



HARVARD UNIVERSITY
Edmond J. Safra Center for Ethics

2007
2009

REPORT ON ACTIVITIES

2007-09 REPORT ON ACTIVITIES

4 Report of the Acting Director, Arthur Applbaum



The Center did not expect a two-year Regency. When our founding director, Dennis Thompson, stepped down after twenty years of leadership, I agreed to cover for the director-designate, Fred Schauer, while he was on leave. When Fred did not return to Harvard,

my run as acting director was extended. So for two years, I have had the pleasure and the luxury of devoting myself to the stimulating fellowship of both groups of fellows, big and little. We like to say that each cohort of fellows is at least as good as the preceding ones on at least one dimension. We especially like to say this when it is true. The intellectual generosity and collegiality of these cohorts truly is unsurpassed, and that has gone a long way in making these years memorable for them and for me.

Larry Lessig begins his directorship this month. Larry, who virtually invented the field of cyberlaw, is well-known at the Center and at Harvard, having been both a fellow in ethics and a law professor. Larry brings a transformative vision to the Center, where he will launch a new project devoted to the study of institutional corruption. From fresh paint on the walls to new iMacs on their desks, the Center staff has prepared a smooth welcome for an old friend.

We have not, however, simply been waiting. I promised to be an active acting director, and the Center has not stood still in the two years since we celebrated our twentieth anniversary. The most visible change is the handsome new website on which you are reading this report. After years of frugal fixes, the time for a major redesign was overdue. This was supervised with energy and discernment by our office and fellowships coordinator, and now webmaster Stephanie Dant. The history of the Center and its current contributions across the University have been captured, our community of alumni

fellows, now approaching three hundred, have a forum for scholarly conversation, and our current activities can now be publicized in an appealing and accessible way.

In response to suggestions by a number of our faculty associates for a friendly venue at which to present their work, the Center initiated the Faculty Workshop in Ethics. Most of the sessions have been devoted to the research of our junior faculty. A highlight of this series was an exchange, carried out over two papers and two years, between Joshua Greene, the intrepid neuroscientist, and Selim Berker, his incisive philosophical critic, over what MRI brain scans of experimental subjects subjected to the trolley problem show.

Faculty workshops:

2007-2008

Mathias Risse, "The Grounds of Justice"
Joshua Greene, "The Secret Joke of Kant's Soul"
Eric Nelson, "'For the Land is Mine': The Hebrew Commonwealth and the Rise of Redistribution"
Douglas Lavin, "Must There Be Basic Action?"

2008-2009

Eric Beerbohm, "Nozick's Wager"
Selim Berker, "Can Normative Conclusions Be Wrung from Neural Bases?"
Martha Minow, "Living Up to Rules: Holding Soldiers Responsible for Abusive Conduct and the Dilemma of the Superior Orders Defence"
Archon Fung, "The Principle of Affected Interests and Inclusion in Democratic Governance"



More generally, the Center has been on a mission to expand the circle of colleagues who consider themselves part of the Ethics community, reaching out both to younger professors and to a wider range of departments, from Psychology to Classics. I am happy to report that we are succeeding.

Although the Center has not heretofore announced themes for our public lectures, patterns have emerged

REPORT OF THE ACTING DIRECTOR Arthur Applbaum

that track the evolution of topics in the fellowship curricula. There has been a growing interest among fellows in the intersection of moral responsibility and neuroscience and in topics concerning global justice and human rights, and this has been partly reflected in the selection of speakers. To everyone's delight, the valedictory public lecture this year on the responsibility of authors to their characters was given by the beloved writer Alexander McCall Smith. Although known to the wider public as the author of the best-selling *Number 1 Ladies' Detective Agency* series, Sandy also is a prominent scholar of medical law and ethics at the University of Edinburgh.

