time) teaching, a career change encouraged by his experience in the Program. Andre du Toit will return to Cape Town, where he hopes to start a university-wide program on ethics.

The New Fellows

This year (for the first time) every one of the candidates whom the Committee ranked in our first choice group accepted. It is a remarkably talented group: the biographical descriptions in Appendix I give some indication of their interests and accomplishments. Although Harvard and the Northeast educational establishment is perhaps rather too well represented, it is in other ways more diverse than previous classes, and than most comparable groups in other Programs. The two women are among the strongest in the class (and in their respective fields), as is the black, who is one of the most highly regarded teachers at the Harvard Law School. The average age is 36. There is considerable variation in their preparation (especially in philosophy), and that gives me some concern

about whether the seminar will work well. But (as my friends remind me) that is what I have said in previous years, too.

We received 67 completed applications, five fewer than last year. The reputation of and interest in the Program continues to grow, as indicated by the significant increase in the number of inquiries, partially completed applications, and requests for interviews. But we now spend more time in trying to make sure that potential applicants are suitable; we discourage those who are not, and help those who are prepare applications in the most effective form. As before, most of the strongest applicants come from people whom the Program faculty and I have identified and personally encouraged to apply. Recruiting (as well as "derecruiting") Fellows remains a time-consuming, one-on-one process, but it is one of the most important tasks we undertake.

Completed applications came from more than 50 American colleges or universities and six foreign countries. The applicants ranged in age from 24 to 65, the average being 43. Sixteen women (24 per cent of the total), and at least two blacks applied. More came from philosophy this year than any other field (as indicated by the terminal degree). Other fields with substantial representation were: public policy (11), medicine (8), business (8), and law (7). Again, the quality of the applications from philosophy was especially strong, but those in medicine were equally impressive (more so than last year, at least among those in the applicant pool if not among those finally selected). The faculty committee agreed that the overall quality of the top of the list of candidates was truly outstanding. We could appoint perhaps as many as 15 Fellows, and still maintain exceptionally high standards. It is also fair to say, however, that the quality begins to drop sharply after that point.

Faculty and Curricular Development at Harvard

The patient and thoughtful work of many faculty associated with the Program as well as others in the University has begun to produce some visible results in the form of courses, faculty seminars, and institutional reforms. The progress comes none too soon, even though it comes sooner, I think, than anyone could have reasonably expected. In each of the major professional schools, we can point to major developments this year, some of which only lay the groundwork for much more work in the future, but all of which represent real advances. The Program made contributions to each of the developments reported below, but in every case the faculty and administration of each school were instrumental in bringing about the progress that has been achieved.

The Business School made the most striking progress this year. Under the leadership of Tom Piper, a group of faculty and research associates (with some advice from some of us in the Program) began the challenging task of integrating ethics into the M.B.A curriculum. Most notably, they designed and taught a required module on business ethics for students in their first semester. The module was well received (both by faculty and students), but it left the students wanting more discussion of ethics, especially in their other courses.

To help meet this demand (the creation of which, after all, was part of the aim of the module), the teaching groups in some of the mainstream courses in the curriculum developed materials to introduce ethical issues in some of their sessions. The most

sustained efforts took place in the courses on Marketing, Production and Operations Management, and Human Resources. A faculty member or research associate with some formal background in ethics was attached to each group to help with the preparation of the materials. (One of those research associates was Oliver Avens, who will be a Fellow in the Program next year.)

A number of other activities in the School contributed to faculty development in this area. The conference on Corporate Deviance, in which I and others from the Program took part, struck me as one of the most successful, combining the perspectives of ethics, law and management to examine a variety of misconduct in the corporate world. In addition, the School supported and several of its faculty participated, in the university-wide faculty seminar on Truthtelling (see below).

For the future, the most important factor in maintaining the effectiveness of these efforts so well begun in the Business School will be the quality and commitment of the faculty who are prepared to give their primary attention to teaching and research on ethics. I envisage a group of at least six faculty, some recruited from within the School and some appointed from outside, who would constitute a core group in this area, along with another dozen or so who would have a strong interest in ethics though it would not be their primary field. Because faculty development is so critical to this effort, I regard the School's appointment of Greg Dees, one of our Fellows this year, as one of the most encouraging developments of the year. With a doctorate in philosophy, full-time experience in the world of business, and several years of teaching business students (admittedly only at Yale—but that is, arguably, better than nothing), Dees is exactly the kind of first-rate faculty we should be seeking.

At the Kennedy School, after its most extensive review of the curriculum in recent history, the faculty appears ready to institute a required course on ethics in the first year of the M.P.P. program. This was one of the common conclusions that nearly all of the various sub-committees reached, and one of the recommendations most favorably received by the whole faculty, though there is still some controversy about what the course should contain and how it should be taught. As a member of the two major subcommittees on the curriculum review, I can testify that my colleagues are now seriously committed to giving ethics a more prominent place in the curriculum. The recommendations go beyond requiring an ethics course; they also urge that we find ways to integrate ethics into other courses in all of the degree programs.

The Policy Values Seminar, sponsored by the Program and chaired by me, seems to have become, only in its third year, an established tradition in the school. (Bob Reich and Steve Kelman are co-conveners of the seminar.) We invite faculty members, most of whom do not think of themselves as writing about ethical issues, to present papers to a group that includes faculty and Fellows who are more attuned to these issues. The resulting discussion almost always produces controversy, and—more often than one might expect—genuine insight. The seminar incidentally has become valued as an opportunity, otherwise increasingly rare as our faculty grows in size and intellectual diversity, for people working in different specialties to engage in substantive discussion of policy problems. We also have invited faculty members from other professional schools to present papers; this year, for example, in one of the most successful sessions Kathleen Sullivan from the Law School presented some of her ideas on "unconstitutional

conditions" as they related to public policy. Another "outsider" was Amartya Sen, who presented an interesting paper on justice and gender with special reference to policy in developing countries. Among the other highlights were Richard Neustadt on the nature of political thinking, Shirley Williams on the future of liberalism in Britain, David Blumenthal and Richard Zeckhauser on genetic diagnosis, Mark Moore on juvenile justice, and Marc Roberts on environmental policy.

I have been encouraged that the growing interest in ethics has spread beyond the faculty. The enrollments in the optional ethics courses we offer are rising; students have organized several extra-curricular events (including a well attended panel on the ethics of public service). The Washington area alumni of the School invited me to chair a panel on "Ethics in Government: Theory and Practice." The other members of the panel were Barney Frank, Bryan Hehir, and Amy Schwartz (a school alumna who served as the executive director of the President's Commission on Federal Ethics Law Reform). Also, during the School's first back-to-the-classroom weekend for returning alumni, the attendance and interest in the class on political ethics we offered was gratifying. Incidentally, judging by the questions I was asked both in Washington and on campus, the School's alumni strongly support our plans to strengthen ethics in the curriculum; they are also interested in what the other professional schools at Harvard are doing in this area.

Although there are now more faculty who are not only interested but also competent in political ethics, the most serious problem here remains the relative lack of qualified faculty to take the lead in helping other faculty to raise ethical issues in their courses in a systematic and rigorous way. The appointment of Arthur Applbaum, from the first class of Fellows, as an assistant professor has certainly helped in this respect. But it is essential to make an appointment at the senior level. The year-long search to fill the new chair in Ethics and Policy produced a recommendation that our faculty overwhelmingly favors, and if the appointment can be made, the School will have taken a major step forward in this area.

