THE CENTER FOR PROFESSIONAL ETHICS

The Center for Professional Ethics Newsletter at Case Western Reserve University

Fall 2004

An Extraordinary Man

case celebrates Martin Luther King, Jr.

ound the city, this particular celebration promised to be a different kind of observance of Dr. King's life. Starting this year, not only would Case honor Dr. King the man, but also begin a process of cultivating activism at the university and foster a community which will nurture justice and diversity, not just for one day in January, but throughout the year. In his introductory speech, Dr. Edward Hundert, the president of Case Western Reserve University, explained, "It is part of a vision for a research university to make the world a better place. This year's presentation will establish an ongoing and permanent theme for the whole campus." So, while he encouraged the crowd to be inspired by "the power of words," he reminded all that there must be positive action to make a difference.

The current Case community did a remarkable job of setting an inspiring precedent for future events. Professor Beth McGee, Faculty Diversity Officer, introduced Bailey Kinslow and Lelund Thompson, Case students who read some of the hopes and dreams of students, faculty and staff, yearning for a more diverse and inclusive campus. The Center's own director and a past winner of the university's MLK, Jr. essay writing contest, Robert P. Lawry, gave the closing speech of the day which called for all to use the Case community to nurture their consciences and allow themselves to become inspired.

When Dr. Valentino Lassiter stepped up to the podium and began his keynote lecture, there was little doubt about "the power of words" and their ability to inspire positive action. A partial glimpse at Dr. Lassiter's resume—Pastor-in-Residence and Lecturer of Religious Studies at John Carroll University, Pastor of the East View United Church of Christ, and author of *Martin Luther King in the African-American Preaching Tradition*— proves this man practices what he preaches; he is full of both powerful words and positive action. And he fully expects others to follow suit.

"It's fitting and proper that we not only remember Martin Luther King, Jr. at this time, but also remember that we are still called upon to reiterate his hopes, the hopes we were taught through his example, his writings and his strong, strong sense of peace and justice," he said. "Know his encouraging words and be certain that they do not just remain words, but become actions—actions that never die. Today and always, we are reminded not just to dream but wake up from the dream, and realize there is yet much to be done."

Dr. Lassiter praised the theme of Case's MLK, Jr. Day celebration, calling it both "a reminder and a challenge." He touched on just how important we "ordinary people" can be. "When you read the background of the civil rights movement, you see ordinary people from all walks of life with a common sense of purpose. The marches were full of plain, ordinary people who came together with a sense of purpose because duty called upon them. King taught us that we can all do this together; we can cross racial lines. One of his greatest contributions to the world was to give us a sense of permission to break those lines," he said.

When we look at history, it's plain to see that the courage and strength of yesterday's ordinary people was nurtured by the closeness inherent in those long bus rides and cramped meeting halls. Dr. Lassiter expressed concern about today's ordinary person possibly being deprived of the chance to connect with others so intimately. "For example, I think it

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would have been quite a different movement if Rosa Parks—after she decided not to sit in that seat— made a conference call. What if, today, instead of visiting all the cities King did, he could have emailed about the boycotts and faxed proposals? What about sitting in that Birmingham Jail? What if the NAACP lawyers had been part of a strong national bar association where they could have, with one press of a button, gotten in touch and allowed King to become free. Or, what if King had sat there in that jail and not had to rely upon the scrap paper? What if he had access to a notebook and electronically wrote out his 'Letter from Birmingham Jail,' " he said. "We may not have had that letter and all the intimate strength and reminders that come from ordinary people doing extraordinary things— we would not have the strong prolific nature and all sense of spirituality that went therein. We would not have had those intimate settings and spiritual dwellings."

In today's society, armed with all the goodies Dr. Lassiter mentioned—email, faxes, cell phones— sometimes we ordinary people forget that the "old-fashioned" ways of communicating are often the most effective. In this vein, Dr. Lassiter mentioned the African talking drum which, if played correctly, produces the sound of a human voice. "If you are part of the village, you know that that one is not just beating drum, but that there is a particular message going forth. The sound is long enough and strong enough for the entire village to hear it," he explained. And if you listen, believes Dr. Lassiter, you can hear similar drum beats in the extraordinary messages of ordinary people.