Public lectures:

2007-2008

Alan Wertheimer, "Intoxicated Consent to Sexual Relations"
Richard Holton, "What Does Empirical Research on Moral Intuitions Tell Us about Morality?"
Barbara Fried, "Is There a Coherent Alternative to Cost-Benefit Analysis?"
Ruth Gavison, "Immigration Policy: Sovereignty, Humanitarian Law, or Human Rights?"
Josiah Ober, "Democracy and Knowledge: Innovation and Learning in Classical Athens"

2008-2009

Walter Sinnott-Armstrong, "Neuroscience and Responsibility"
Heather Gerken, "Toward a New Theory of Minority Empowerment: Elections and Governance"
Gideon Rosen, "Human Weakness and the Limits of Responsibility"
Robert Goodin, "Global Democracy: In the Beginning"
Alexander McCall Smith, "How to Do Things with People



who Aren't: The Moral Responsibility of the Author"

In keeping with the Center's mandate to foster collaborative work on normative topics across the University, we have continued our many partnerships. With our help, my Kennedy School colleague Mathias Risse organized and hosted a superb conference on "Human Rights and the New Global Order," bringing to Harvard an impressive mix of philosophers, legal scholars, and social

scientists. With both financial support and presentations by a large number of faculty associates, we helped our undergraduate bioethicists host the annual intercollegiate conference of the National Undergraduate Bioethics Society. With

the Government Department, we sponsored a memorable exchange between A.J. Julius and G.A. Cohen on "Justice and Constructivism," followed by a lively debate between Jerry and his various comic alter egos.* Our collaboration with the Government Department will continue next fall with a centennial commemoration of Isaiah Berlin. We continue to provide a major subvention to Harvard's Program in Ethics and Health, directed by Faculty Associate and former fellow, Dan Brock.

Our dear friend and benefactor, Mrs. Lily Safra, visited the graduate fellowship seminar in both years, first on



REPORT OF THE ACTING DIRECTOR Arthur Applbaum

the topic “Deciding for Others” led by Kristi Olson, and then on “Neuroethics” led by Arnon Levy. For one of the lunches, President Drew Faust was our guest. As is our tradition, we conducted our discussions uncompromised by any consideration other than a substantially improved menu and a few bottles of drinkable wine. Mrs. Safra came splendidly prepared for my cold-calling.



We were especially fortunate in the selection of senior scholars. Having returned to Harvard Medical School after stints away as a medical school dean and university president, the philosopher-psychiatrist Ed Hundert allowed himself to be lured over to the Center last year.

Ed’s wry wisdom always enlightened. This year, Elaine Scarry, formally of our English Department but a scholar of unbounded reach, brought grace and intellectual power to the table. A discussion she led of moral luck in Hardy’s *Mayor of Casterbridge* was one of the year’s highlights. My Kennedy School colleague Frances Kamm, whose ethics get more intricate every year, once again kept the graduate fellows - and me - on our toes. The year was marked by an ongoing, spirited exploration throughout the Center of both the ethics of torture and the ethics of talking about torture, in part ignited by a paper by Frances that we read in a joint fellowship session. Frances has graciously agreed to take full charge of the graduate fellows this coming year in my stead.

These two years saw the success of former fellows, both in the Obama Administration and at Harvard. Former graduate fellow Samantha Power, now the Anna Lindh Professor of the Practice of Global Leadership at the Kennedy School, was appointed Senior Director for Multilateral Affairs in the National Security Council. Former faculty fellow Ezekiel Emanuel, chief of bioethics at the National Institutes of Health, has been detailed to the Office of Management and Budget to oversee healthcare reform. Former senior scholar Archon Fung, an authority on deliberative democracy, has been tenured at the Kennedy School and named Ford Foundation Professor of Democracy and Citizenship. I look forward to managing moral mischief with him for years to come.



Another Harvard addition of note, and a personal pleasure for me, is the appointment of Rory Stewart to the directorship of the Carr Center for Human Rights Policy and as the Ryan Family Professorship of the Practice of Human Rights. Finally, Martha Minow, a founding member of our faculty committee, who has helped to select every class of faculty fellows with her characteristic good sense and wisdom, has been named dean of Harvard Law School.