The Medical School will soon announce the establishment of a Division of Medical Ethics. This important development is the result of recommendations of a medical school faculty committee (on which I sit), and further discussions with the administration and faculty at the School. The Director of the new Division, I am pleased to note, will be Lynn Peterson, a key member of our Program's faculty committee. The assistant Director will be Linda Emanuel, who will be one of the Fellows in the Program next year. Ken Ryan, a Senior Fellow of the Program and the chair of the Committee that proposed the Division, will chair the faculty advisory committee for the Division. The Division, I believe, will stimulate new courses, collaborative research and faculty development in ethics, as well as help coordinate some of the related activities that are already taking place in the School. Beyond these tangible benefits, the establishment of the Division makes an important symbolic statement: the Medical School takes ethics seriously and is prepared to recognize teaching and research in ethics as a legitimate and significant part of the curriculum.

With the support of the Program, several medical school faculty and fellows presented an informal lunch-hour course on medical ethics for house officers at the Massachusetts General Hospital. Initiated by Linda Emanuel, the course (by all reports) stimulated more

discussion and thought about ethical issues among the staff than have occurred before. Many of the sessions attracted standing-room-only crowds. This is one of the first sustained efforts to try to introduce ethics into medical education in the clinical setting when young physicians are beginning to develop their habits of practice in the hospital.

The annual George W. Gay Lecture on medical ethics this year for the first time became more than a lecture. At the initiative of Lynn Peterson, we now plan to invite a distinguished visitor to campus each year for at least three days to participate in a wide range of activities at the School and throughout the university. This year Al Jonsen, one of the elder statesmen of medical ethics, delivered three public lectures (see the comments below), met with faculty and students in seminars and informal settings, and attended several dinners with faculty and students from several of the professional schools.

At the Law School the rising star in legal ethics is David Wilkins, who is to be a Fellow in the Program next year. This year he expanded his course on "The Legal Profession" from two to four credits, and although some of his colleagues warned that few students would be willing to devote that much time to this subject, more than 150 students signed up for the 60 places in the course. No doubt the popularity of the course has something to do with Wilkins's reputation as a teacher (his ratings are among the highest in the School), but his success also shows that there is considerable student interest in studying legal ethics, if the subject is well taught.

During the January term, David Luban, the author of an outstanding book on legal ethics, also taught a successful (though smaller scale) course on the subject. Luban, a philosopher who has been teaching for some years at the law school at Maryland, is someone who, several of us believe, should be considered for an appointment here. The School needs, I think, several senior faculty who will devote themselves primarily to legal ethics; at least one of these should be a philosopher, or someone with substantial philosophical training.

In the College, the Program continues to administer the American Express Fund for Curricular Development, the primary purpose of which is to encourage faculty to introduce more or better discussion of ethical issues in their undergraduate courses. As you know, we had not expected so much interest from the faculty so soon. The number of proposals in the first year was nearly as great as we had planned for the whole five-year period of the grant, and we had to engage in some creative financing to be able to fund all of the worthy proposals right away. Yet new proposals are still coming.

The grants that we awarded last year have already resulted in several new courses, as well as substantial revisions in others, and more are in the works. This year we awarded 7 new grants to faculty members. (Appendix II describes the projects.) One of the most impressive features of the set of proposals the Fund is supporting is the wide range of disciplines and subjects that it covers. Among the disciplines of the grants awarded only this year are social psychology, international relations, East Asian culture, comparative literature, sociology, and public health. The subjects range from ethical issues in the Vietnam War to the ethics of friendship in world literature.

Another product of the Fund, more immediately (and literally) visible, is a half-hour video showing one of our most popular and effective teachers of moral reasoning, Michael

Sandel, in action in his course on "Justice." In this critic's view, it is an impressive presentation, and should be especially useful to faculty who teach ethics to large groups of students.

In the future, we hope to coordinate the Fund-sponsored projects more closely with the Committee on the Core, especially with the subcommittee on the Moral Reasoning and Social Analysis sections. Such coordination should be easier now that Tim Scanlon (a member of the Program's faculty committee) has assumed the chairmanship of this subcommittee.

Our most significant **university-wide** activity this year has been the faculty seminar on Truthtelling in Management, which brought together about 15 faculty members from the Business, Kennedy, Law, and Medical Schools, as well as several moral philosophers, to discuss ethical dilemmas faced by managers and other professionals when they are tempted to distort or conceal the truth in order to serve what they regard as some other moral value. Although the differing perspectives represented in the group sometimes caused us to talk past each other especially in the first few sessions, most participants agreed by the end that they found the discussion remarkably illuminating. By comparing the justifications that corporate executives, lawyers and physicians might offer for deception, we saw some weaknesses (and occasionally some strengths) of the arguments that we might otherwise not have noticed. Although some members said that what they found most illuminating was just how wrong-headed their colleagues in other professions are, most found that they learned a great deal from the interdisciplinary and interprofessional exchanges that the seminar stimulated.

The chief purpose of the seminar was to help faculty develop some ideas and materials for teaching ethical issues more effectively, and in this respect the seminar succeeded admirably, I think. On the basis of the seminar, we are preparing some teaching notes and cases for use in the various professional schools, and are tentatively planning to run some workshops that will introduce this material to other faculty. In addition to its potential contribution to the teaching of ethics, the seminar also encouraged intellectual conversation and collaboration across the professional boundaries that usually divide faculty here. We are planning a similar seminar next year on a different topic.

In addition to faculty development, the Program, somewhat to my surprise, has been called upon to provide advice and support for various administrative offices in the university whose staffs are interested in talking about ethical issues related to their jobs. We turn away requests or appeals from individual staff members (at least two a month write me apparently under the illusion that I am an ombudsman or one-man grievance committee). But other requests to speak or run seminars are more difficult to decline. During the past year, the most enjoyable event of this kind was the one-day colloquium on ethics of fundraising sponsored by our Development Office for its professional staff. Even though my assignment was to speak about the ethics of fundraising rather than (as I hoped) fundraising for ethics, I found the staff both interested and intelligent in their approach to the subject.

Public Lectures

The series of public lectures organized by the Program and supported by the gift of Obert Tanner continues to stimulate discussion about the relevance of philosophy for the study and practice of practical ethics. The first lecture of the year provided the occasion for a lively controversy about the role of philosophy in legal ethics. A philosopher who now practices law and teaches at Smith College, **M.B.E. Smith**, answered his question "Should Lawyers Listen to Philosophers about Legal Ethics?" with a resounding "no." **David Luban**, the philosopher (mentioned above) who teaches law at Maryland, responded, arguing (much more convincingly in my view) that philosophy may not be sufficient but certainly is necessary for understanding legal ethics.

The Program joined with the Medical School to sponsor a week-long visit by **Albert Jonsen**, chairman of the department of medical history and ethics in the medical school at the University of Washington. Jonsen, who is the co-author of a new book that seeks to revive casuistry, spoke (appropriately enough) on "Casuistry as a Method for Practical Ethics." Although his talk went a long way toward improving the reputation of casuistry, several members of the audience, particularly our Fellows, argued that his own analysis of cases depended more than he allowed on general theory. He also delivered a lecture on "Asklepios as Intensivist" and "The Good Samaritan as Gatekeeper."

Our largest audience turned out for our most specialized lecture – a detailed analysis of Aristotle on practical reasoning, given by **Martha Nussbaum**, Professor of Philosophy at Brown University. Her talk, "Improving Lives by Argument: Aristotle on Theory and Practice," interested both the Aristotle scholars in the audience (some of whom thought she made Aristotle ethically more appealing than he deserved) and students of practical ethics (many of whom commented that she made Aristotle's thought come alive in ways they found highly relevant to their own interests in ethics).

In February we sponsored, jointly with the Philosophy Department, a lecture by **Thomas Nagel**, Professor of Philosophy and Law at New York University. Under the title "Politics and Duality," Nagel pursued a theme with which his own writing has recently been preoccupied: the allegedly irreconcilable differences between the personal and impersonal perspectives on morality. In this lecture, he discussed the implications of these perspectives for various views of political equality.