Dr. King himself believed in the simple power of a drum. Dr. Lassiter reminded the group of one of King's important, but lesser known, speeches entitled "The Drum Major Instinct." "By the time he gave this speech, he was marching on a universal concern [Vietnam War] reminding us that justice was needed all over the world," said Dr. Lassiter. "The divinely inspired drum major himself took off, marching to the beat and tempo of freedom, marching to the beat of a strong distant sound in the background. Marching with the hope that one day all would grab the baton of peace and march together across the universe." But inherent in that speech is another message. Dr. King reminds us that if you happen to be so lucky as to become a drum major, you must "lead with humility and with a strong sense of purpose."

The last part is an important notion for a academic community like Case's to keep in mind. At Case, where so many could and will become leaders, there is a need to remember that in the best leaders, there is great humility. This was something Dr. King thought a great deal about. "We often overlook King's concern for higher education as both a purpose and direction in life," explained Dr. Lassiter. "To a group of teachers at Morehouse College, King had this to say about the purpose of education: 'The most dangerous criminal may be the one that's gifted with reason but no morals. We must remember that intelligence alone is not enough. Intelligence plus character is the goal of true education. Be careful, be careful, teachers. Be certain that morality is taught along with education.' "

And in closing, Dr. Lassiter reminded us that even if we become those drum majors, listening carefully for our beat, serving with humility, one extraordinary task still remains—those you most oppose, you must love. "Loving your enemy was an idea that was necessary if one would remain in the parade of justice," said Dr. Lassiter. "Dr. King said: 'Loving your enemies gives you power; loving your enemy gives you a strong sense of purpose. [When you do this] the enemy becomes distraught and confused. When you are able to show this and nonviolent resistance, the enemy remains completely confused and the victory is given to love.' "

IT'S ABOUT ETHICS
An Interview With Robert P. Lawry

THIS AUGUST, JUST DAYS AFTER THE GREAT Blackout of 2003, Robert P. Lawry, the Director of the Center for Professional Ethics was interviewed by KDVS's France Senecal, the host of the public affairs show, *It's About You*.

Broadcasting from Davis, California, Ms. Senecal's show features "expert guests discussing issues and events to assist you in defining your personal ethics and opinions." What follows here, almost in full, is what transpired during that lively interview, although edited for clarity. Enjoy.

FS: These past few months have shown a particularly aggressive prosecution of Martha Stewart who has been described as autocratic, at best, and sometimes abusive in her behavior towards others. You have mentioned that there might be a connection. Why?

RPL: I think the connection that I was talking about and what you are alluding to, is why it is that the American public is harder on Martha Stewart than they are on somebody like George Bush in comparing "the lies" that each has supposedly told. My response to that question was that people are more generally forgiving to people that they like, and if you are abusive, autocratic or haughty, you often rub people the wrong way. I think a lot of people have a lot of negative feelings about Martha Stewart, and therefore, when she is in trouble or when she says something that doesn't seem to be truthful, they are more willing to jump all over her than they are to jump on someone they generally like—someone who does not have the same kind of personality. Why the prosecutors would go after Martha Stewart, is a different question, I think. The prosecutors are often looking for the deterrents that will come from prosecuting a high profile person; they obviously have to think she did something that violated the criminal law. The reason they'd want to go after somebody like her is because they want to strike the fear of the government into the hearts of those who might think that they're not going to be prosecuted because they are high profile people. The prosecution is saying straightforwardly, "No, whoever you are, we're going to get you if you violate the law."

FS: In John Steinbeck's Cannery Row, written in 1945, he observed: "The things we admire in men, kindness and generosity, openness, honesty, understanding and feeling, are the concomitants of failure in our system. And those traits we detest, sharpness, greed, acquisitiveness, meanness, egotism and self-interest, are the traits of success. " Would you say this is true today?

RPL: No, I don't think that was ever quite true, at least, not in the way expressed. Of course it is the case that sometimes people who are mean-spirited, greedy, or egoistic do succeed, that is true; and sometimes we see people who are generally open, honest and generous, get trampled in the dust; that is true, too. But I don't think, as a general proposition, Steinbeck's statement is true. You will find that the traits that we associate with virtue are not those kinds of traits that produce failure; and it does not seem to me that the traits that we associate with vice are necessarily the traits that are in the characters of the people who are successful, although sometimes they are. What happens is, that when we find this kind of thing happening (successful people are greedy, etc.), the press tends to sensationalize these things and jump all over this kind of person. I am not saying it is black and white either way. I am just saying, if you look at the average businessperson, the average lawyer, the average accountant, you are going to find a person who is generally honest and honorable. The people who become CEOs are not all mean-spirited and greedy. But unless they have a fall, you are usually not going to pay much attention to them. So if there is a high percentage of cases of good people who are succeeding, well, that's not news. So it looks like, because of the people we focus on, it looks like success is attributable those traits of character which are vices as opposed to virtues. I don't think the statement is true.