The core of the Center’s activities, of course, has been our fellowship programs. The faculty and graduate fellow cohorts of the last two years were extraordinary in both range and talent.



2007-2008 Faculty Fellows

The interests of a number of the 2007-2008 Faculty Fellows had a decidedly international flavor. **Eric Gregory**, a scholar of Christian ethics, launched a new project on the lessons of the parable of the Good Samaritan for global justice, and published *Politics and the Order of Love: An Augustinian Ethic of Democratic Citizenship*. **Dan Baer**, our savvy business and political consultant, returned to his roots in the ethics of international relations and wrote stimulating pieces on sovereign wealth funds and on the responsibilities of search engine developers in their dealings with repressive governments. **Karen Naimen**, our authority on international law, enlightened us with articles holding private military contractors responsible for their actions, and on recent developments in the doctrine of universal jurisdiction over war crime prosecutions. **Alice Ristroph**, our house skeptic, pushed ahead on her book project on the law of violence, wrote “Professors Strangelove,” a criticism of the legal academy’s apparent indifference to

REPORT OF THE ACTING DIRECTOR Arthur Applbaum

torture, and produced a provocative Hobbesian defense of the right to resist punishment. Recidivist **Nien-hê Hsieh** (a former graduate fellow), wrote “Does Global Business Have a Responsibility to Promote Democracy?” and continued his work on workplace democracy and the development of a non-Marxist account of labor and exploitation. In another non-Marxist sense of labor, Nien-hê and his wife Sara became the parents of honorary fellow, Mika Louise. **Ryan Preston**, our moral theorist, wrote an intriguing paper on having faith in humanity and the responsibility of public figures not to undermine that faith. He also worried about defending some space for personal projects against the claims of the greater good (worried, because failure would require him to give up his faculty fellowship). Our lunchtime “ethics current events” discussions were well-fed by ongoing controversies about the government’s interrogation practices and the presidential primary season, and were exotically spiced by Senior Scholar **Ed Hundert’s** tales of making the Arabian desert bloom with a 21st century university.

2007-2008 Graduate Fellows

The 2007-2008 cohort of Graduate Fellows was perfectly poised between generalizing theorists and particularizing contextualists, to the mutual enlightenment of both. Historian **Angus Burgin** worked on his intellectual biography of the Mont Pelerin Society, the incubator of modern conservative thought that counted Frank Knight, Friedrich Hayek, and Milton Friedman among its luminaries. Historian of Science **Ben Hurlbut** explored the ongoing public deliberation and rhetorical strategies of scientific advocates and religious opponents of human embryo experimentation and stem cell research. **Katie Young**, our comparative constitutional scholar, wrote about the prospects for economic and social rights in constitutional interpretation, and explored the links between constitutional prohibitions on violations of bodily integrity and the right to health care. Philosopher **Kristi Olson** and political theorist **Lucas Stanczyk** found themselves working on complementary aspects of liberal egalitarianism. Kristi explored the intricacies of specifying the connections between choice, talent, and income in an economy that satisfies the demands of distributive justice. Lucas puzzled about whether justice puts demands on individuals that go beyond supporting



ing and respecting just institutions, and explored the conditions under which work is unforced. **Drew Shroeder**, another of our philosophers, developed his view about the structural differences between the right and wrong distinction and the better and worse relation.

Influenced by our seminar discussions, he also began

working on the intriguing proposal that imperfect duties, such as beneficence, might be duties of groups, rather than individuals. The little fellows more than held their own in a series of joint seminars with the big ones on torture, collective responsibility, political equality, humanitarian intervention, and the teaching of ethics.