Continuing our tradition of presenting at least one philosopher who has served with distinction in public office (last year it was Solicitor-General Charles Fried), we invited **David Price**, Congressman from the Fourth District of North Carolina, to speak on "Ethics and Office." Price is (as far as I know) the only political theorist to win election to Congress in modern times. Prior to embarking upon a political career, Price had taught at Yale and Duke, and had written on the theory of representation. During his lecture, he compared and contrasted the somewhat idealistic principles he had proposed in his early academic writing with the more practically informed views he now holds. Many of us were surprised – and encouraged – by how little his current views departed from the ideals expressed in his earlier writings.

Finally, in an effort to show the relevance of philosophy to business, we asked **Michael MacPherson**, an economist-philosopher to speak on business ethics. MacPherson, who is

chairman of the economics department at Williams College and editor of the journal, *Philosophy and Economics*, spoke on "The Educative Role of Business Institutions." Several members of the audience, including some of our colleagues from the business school, expressed skepticism about MacPherson's argument that business already relies on, and could further encourage, a public-spirited morality. But all agreed that MacPherson went well beyond the conventional critiques that philosophers and economists tend to make of business ethics.

As in previous years, the lectures stimulated discussion of ethical issues in the professions among a wide range of faculty and students, many of whom (it is fair to say) had never met each other. The audiences were made up of faculty and students from diverse backgrounds, including persons from the schools of business, law, medicine, government, divinity, and education. We also attracted some residents of the local community. The discussions that followed, including those over dinner, encouraged some enlightening cross-professional conversation.

Activities Beyond Harvard

The growing interest in ethics around the country is almost as frustrating as it is encouraging. Other universities and their faculty members frequently turn to our Program for advice and sometimes even (wishfully) financial support. I would like the Program to be able to respond to more of these requests (at least the ones for advice), but our primary responsibilities are at Harvard, and I have tried to limit our outside activities to cooperation mainly with those institutions that are beginning or developing programs or centers similar to ours. That is enough to keep us busy. During the past year, I consulted with faculty and administrators at more than a dozen colleges or universities who are starting or expanding some kind of program in ethics education. Among them are: Cambridge University, Carnegie Mellon, Cornell University, Loyola (New Orleans), University of Nebraska, Virginia Commonwealth University, and the College of William and Mary. In the spring a group consisting of almost all our fellows and some associated faculty spent a day at the Dartmouth Center for Applied and Professional Ethics, discussing their plans for introducing several courses in the College and professional schools there.

Next month we will sponsor, jointly with the Indiana University's Poynter Center, a four-day meeting for faculty from more than a dozen universities who are teaching ethics in schools of law, medicine, business, government, journalism and education. We expect most of the big ten universities to send representatives, as well as several East Coast institutions. One of the purposes is to plan some future workshops and other conferences for faculty development in this area.

Last summer the Program tried to reach those that some say are most in need of ethics education — college and university presidents. At the invitation of the American Council on Education, I organized a four-day colloquium on Moral Leadership in Higher Education, which was attended by more than 20 presidents and their spouses in San Diego. The participants were pleased that you could come for part of the time, though your need for remedial education in this area is less than some, and were even more pleased that your wife agreed to serve on the faculty for the event. According to ACE officials, this was one of their most successful colloquia. During the year there were a number of other similar events; though in somewhat less agreeable settings, they reached

even larger numbers of educators. Most notable of these was the seminar I chaired at the Association of Higher Education meeting in St. Louis in November.

Despite my best efforts, the Program is still in the news. Naturally, I do not mind when the *Chronicle of Higher Education* sees fit in a thoughtful piece on research being done in the Program to praise our "pioneering" efforts, when the *Christian Science Monitor* features the Program in a favorable full-page story in its "Ideas" section, or when the Cambridge Forum gives me a full half-hour on national radio to answer questions about the purposes of the Program. But I am less pleased when Cable Network News runs a series of five minute programs (one a day for a week) on ethics education that reduces our efforts to what might be called "ethics bites." Viewers got to hear you, me and others making disjointed comments about the importance of ethics, while they watched, among other sights, teenage couples making out during lunch hour on the campus of a Southern California high school.

Future Plans and Problems

Looking to the future, I do not foresee a great expansion in the number of Fellows. Although we could probably recruit a high quality group of up to about 15, I do not think that, with the faculty likely to be available and the other demands on our time, we could provide effective guidance for such a large group.

Furthermore, there are other ways in which the Program might expand its activities that are equally important. For example, many faculty, here and elsewhere, have asked about the possibility of spending some period of time shorter than an entire year associated with the Program. I would like to be able to provide offices and arrange seminars for visiting scholars, who are preparing new courses at Harvard and other universities, or conducting research relevant to the purposes of the Program. We have also been asked to offer workshops and summer short courses for faculty who are teaching professional ethics. Eventually, we could also consider offering practitioners from the professions similar opportunities. Other ideas more in the form of hopes than plans include a newsletter reporting on developments in ethics teaching and research, a series of working papers on ethics that would present early versions of work by current and past Fellows as well as others associated with the Program, and a major conference that would produce a study assessing the state of professional ethics today.

All of these plans confront the three perennial problems I have mentioned in my previous reports to you — resources, space, and faculty. Although the Program has benefited from generous support from within the University, we are not adequately funded to continue indefinitely even at the relatively moderate level we are currently spending. We have had some notable successes in fund raising, and I expect another in the fall, but in all cases the gifts are for activities that will help other parts of the university (Arts and Sciences, or the Medical School), rather than the Program directly. We need to redouble our fundraising efforts to secure some direct support for the Program. Compared to other similar activities in the University, our operation is frugal, probably too much so by the principles of good management. The Program now has an excellent Administrator (Jean McVeigh, recruited this spring from the CFIA), and she and our highly capable staff assistant Cindy Robinson accomplish more than one should reasonably expect. As a modest step toward relieving their burdens, I am hoping to add a half-time secretary next year.

Although the decor tends toward post-modern Harvard-seedy, the Winthrop Street space occupied by the Fellows is much more comfortable than in the first year of the Program. We now have taken over the whole first floor of the building, and have a small lounge area. It would be possible to keep the Fellows in this building for another few years, if necessary. However, there are serious disadvantages. My office and those of our staff are two blocks away, making casual contact difficult. We do not have any extra space for visiting faculty and research assistants, or a conference room (surprisingly, finding a room for the weekly Fellows seminar has become a major problem). Also, it is important especially in the early years to establish the identity and visibility of the Program as an independent entity. The new building on Eliot Street seems the most promising place for a permanent residence for us, but I am not certain that the Program has either the funds or the priority to secure space there. Another alternative would be to take over all of the Winthrop Street building, though it would have to undergo some major renovation.

The most important priority is the appointment of more faculty. Nothing is more urgent for the Program than to build a strong group of faculty at all levels who are actively involved in the activities of the Program, the curriculum in the college and the professional schools, and helping their colleagues become more adept at discussing ethical issues. The number (and quality) of faculty who are prepared to devote time and energy to ethics education and research here is growing. The appointment of some of our Fellows to the faculties of several of the professional schools marks a major step forward. But we have not had similar success yet at the senior level. We are considering the possibility of creating a new category — faculty associate — to identify some of those senior faculty (other than the faculty committee and Senior Fellows) who have been active in the Program, as well as former Fellows now on Harvard faculties. But recognizing and recruiting faculty already here will not be sufficient. New appointments, including some at the senior level, will be necessary to provide a strong core of faculty leaders in each of the professional schools.

Although I probably will be describing these same problems in my fifth annual report (if I survive that long), I can (in those increasingly rare moments of reflection) see some progress in dealing with some of them. There is no doubt in my mind that what we are *trying* to do is of the highest importance for higher education today, and therefore even some modest successes should give us some satisfaction. In any event, the individual achievements of the Fellows and the contributions they are already making to ethics education should inspire the rest of us.