2008-2009 Faculty Fellows

This year’s faculty fellows found the intersection of moral philosophy and the social and behavioral sciences especially intriguing, and several of the sessions and projects reflected that interest. **Tanina Rostain’s** book in progress, “Confidence Games: Lawyers, Accountants and the Tax Shelter Industry,” manages to make tax accountants as fascinating as mobsters and spies. **Alex Voorhoeve**, a philosopher with eclectic tastes that run from Epicurus to behavioral economics, published “Why It Matters that Some Are Worse Off Than Others” in *Philosophy & Public Affairs* (with Michael Otsuka) and finished his forthcoming collection of interviews with notable philosophers, *Conversations on Ethics*. He also ran experiments on decisionmaking under uncertainty in Harvard’s new decision sciences laboratory. Philosopher **Anne Barnhill** developed a nuanced account of manipulation and its possible justifications in love and friendship; notwithstanding our running tease, she was an entirely candid and trustworthy fellow. In what started as a short paper but has turned into a monograph, political theorist and recovering litigator **Mark Reiff** developed a novel theory of economic justice grounded in an account of exploitation that in turn depends on a revival of the notion of the just price. Philosopher **Ulrike Heuer** wrote two papers that puzzled about certain standard deontological distinctions: whether intention matters to permissibility and whether doing is different than allowing. In addition to holding up her end of our ongoing exploration of the ethics of torture, Senior Scholar **Elaine Scarry** presented us with challenging chapters of her manuscript on war and the social contract. The faculty fellows were so com-

REPORT OF THE ACTING DIRECTOR Arthur Applbaum

mitted to our ongoing conversation that they met in an additional reading group and also scheduled extra seminars throughout the month of June.

2008-2009 Graduate Fellows

This year's cohort of graduate fellows was the largest ever, but that increase in voices led as often to rich harmonies as to colorful polyphonies. Many of the fellows had cross-disciplinary backgrounds in various combinations, multiplying the fields represented at the table. **Havva Guney-Ruebenacker**, a comparative legal scholar learned in both the Sunni and Shia legal



traditions, argued that an egalitarian conception of marriage and divorce is internally supported by Islamic law using Islamic law's rejection of slavery as an interpretive exemplar. Philosopher and lawyer **Jiewuh Song** introduced to our lexicon the oddly euphonious term "non-co-citizens," and explored what we do and do not owe them. Pursuing a complementary inquiry, political theorist and lawyer **Brodi**

Kemp asked about the accountability of international nongovernmental organizations to the people they serve, to the governments of the countries in which they operate, and to their donors. **Joe Mazor** completed his dissertation in political economy and government on property rights in natural resources and their just distribution across generations. **Patricio Fernandez**, an economist and philosopher, presented a law and economics model of judicial precedent, and then, turning to his philosophical side, puzzled about the kind of knowledge actors can have of their own actions. **Arnon Levy**, both a philosopher and biologist, examined the claims of evolutionary game theory to explain (or explain away) morality. Political theorist **Michael Nitsch** examined the role of character in political ethics, both ancient - in the thought of Aristotle and Cicero - and modern. **Susannah Rose**, both a psychiatric social worker and medical ethicist, asked how the subjective preferences of patients should be counted in the assessment of healthcare outcomes, and pursued her work on the conflict of interest in clinical trials. In a gesture of solidarity with our ordinarily nocturnal Senior Scholar, **Frances Kamm**, this year's graduate fellows pioneered the practice of having breakfast fare for lunch. One of the on-



going topics of discussion among and across the two groups was the usefulness of hypotheticals in philosophical discourse, and it was a great treat to have Frances, a grandmaster of the art of the hypothetical, with us in actuality. The graduate fellows joined the faculty fellows in sessions on coercion and consent, historical injustice, constitutionalism and democracy, torture, and the ethics of teaching. Between the election of Barack Obama and the onset of the Great Recession, neither group lacked for normative grist for lunchtime conversation.

Our alumni continue to take up impressive academic posts. Among our two most recent cohorts, Nien-hê Hsieh has been tenured at the University of Pennsylvania Wharton School of Business, Eric Gregory at Princeton's Department of Religion, and Alice Ristroph at Seton Hall University School of Law. Mark Reiff was promoted to senior lecturer at the University of Manchester School of Law; Dan Baer has joined the faculty of the McDonough School of Business at Georgetown, and Ryan Preston has begun teaching philosophy at the University of North Carolina at Chapel Hill. Anne Barnhill begins a two-year appointment as a Greenwall Fellow in Bioethics at John Hopkins and Georgetown. Joe Mazor, who was awarded the PhD this year, will take up a postdoctoral fellowship at Princeton University's Center for Human Values. Katie Young, though still a graduate student, completed an appointment as a visiting assistant professor of comparative law at Boston University Law School, and will be succeeded by this year's graduate fellow Havva Guney-Ruebenacker, keeping that position in the Center family. Graduate fellow Susannah Rose won a postdoctoral fellowship in the Program for Outcomes and Policy Research at Massachusetts General Hospital. Graduate fellow Brodi Kemp was commissioned as a reserve officer in naval intelligence, and has the dress whites and gold braid to prove it. Our most productive faculty fellow has been international legal scholar Karen Naimen, who gave birth to Jonah right before taking up her fellowship in 2007, and to Ezra in time to make this report.



REPORT OF THE ACTING DIRECTOR Arthur Applbaum



I shall miss the chance to work with the very impressive incoming cohorts of fellows. The class of faculty fellows includes two Harvard junior faculty members, one from the Government Department and one from Harvard Medical School, a former human rights litigator, a civil rights scholar, and a political philosopher. Tommie Shelby, Professor of African and African American Studies and of Philosophy, has graciously agreed to serve as

senior scholar. The graduate fellows include three philosophers, two political theorists, and a doctoral student in public policy who is also a lawyer. As previously mentioned, Frances Kamm will serve as acting director for the graduate fellowship program. I can safely predict that these classes will be at least as good as all preceding classes - on some dimension.

Alas, Jean McVeigh, after deferring her retirement twice in order to keep the Good Ship Safra on keel, will step down at the end of the summer. St. Jean has worked miracles at Harvard for thirty years, twenty of those as the Center's administrative director. She has set the standard of quiet perfection for which the Edmond J. Safra Center operation is known. One is tempted to say that she is irreplaceable, but it is a measure of her talents as mentor that she leaves behind an able, eager, and confident team in Stephanie Dant, Jennifer Jeffery, and Erica Jaffe. Larry is blessed with many good hands.

Arthur Applbaum
July 2009

* Jerry Cohen died on August 5, 2009, after this report was written. Jerry was one of the great political philosophers of our time. From his brilliant first paper, "Beliefs and Roles," to the arguments that culminated in his masterwork, *Rescuing Justice and Equality*, Jerry had a lasting influence on our fellows. Some of the world's sparkle has been lost with him.



"As an educational environment, the Center is truly a model of that unique balance of support and challenge which leads to learning.... While some seminars feel like a free-for-all or a beauty contest for whose idea is the best, this one felt more like a barn-raising in which we were together building the best idea we could construct as a group."

Ed Hundert, Senior Scholar 2007-08

"[Members of the seminar] created an atmosphere that was as friendly and welcoming as it was philosophically rigorous and stimulating. I have never encountered a more collegial or intellectually curious group of scholars."

Ryan Preston, Faculty Fellow 2007-08



"It is hard for me to imagine a seminar more rigorous, high-spirited, and pleasurable. It was the most valuable faculty seminar in which I have participated. The faculty fellows' brilliance, arrogance, sense of humor, capacity for friendship, and knowledge guaranteed unpredictable skirmishes, lines of alliance, and directions of combat each week."

Elaine Scarry, Senior Scholar 2008-09

"Being rooted in two fields of study, I am well aware that much is said these days about the benefits of interdisciplinary work and crossing disciplinary boundaries. However, the normal institutional framework of graduate studies does not always seem to match the official rhetoric. I believe that the Edmond J. Safra Foundation Center for Ethics is one of the few places in which I have seen this transcending of academic boundaries become a reality."

Patricio Fernandez, Graduate Fellow 2008-09

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