Yours sincerely,

A handwritten signature in black ink that reads "Dennis" followed by a long, horizontal, slightly wavy line.

Dennis F. Thompson

Appendix I

Fellows in Professional Ethics, 1989-90

Oliver Avens, 29, currently a Research Associate at the Harvard Business School, will undertake field research on the ethical considerations that managers use in decision-making, focusing on the ways in which such findings are relevant to the teaching of management ethics. Avens holds degrees in political science from Williams College and Yale University, and has studied at the London School of Economics and Nuffield College, Oxford. He has also held a Research Fellowship at the Workshop in Political Theory and Policy Analysis, Indiana University, and taught courses in political theory at Yale. He is presently completing a study of the relation between concepts of justice in political philosophy and the organization of work.

Linda Emanuel, 34, currently holds a Faculty Development Fellowship in General Medicine at Harvard Medical School and Massachusetts General Hospital. Her Ph.D. in neurophysiology is from University College in London. She received her medical school training at Oxford University in England and Harvard Medical School, and her residency training in internal medicine at the Massachusetts General Hospital. She has conducted research on shared decision-making for advance care directives by patients and their primary physicians. The research (which is soon to be published in the *Journal of the American Medical Association*), makes use of a new concept of Advance Care Directives. Emanuel also initiated a highly successful program of lectures in clinical ethics at Massachusetts General Hospital. During the Fellowship year Emanuel will study the balance between individual and community values in medical policy and practice. She will compare current debates concerning the AIDS epidemic and geriatric care with policy debates on whooping cough vaccination and on management of tuberculosis in the 1950s before antibiotic treatment was available.

Frances Myrna Kamm, 40, Associate Professor of Philosophy, New York University, received her Ph.D. in philosophy from M.I.T. She has taught ethical theory, political theory, philosophy of law, and applied ethics at N.Y.U., including its schools of medicine and law. She has held ACLS and AAUW Fellowships, and was a Silver Fellow in Law, Science, and Technology at Columbia Law School. Her publications have appeared in *Philosophy & Public Affairs*, *Journal of Philosophy*, *Criminal Justice Ethics*, and the *Mount Sinai Journal of Medicine*, among others. During the fellowship year, she will complete a book, entitled *Morality, Mortality*, on ethical theory and its applications to matters of life and death, as well as pursue additional research on Kantian ethical theory, the distribution of scarce resources, and euthanasia.

Mark Osiel, 33, is an attorney and sociologist who has written on the sociological dimensions of litigation and the legal profession, as well as legal aspects of "professionalization" by occupational groups. He has also written about the challenges confronted by members of the legal profession during transitions from authoritarian to democratic rule, as in the prosecution of Argentine military leaders as "perpetrators" of their subordinates' criminal acts. His scholarly publications have appeared in the *European Journal of Sociology*, *Sociological Inquiry*, the *Journal of Latin American Studies*, and elsewhere. Osiel received the J.D. and Ph.D. at Harvard. He has practiced law in Boston at Foley, Hoag, and Eliot, and held research fellowships from the DeWolfe-Howe Civil

Liberties Fund at Harvard Law School, the Inter-American Foundation, and the Institute for the Study of World Politics. During the fellowship year Osiel will study the ways American law seeks to ensure public accountability from several professions. He will also continue work on a book about the effect that competing legal philosophies have had on judges compelled to choose between enforcing and resisting the law of authoritarian states, particularly in South America.

Alan Wertheimer, 46, is Professor and Chair of the Department of Political Science at the University of Vermont, where he teaches courses in political philosophy and philosophy of law. His project during the Fellowship year, "Exploitation and Voluntariness in Professional Relations", will explore the general characteristics of exploitative relationships that arise in the professions. Wertheimer received his A.B. from New York University and his Ph.D. from Case Western Reserve University. He was a member of the School of Social Science at the Institute for Advanced Study, Princeton, in 1984-85. He is the author of *Coercion* (Princeton University Press, 1987), the leading book on its subject, and co-editor of *Majorities and Minorities*, *Nomos XXXII* (Columbia University Press, forthcoming), and has published articles in numerous journals, including *Polity*, *Ethics*, and *Philosophy & Public Affairs*.

David B. Wilkins, 33, currently Assistant Professor of Law at Harvard Law School, will conduct research on the ethical implications of the growing stratification of the legal profession. Wilkins is the author of *Reconstructing Ideology Through Enforcement* (forthcoming 1989), in which he examines the enforcement and normative implications of the expanding number of external controls on lawyer conduct. He received his J.D. from Harvard in 1980, after which he clerked for Judge Wilfred Feinberg, Chief Judge of the United States Court of Appeals for the Second Circuit, and Justice Thurgood Marshall, Associate Justice of the United States Supreme Court. From 1982 to 1986, he was associated with the Washington D.C. firm of Nussbaum, Owen & Webster, where he devoted a substantial portion of his practice to prosecuting and defending claims of lawyer misconduct before various courts and administrative agencies. Since joining the Harvard faculty in 1986, his teaching and research have centered on the structure and ideology of legal practice.

Peter Yeager, 39, a sociologist at Boston University, will conduct research on the place of ethics in corporate management decision-making, focusing on the ways in which organizational structures and cultures shape managers' perception and treatment of ethical dilemmas in their daily work. Yeager received his M.S. and Ph.D. degrees from the University of Wisconsin at Madison, where he received both National Science Foundation and National Institute of General Medical Sciences awards to pursue his graduate training. He has co-authored two books on business offenses—*Illegal Corporate Behavior* and *Corporate Crime*—and has published articles in the research literatures of management policy, sociology, and law. His most recent book, *The Limits of Law: The Public Regulation of Private Pollution*, to be published next year by Cambridge University Press, investigates the political economy of environmental regulation.

Appendix II

Grants Awarded by the American Express Fund

Jerry R. Green, David A. Wells Professor of Political Economy, will develop a course on ethical issues in high risk situations. The course will deal with problems of risk faced by individuals (for example, choice of medical treatment), by groups and organizations (for example, job safety and environmental hazards), and national and international systems (for example, contagious diseases, and hazardous technologies).

Herbert Kelman, Richard Clarke Cabot Professor of Social Ethics, will prepare a course called "Individual and Social Responsibility," which will provide a social-psychological perspective on ethical decision-making. The course will examine the conditions under which individuals are willing and able to take moral responsibility for their own actions, and the conditions under which they take responsibility for policies and practices of groups to which they belong. It will also explore ways in which individual responsibility can be increased. Among the topics to be considered are guilt and shame, conformity, "groupthink," group loyalty, altruism, crimes of obedience, and social experiments.

Yuen Foong Khong, Assistant Professor in Government, is converting his seminar on "The Indochina Conflict" into a core course that will conclude with a three-week section on "the ethical dimension" of the U.S. intervention in Vietnam. The course will address questions about the justice of the war and the way it was fought, the moral responsibility of political leaders, military officers and ordinary citizens, and the moral responsibility of the U.S. for events in Indochina after 1975. A main objective is to provide students with conceptual and historical tools to make more carefully reasoned moral judgments about the conflict.

Mary McGee, Lecturer in the Study of Religion, is preparing a course on "Hindu Ethics," which will introduce students to non-Western ways of thinking about morality. The course will address such topics as the Hindu views on right and wrong, justice and retribution, individual responsibility and culpability; the influence of the concept of moral order (dharma) on ethical decision-making in both personal and public life; and the ethical basis of the caste system and non-violence. By comparing the Hindu ideas of ethics with Western ideas, the course is intended to encourage students to reflect on the basic values and assumptions underlying their own ethical judgments.

Orlando Patterson, Professor of Sociology, is developing a new course on "Freedom," which will discuss the origins and nature of the concept and the social practices with which it is associated. The course focuses on what Professor Patterson believes to be a basic but rarely asked question about freedom: how and why did it become a value in the first place, and later come to be such a dominant value in Western society? Slavery and civil war in ancient as well as modern period are among the topics to be considered.

Marc Roberts, Professor of Political Economy in the School of Public Health, is supervising the preparation of three cases which are to be used in several different courses on ethics throughout the university. One of the cases, "AIDS Testing in

Washington," describes the ethical problems posed by legislation to bar insurance companies from testing for the AIDS virus. The second, "Defunding Organ Transplants in Arizona," explores the ethical controversy provoked by the decision of state medical authorities to restrict resources devoted to organ transplants. The third case describes the ethical dilemma faced by the head of the Environmental Protection Agency in deciding what emission standards to impose on a copper smelting plant in Washington state.

Michael Sandel, Professor of Government, has produced a videotape featuring several classes of "Justice", his widely praised course in the moral reasoning section of the core curriculum. The thirty-minute tape, which shows Professor Sandel leading discussions with students on topics such as affirmative action, will be made available to teaching fellows and faculty interested in ethics teaching.

Tu Wei-ming, Professor of Chinese History and Philosophy, will develop a course on "Confucian Ethics," which will examine Confucian views of the self, the family, society, education and politics. The course will ask students to reflect on their own moral views in light of the virtue-centered approach of Confucianism. Special attention will be given the interplay between the ideas of self-cultivation and moral community.

Jan Ziolkowski, Professor of Medieval Latin and of Comparative Literature, will prepare a course on "The Ethics of Friendship." The course will use literature from several different periods and cultures to explore the moral dimensions of relations among friends. The course will range widely – from Aristotle, Seneca, and Plutarch through Shakespeare, Montaigne and Bacon. Prominent among the themes will be the tensions between friendship and other values-especially patriotism, love, and money.

Appendix III

Reports of the Fellows, 1988-89

MEMORANDUM

June 20, 1989

TO: Dennis Thompson

FROM: Judith Andre

SUBJECT: Annual Report

During my year here I gained invaluable interdisciplinary foundations for my projected work on commodification (the values at stake when society decides that something can be bought and sold). In addition I finished several works in progress, began new work in moral development, read much of the recent work within professional ethics and deepened my understanding of how lawyers and business people approach ethics in their own fields. Finally, I began professional relationships which I expect to continue for years, and made two successful grant applications which will allow me to continue my research next year. Virtually none of this would have been possible if I had not been in the Ethics Program.

For the commodification project I needed to become familiar with legal and anthropological work on the subject. I spent much of this year in the Law School, auditing courses in constitutional law and property law and attending many sessions on legal research. I also audited a bridge session on law and economics, and participated in a seminar on adoption and the new reproductive technologies. (Many claim that in surrogacy, for example, babies become commodities.) I also talked with Law School faculty about the topic, learning for instance how other legal traditions approach the question of what should be on the market. By this point I believe I know how the law approaches questions of ownership, as well as current legal theory on the topic. More important, I have the research skills to continue to learn what legal scholarship has to say.

For anthropological background for the commodification project I am taking part in an informal study group with philosophers and anthropologists, a course of readings which is leading me to fundamentally restructure my project.

Thanks to grant proposals written this fall, I will be able to continue this work next year, with support from the Virginia Foundation for the Humanities and from the Rockefeller Foundation (through the University of Texas Medical Branch.)

More generally, I believe I have deepened my practical understanding of what ethics means to practicing professionals. I was able to talk with people in the Business School and the Law School, sitting in on a full semester The Legal Profession course, and taking part in sessions with visiting scholars. I also learned a great deal from regular conversations with other Fellows - lawyer

David Wasserman, physician Lachlan Forrow, business scholar Greg Dees. And of course the seminar itself, our weekly discussions of shared readings, was invaluable in this respect.

I finished some old business: with input from Ethics Program colleagues and in the light of seminar readings, I revised a paper called "Role Morality as a Complex Instance of Ordinary Morality" and submitted it for publication. An anthology called Rethinking College Athletics was accepted by Temple University Press this year; I'm just finishing with its editing. I also made some progress with a paper entitled "The Moral Defect called Being Materialistic," parts of which will probably appear in my eventual commodification manuscript.

As a result of an invited paper which I gave in March, I've found myself reading extensively in moral development research, and now have several drafts of a paper tentatively called "Toward Unification in Models of Moral Development." That work fit well with Ethics Program seminar readings on education, and as a result I have a draft called "Beyond Moral Reasoning: Looking More Deeply at Ethics Education." A small group of Fellows interested in this topic is meeting informally throughout the summer, and I'm grateful for their help.

I attended a number of conferences: Feminist Moral Theory, the Southern Society for Philosophy and Psychology, Professional Ethics in Higher Education, and others.

It has been a rich year, providing the ground and first sprouting of work which will develop for years. I have begun professional friendships which will be invaluable in my teaching and my research. Almost none of this would have been possible without the Ethics Program; it gave me time, facilities, a research budget, access to the rich Harvard environment, and the impetus provided by colleagues working on similar topics.

Progress Report

Troyen A. Brennan
Harvard Medical School
Harvard Law School

During the year I spent as A Fellow in the Program for Ethics in the Professions at the John F. Kennedy School of Government of Harvard University, I worked on several projects concerning ethical issues in medicine. At the beginning of the year, I completed several studies of ethics committees in hospitals.^{1,2} Although I had collected the empirical evidence before the Fellowship began, during the Fellowship year I was able to write the papers in a far richer manner than I would have been able otherwise. I tried to explore in some depth the roles of physicians and the courts in decisions regarding termination of care. While a Fellow, I addressed the American Society of Law and Medicine on this subject, and that of rationing intensive care. I based another paper on this talk, and was able to integrate issues of pluralism and liberalism which we had been developing in the seminar into this paper.³

In the middle part of the Fellowship, I was writing about ethical issues that arise in the Human Immunodeficiency Syndrome (HIV). One article, intended for a primary care physician audience, concerned the ethical dilemmas faced by a physician who has reason to believe that her HIV seropositive patient is practicing unsafe sexual or drug abuse habits, and who thus feels some responsibility to break the doctor-patient confidentiality

and warn the third party.⁴ I argued, among other things, that these sort of ethical dilemmas clearly call for medical student education in ethics. I also have written several papers and book chapters on the ethics of physician refusal to care for HIV seropositive patients.^{5,6} I have contrasted physicians' ethical duties with their legal duties and have suggested that ethics may prohibit physicians from discriminating on the basis of disease, even if the law does not so prohibit it.

By far the most important part of Fellowship for me was that it has provided the basis for me to undertake the writing of a book on medical ethics and health law. My thesis is that health care has changed a great deal over the past twenty years, and that these changes must be understood from the point of view of moral and political philosophy. I characterize these changes as a matter of the doctor-patient relationship, and indeed the institutions of medicine, being re-integrated into the liberal state. I suggest that medical ethics is changing as well, and that perhaps the best way to understand the ethical practice of medicine is to consider carefully the role of individual and group morality in the liberal state. Relying heavily on philosophers such as Berlin, Hart, Dworkin, Rawls and Sandel, and medical ethicists such as Veatch, Katz, and Pellegrino, I have tried develop this theme, and to discuss as well the relation of ethics to the law.

In order to specify fully the theory of medical ethics I have developed, I discuss in succeeding chapters recent

important policy initiatives in medical care and outline the ethical role I see for physicians in each. These initiatives include malpractice and quality assurance issues, rationing of care, informed consent, antitrust issues, and the benefits of a national health service. I hope to have a first draft of the manuscript finished by July 31, 1989.

It would not have been possible for me to write this book without the Fellowship. The book is based in part on my medical school thesis which won the Kease prize for best thesis at the Yale Medical School in 1984. I have not been able to touch the thesis since that time, as my medical school activities simply did not allow me to spend an extensive time working on one project. Moreover, my ambition to write about moral and political philosophy would have been frustrated without the support provided by Dennis Thompson and the other Fellows in the program. Not since I left college in Great Britain in 1978 had I been able to think about and discuss philosophical issues.

A division of medical ethics is now taking shape at the Harvard Medical School. I hope to get involved in the courses this division will provide for medical students. I feel much better equipped to undertake this teaching after my Fellowship year than I would have without it. Thus I am quite grateful to Dennis Thompson and the Fellowship Program for an enriching year. The Fellowship gave me a great opportunity and I hope to be able to take advantage of it, both in my writing and at my teaching.

Endnotes

1. Brennan TA. Ethics committees and decisions to limit care: The experience at the Massachusetts General Hospital. JAMA 1988; 260:830-4.
2. Brennan TA. Incompetent patients with limited care in the absence of family consent: Socioeconomic and clinical parameters. Ann of Intern Med. 1988; 106:819-26.
3. Brennan TA. Silent decisions: Limits of consent and care for the terminally ill. Law, Medicine and Health Care. 1988; 16:204-10.
4. Brennan TA. AIDS and the limits of confidentiality: The physician's duty to warn third party contacts of seropositive individuals. Journal of General Internal Medicine. 1989; 4. (in press)
5. Brennan TA. Occupational transmission of HIV: An ethical and legal challenge, in L. Gostin (ed.). Hospitals, Health Care Professionals and AIDS. (in press)
6. Brennan TA. Removing barriers to health care for people with HIV-related disease: A matter of law or ethics? In D. Rogers, E. Ginzburg (eds.). The challenge of the HIV epidemic for hospitals, 1989. (in press)

Annual Report From J. Gregory Dees

Fellow in the Program in Ethics and the Professions, 1988-9

I began this fellowship year with three primary objectives in mind:

- 1) to explore the role of social and behavioral sciences in professional ethics,
- 2) to produce some substantive research on the ethics of competition and cooperation, and
- 3) to strengthen my knowledge of recent philosophical ethics.

Though the work did not follow my preconceived plans perfectly, I am quite pleased with the progress made on each of these three fronts this year.

My first objective was motivated by a conviction that philosophers and social scientists have a great deal to learn from one another on the topic of ethics. I firmly believe that teaching and research in professional ethics must become more interdisciplinary if it is to have a significant and lasting impact on the conduct of professionals outside the classroom. This is not the place to argue for this thesis. I simply want to note that the Program has provided a very supportive environment for my work along these lines. That work will result in two tangible products this year. One is a paper that I wrote last fall, entitled "Principals, Agents, and Ethics," that deals with the ethical questions raised by an influential new branch of economics, called "agency theory." This paper is addressed to both economists and philosophers in an attempt to demonstrate how the two disciplines might learn from one another. The other tangible product is a paper in progress, addressed to my philosophical colleagues, that outlines the ways in which the institutional context can work to distort moral reasoning and inhibit moral conduct. With regard to both papers, I have benefited (and continue to benefit) from comments and advice offered by colleagues at Harvard, some closely affiliated with the Program, some not. I also benefited from the opportunity to devote one of the Program seminar sessions last fall to a discussion of relevant work in social psychology.

When I originally thought about my second objective, to produce some substantive work on the ethics of competition and cooperation, I had in mind picking up the topic of coercion, on which I wrote my dissertation. However, my reading and thinking during the year has led me down some different, yet equally important paths. My work on coercion has made some progress, thanks to discussion of coercion in one of the Program seminar sessions and in a small faculty study group on ethics in negotiation, but it has been put on hold while I attend to other matters

that now seem more important to me. Most of my substantive research has focused on two topics. One is what I call the problem of unilateral ethical action. Is it foolish to behave in a principled fashion when those around you (competitors or collaborators) cannot be expected to behave in the same principled way? I have a paper in progress on this topic, tentatively entitled "I'D Be A Fool Not To." A preliminary draft was presented in the Program seminar in the late spring. Comments from that presentation and from continuing conversations are helping me greatly in refining this work. My other current research topic concerns the notion of an "implicit" promise or contract. What sense can we make of this notion and what sort of moral import does it have? This work is still in the research and idea stage, but I expect a paper to develop out of it over the next year. My initial thinking on this topic thinking has been stimulated by discussions with Program fellows and with some other Harvard faculty.

My third objective, to engage in remedial education in contemporary ethics, was most directly met by the readings and discussions in our Program seminar. Several of the sessions were devoted to recent philosophical ethics. This source of remediation was supplemented with additional reading, often suggested by other fellows. The effort has provided me with what I believe is a reasonable handle on the main lines approach in recent theoretical ethics. My research and writing have clearly been influenced, for the better, by this effort.

It is difficult to summarize the many benefits of spending a year as a fellow in this Program. Much more is accomplished than the conduct of research and the writing of papers. The Program also provides a great deal of intellectual stimulation through the seminar, the outside speaker series, and related activities, such as this year's faculty seminar on truthfulness in management. All this helps to create an intellectual momentum that has lasting value. Finally, but perhaps most importantly, the Program provides an opportunity for fellows to build invaluable professional relationships, with other fellows and with Harvard faculty. These relationships will be fruitful for years to come. The seeds have been sown for continued intellectual stimulation and, possibly, for some collaborative work in the future. I, for one, leave the program with much more than the current, tangible fruits of my research and writing labors.

André du Toit: Report on Fellowship in the Program in Ethics and the Professions, Harvard University, 1988-1989.

1. Prospect and Retrospect: What I had expected, based on previous research fellowships and on my needs as an overstretched academic and university lecturer, was primarily the opportunity and resources to pursue research projects in this area as far as I could take them on my own with, of course, some input from colleagues as well. What I found was a more complex, interesting and potentially important enterprise. The Program brings together a varied group of Fellows from Philosophy, Law, Medicine, Government and Business Studies but it does not invite or allow them to do just their own thing. Rather it is structured to facilitate systematic interdisciplinary interaction in the general field of Professional Ethics in such a way as to feed back into teaching and research in the respective disciplines and professions. This is primarily accomplished through the extensive syllabus for the Program Seminar, which ranged from a basic theoretical orientation through surveys of the state of the art in the various sub-fields of professional ethics to investigations of central themes and issues common to the field as a whole. This syllabus effectively functioned as the centrepiece of Program activities during the year, providing the framework for the Fellows' further informal discussions, research and other projects. Its impact is not to be measured only in terms of work actually completed during the course of this academic year, but even more in terms of the ongoing influence on future teaching and research by Fellows in their respective and diverse fields.

In my own case this meant some changes in priorities, with less time available for independent writing and research on my own projects and a much richer menu to savour and digest offered by the weekly Program Seminar. The pace was quite hectic, and there has barely been time to reflect on what has been accomplished.

2. The Program Seminar: As an exercise in interdisciplinary discussion and cooperation I found the weekly seminar meetings a model of its kind. In my experience interdisciplinary projects more often than not prove frustrating and abortive enterprises, due to the barriers of diverse disciplinary orientations, discrepant conceptual vocabularies and clashes of territorial imperatives. In this case, though, there was little frustration and rich rewards. The secret, I suppose, is to be found as much at the level of personal chemistry as that of programmatic planning. While the syllabus required rigorous theoretical reflection on basic issues within the context of a structured program (with substantial room for generating input from the various Fellows in their respective fields of expertise), in practice discussions were conducted in a convivial and open-minded spirit of collegiality and a common preparedness to follow the argument where it leads rather than attempting to score points off each other. In the course of the year the participants in the seminar thus could develop a mutually stimulating intellectual *modus vivendi*, and it was

noticeable how later discussions could build on earlier themes (though perhaps some structural means could be devised and resources found to encourage this process even more) while the extent of informal exchanges between Fellows outside the seminar itself also increased. Both the range and the continuity of seminar discussions also benefited substantially through the regular participation of Amy Gutmann as visiting professor from Princeton and Arthur Applbaum, who had been a Fellow in the Program the first time round. This was nicely balanced by the occasional fresh input of such leading scholars in the field as David Luban, Dan Brock, Norman Daniels and Sissela Bok participating at seminar sessions discussing their work. Altogether I thus found the Program Seminar rewarding and stimulating in its own right as well as opening up a variety of avenues to explore in wider contexts. In my view it can well develop, over a number of years, into a major intellectual force both in the specific field of professional ethics and more generally as a model for sustained interdisciplinary cooperation.

3. Own projects: My own writing and research since last October concentrated mainly on two projects, as well as various more incidental concerns.

i) Interdisciplinary project on Political Violence and Professional Discourse in South Africa: Together with Chabani Manganyi of the African Studies Institute at the University of the Witwatersrand I have been editing an interdisciplinary collection of essays on aspects of political violence in South Africa. First drafts of the papers had already been discussed by the participants at a workshop in South Africa in May 1988, and subsequently revised by the authors concerned. In December 1988 I met with Prof. Manganyi here at Cambridge to consider the revised drafts, and to plan the final stages of this project. We agreed that in order to realise the potential of the various contributions and to produce a coherent whole from such diverse material a further round of comprehensive and rigorous editorial revision was needed. Accordingly I prepared complete copy-edited manuscripts of the various chapters for the authors' approval, in some cases entailing extensive restructuring and revision, during the course of the next few months. By the end of March this process was largely completed, and the manuscript was submitted to interested publishers. It was accepted for publication by MacMillan in Britain, to be co-published with St. Martins Press in the U.S. and Southern in South Africa. (For more particulars about the contents and background of the volume, see the Appendix). During the course of this editorial process I was able to make good use of the resources available at Harvard generally and within the Program in particular.

Meanwhile I also completed my own contribution to this volume. This took the form of a chapter on "Discourses on Political Violence", which was designed to provide a general framework for the volume as a whole as well as a philosophical investigation of a number of issues in the study of violence extending beyond conceptual analysis or normative argument only. I was able to present a draft of this paper at the final session of the Program

Seminar, and to benefit from the intensive discussion and critique by the seminar participants. Within the context of the Program Seminar the paper also functioned to provide a survey of "Discourse Theory and Discourse Analysis" as a different theoretical perspective with relevance to the field of professional ethics.

ii) Long term project on Foundations of Professional Ethics in the Context of a general Legitimation Crisis: In general terms the Program Seminar provided an ideal context to lay the groundwork for this long term project in so far as it enabled a thorough theoretical grounding in professional ethics as well as the opportunity to sample local state of the art developments in the fields of medical ethics, legal ethics, business ethics etc. More specifically I was able to work on the relevant primary material I had collected in the South African context, and to present some of this for discussion at a Program Seminar on "Professional Ethics in an Unjust Society" in December. Had time allowed I would have liked to pull this together in a draft paper of some sort for further discussion, but this was not possible and will have to be pursued at the next stage of this project.

iii) Incidental projects: Among more incidental concerns I managed to revise and complete for publication the final text of my inaugural lecture at the University of Cape Town on "Justice and Truth in South Africa?" as well as a Chapter on "Justice and Rights Ideologies in South Africa" for publication in a collection of essays. I also had the privilege and pleasure of teaching a Junior Seminar on "Ideology, Morality and Political Strategy in South Africa" in the Government Department during the Spring term as well as to participate in the graduate research seminar on "American Religious Thought in Western Context" offered by Prof. W.R. Hutchison at the Harvard Divinity School. In December I presented a paper as part of a panel on "Many are Chosen: Religion and Nationalism in the Imperialist Era, 1880-1920" at the annual conference of the American Society for Church History.

4. General: It is a special challenge to make full and proper use of all the varied and stimulating opportunities offered in the Harvard environment in the course of an all too brief academic year. The resources and support provided by the Program greatly facilitated this. The Fellows' offices at 67 Winthrop Street provided a congenial workplace complete with PC's, printers and copiers which were fully utilized. Harvard's incomparable library resources more than met my own research needs, and the research assistance provided by the Program was a valuable practical help. The support provided by the administrative staff of the Program, in particular by Valerie Abrahamsen and later by Jean McVeigh, was always adequate and is much appreciated. More generally, I found the Policy Values Seminar at the Kennedy School a valuable entrée to some of the relevant work being done in the larger Harvard community. One sometimes wished that the Program could also be informally linked to possible similar interdisciplinary seminars in the other graduate schools -- but then there would probably not be enough hours in the week to accommodate that as well. All of this, no doubt, is directly and indirectly to the credit of Denis Thompson as Director of the Program and its main inspiration.

Andre' du Toit
6/22/89

HARVARD UNIVERSITY

The Program in Ethics and the Professions

79 J.F.K. Street

Cambridge, Massachusetts 02138

MEMORANDUM

To: Dennis Thompson
From: Lachlan Forrow
Date: June 26, 1989
Re: Report on my work during the fellowship

In the pages that follow I will summarize briefly the work that I have done during my year as a Fellow in the Program in Ethics and the Professions during the year 1989-89. In addition to my participation in the Core Seminar, my work has fallen into four areas related to the ethical dimensions of medicine: the teaching of clinical ethics during residency training; conceptual aspects of issues related to patient autonomy and competence; empirical research; and professional activism.

1. Teaching Clinical Ethics

My most important project during this fellowship year has been the development of a National Project to Assess and Strengthen the Teaching of Clinical Ethics in Internal Medicine Residencies. This Project is an effort to bring together all of the leading national organizations involved in academic internal medicine in a two and a half year process designed to establish a consensus on specific goals for the teaching of clinical ethics during residency training, as well as strategies for accomplishing those goals.

As co-principal investigator of this project, together with Dr. Robert Arnold of the University of Pittsburgh Center for Medical Ethics, I will be responsible for leading a series of discussions involving medical ethicists, faculty of residency training programs, interns and residents, experienced practicing physicians, and patients. The ideas and information gained from these discussions will be synthesized for a panel of leaders in the fields of clinical ethics and residency training, who will be asked to participate in a consensus process that will produce a report conveying recommendations about teaching of clinical ethics during residency training. Because this project has received strong support from leaders of the American Board of Internal Medicine, which is responsible for certifying all practicing internists in this country, we believe that it will carry considerable authority. In addition, because the project is co-sponsored by the Associate of Program Directors in Internal Medicine, we believe that the report will have a high likelihood of being received affirmatively by those in charge of residency training programs. The Project will take place under the official auspices of the Society of General Internal Medicine, and is also co-sponsored by the Society for Health and Human Values.

During this two and a half year period, Dr. Arnold and I will also continue preparations of a curriculum guide to assist residency program faculty in developing teaching programs for their interns and residents. Our hope is that the end of the project we will have catalyzed a self-sustaining

process through which formal teaching of clinical ethics during the residency years will grow steadily stronger in ensuing years.

2. Conceptual Work

In addition to readings in the Program Seminar, through many discussions with seminar participants that were sparked by seminar discussions and through substantial independent reading that was made possible by the protected time of the fellowship year, I have considerably deepened my understanding of the conceptual aspects of patient competency and of patient autonomy. I am currently in the process of writing, jointly with Dr. Robert Arnold, a critical review of the forthcoming book by Dan Brock and Alan Buchanan, Deciding For Others. This review will highlight the limitations for practicing physicians of the currently dominant legal conception of competency. This review will appear in the Journal of Legal Medicine.

I am also currently engaged in a longer and more difficult attempt to write a paper pointing out the dangers that are associated with a (now almost ideological in many discussions) commitment to "patient autonomy" in medical decision making. While the ideal of self-determination is fundamental in our society, academic philosophers have, particularly in this decade, pointed out many confusions in the usage of the term "autonomy". These potential confusions become even more complicated in the setting of serious illness, which not only poses profound challenges to an individual's sense and definition of self, but which also frequently alters perceptions and reasoning in ways that have not been well elucidated. It is relatively straightforward to describe the dangers that are involved when life and death choices are made on the basis of assessment of patient autonomy--in the absence of a clear and defensible conception of what "autonomy" even involves in any specific clinical context. The current draft of my paper offers a description of the three or four most important dimensions of "autonomy" and some practical recommendations for how physicians, patients, and families should think about those dimensions of those "autonomy" in considering approaches to treatment.

The third conceptual paper that I am currently working on is one which argues that the source of many of our most agonizing, ethical dilemmas in clinical medicine lies in our failure to understanding that ethical problems arise through a process that takes place over time. The dilemmas which capture most widespread attention, and which are often the focus of most cases in textbooks of medical ethics, could often have been prevented at an earlier stage. Just as in many other settings of clinical medicine, once a serious medical problem has arisen, none of the choices available may ever be fully satisfactory. The field of "preventive medicine" is dedicated to elucidating the development of serious medical problems from their earliest stages so that behavioral changes, medical interventions or social changes can be undertaken that may interrupt the "disease process" before any serious problem has arisen. By analogy, I am urging that more attention be paid to a field of "preventive ethics" which I believe could make many of our current tragic choices less common.

the revision must occur. The rationality of revisions is to be assessed in terms of what is acceptable on reflection as yielding a coherent system of norms whose mutual support is representable in some moral theory: in terms, in short, of what Rawls has called "wide reflective equilibrium." What the model of specification adds to this familiar idea is, first, the insistence that reflective revision can and should be carried to the most concrete reaches of our deliberations (to displace the ideas of application and balancing) and, second, the notion of a specification itself, conceived as a relation between two norms, one more specific than the other. Thus, one is urged not merely to reflect and change one's mind in a way that resolves a conflict in an acceptable way, but to revise one's normative commitments so as to make at least one of them more specific. One of the important reasons for this requirement of greater specificity is that it helps ensure that the reasonable motivation behind the initial, unqualified norm is still captured by what one ends up with.

In the course of working on this project, I obtained invaluable help from the other Fellows in the Program and from the Director. I received many helpful comments in presenting an early version of the paper in the Fellows' Seminar in September, 1988, and have had much opportunity to discuss it since. It was especially important to me to be able to obtain and discuss concrete examples from those of the Fellows grounded more firmly than am I in the ethics of a particular profession.

Most of the remainder of my work during the year consisted of projects that attempt to deepen and extend the ideas of this one central article. It is obviously of crucial importance to this proposal to develop clearly and in some detail both the claims to discursive rationality available within this search for reflective equilibrium and the conditions that govern the transfer of motivation or commitment as one makes an initial norm more specific. In a piece begun last summer and revised

during the year, "The Emotions and Reflective Equilibrium" (for Bernard Den Ouden and Marcia Moen, eds., *The Presence of Feeling in Thought*), I explored both of these issues. In reviewing Alasdair MacIntyre's *Whose Justice? Which Rationality?* (for the *American Political Science Review*), I focussed on the possibility of claims to rationality when the conflicting views are (in some sense) incommensurable. Finally, the issue of motivational transfer in deliberation throws one inevitably back upon Aristotle's unsurpassed views on this subject. To develop my ideas on this subject, I wrote an article this winter on "Desire and the Good in *De Anima*."

While my central article on specification takes the point of view of an individual deliberator, it is obviously crucial that discussion of professional ethics takes place in a public, collective context. In our society, this means a context in which there prevail many conflicting, incommensurable conceptions of the good. During the Fellowship year, I began to explore the possibilities for reason in this context in the course of writing a long introduction to a conference volume, *Liberalism and the Good*, forthcoming from Routledge. I am convinced that this collective context requires a further development - rather than merely a breezy generalization - of the model of specification. This spring I initiated this work in two ways. First, I began a project on the ethics of administrative discretion, looking at rule-making in federal agencies as an emblematic case of normative political deliberation that specifies. The Fellows were again helpful when I presented a sketch of my ideas on this, as were various of the faculty at the Kennedy School. Finally, following up a discussion in the seminar led by Derek Parfit at the Philosophy Department, I have collected materials on policies for the allocation of kidneys for transplant - an inherently collective issue that poses fruitful challenges for the model of specification.

Report on My Fellowship Year

David Wasserman
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I have found the Program tremendously stimulating, very supportive, and a little distracting. The projects I conceived, revised or revived this past year will probably dominate my intellectual agenda for the next five. Through the seminar, informal discussions with other Fellows, and academic activities related to the program, I've broadened my interests in professional ethics well beyond my initial focus on adversary representation and indigent defense. I'm presently working on three issues bearing on the justification and distribution of professional services: 1) rule-consequentialist justifications for morally offensive conduct, 2) relationships between procedural and outcome fairness, and 3) the significance of numbers in distributing goods and harms. In each area, I've benefited greatly from the seminar and conversations with the other Fellows.

(1) I'm interested in examining the attempts of several writers on professional ethics to derive special role obligations or prerogatives from the policies underlying the role: Goldman argues from the claim that the stability of the legal system requires judges to follow precedent to the claim that an individual judge is morally required to do so even when it will on balance produce more harm than good. MacMahon argues that by solving the public goods problems faced by its employees, corporate authority commands an obedience greater than individual judgment would

dictate, and that disobedience is a form of free-riding. Luban argues that the moral goodness achieved by an institution may give the agent special license to fulfil role-obligations which conflict with common morality. I will argue that these are rule-consequentialist claims, subject to the objection of a sophisticated act-consequentialist that they confuse the justification for a role or policy with its moral weight in individual decisionmaking.

In beginning to construct this argument, I've been guided by Judy Andre's paper on "Role Morality as a Complex Instance of Ordinary Morality," which contends that ordinary morality has the resources to accomodate all plausible claims of special role-obligations and prerogatives. I've also been helped considerably by Greg Dees' work in progress on "unilateral disarmament," in which he analyzes arguments that the immoral conduct of others licenses defensive departures from ordinary morality.

(2) In my work on procedural justice, I'm trying to establish a moral baseline for recent psychological research in this area, which finds that disputants value procedural fairness at least as much as outcome fairness, and that they regard adverse outcomes as fairer when they are yielded by fair procedures. I'm analyzing the ways in which procedural fairness should affect outcome fairness. In particular, I'm examining the circumstances in which outcome fairness is appropriately "operationalized" in terms of procedural fairness -- the domain of pure procedural justice.

(3) I have been working fitfully for several years on a paper which i) reviews egalitarian arguments for and against a preference for the greater number in choosing among imperiled lives and ii) considers the possibility of counting lives without objectifying them. As a result of helpful comments from Amy Gutman and my participation in a seminar run by Derek Parfit, the two parts of the paper have been amicably divorced. The first now focuses on the moral significance of lotteries in distributing scarce life-saving resources; the second on the source of the special difficulty we experience in cumulating the loss of lives. I'm hoping to have both papers completed by the end of August (Cross your fingers!).

I have found the Program seminar particularly rewarding, not only for the consistently high quality of the discussion, but for the level of collegiality I think we achieved. The seminar was one of the most successful cooperative ventures in my academic experience: I have rarely found criticism so constructive, and rarely seen such a rich yield from a group exchange. My thinking in a numbers of areas was considerably sharpened by the group discussion, perhaps even more than it would have been by a series of private conversations with the participants. I hope I'll be able to integrate the insights and guidance I've obtained over the year into my ongoing research and writing. I'll certainly have a lot to work with.