FS: My foray into the corporate world, which lasted more than a decade, I am sorry to say, showed me some real abuse of power. It was almost as if somebody, especially a male person, went into tantrum—absolute screaming fits—that they were sort of admired for caring about the business.

RPL: Well, that's unfortunate. I am not saying it doesn't happen, clearly in your experience it did, and there will be cases like that, but I don't think that's the highest

percentage of cases. I don't want to give you a percentage because I don't know, but I just know too many people in high positions in business, law and government who are decent, honest and honorable people. All you can do is examine your own experiences and share your experiences. Your experience was very bad, and mine has generally been very good. Although sure, I've met some rascals and scoundrels.

FS: You are a professor of law who chose to form the Center for Professional Ethics. Please share your definition of professional ethics and the mission of the center you helped to create.

RPL: The Center was formed in the late 70s by myself and a colleague here at the university. Our own experiences indicated that the strong professional schools in our university (eg. law, business, medicine, nursing) often didn't talk to each other very much. I had been teaching professional ethics in the law school, and we both thought it would be a useful thing to bring folks together from different professions and talk about both the similarities and differences. We are still trying to do that, although I must say in the last handful of years, I have been concentrating more on strengthening ethics teaching in each individual school in the university as opposed to working as hard as I tried to at the beginning to try to cross-fertilize. You have to get strong ethical teaching in all the schools first, and then it's easier to have these conversations across professional lines. As far as professional ethics is concerned, in terms of definition, I would say that professional ethics deals with the special role and rules that attach to groups that have a special charge to do public good in a special way in any particular community; so that if you are singled out to be an accountant or an engineer, there is a certain role you are playing in society and there are certain rules that will develop, often by the profession itself, which govern your behavior. It's an attempt to say why these special groups might have special rules which are either not understood well by the public, or at least a little different from what the public might expect, or different from what the individual might expect walking into an institution—like, how is confidentiality or conflict of interest and the other common problems we have as professionals, how would those be handled, as opposed to the way we handle it when we are a friend or relative or some other person who doesn't have professional relationship with a person? What's different about the profession is that it requires you to have special rules, and that's because you occupy a special role.

FS: You wrote, "we have responsibilities to others that make it sometimes cowardly to say or do nothing in response to evil." In the same piece, you added that "all institutions and groups are self-protective." How are conscientious dissenters, whether in a business environment or nation, to be viewed in such a reality?

RPL: I think conscientious dissenters, sometimes translated in the modern world as whistleblowers, play a very important role in our society, or any society. It is true that even people with good intentions tend to be self-protective; you could be a little concerned that somebody's going to pick on you or treat you in a way that's a disadvantage to you. So it's natural to be self-protective, and sometimes that goes too far into genuine crime or evil or some kind of unethical behavior. It is again often the case that decent people don't sometimes stand up and want to get into the fray because it often results in some discomfort to them, in fact, it sometimes results in some real harm to them. So, we do need people to stand up from time to time and call a spade a spade, and produce some kind of a result, a reaction at least, among the good folks; shake the good folks up in a way to remind us that we all have an interest in what everybody is doing and if you simply allow evil to have its way, then evil will have its way. In every society and institution, I think it's very important that we have brave people who come forward—and we ought to be doing what can do to protect those people. There is also the danger that there are hotheaded people, or people who misunderstand, and they can play a damaging role just because they "feel" there is something wrong. You should not take as the truth, and immediately reward everybody who opens up his or her mouth, because sometimes people are not on the right track. That said, if you look at the larger picture of things like, racism in this country and what Martin Luther King, Jr. did, you've got to say that we need that kind of thing and the way in which it is done is very, very important. Dr. King and his nonviolent movement for civil rights in this country was the right way to do it, to show conscience and to do it in a nonviolent way; and that's true of anybody who is

trying to conscientiously dissent. They have to be brave and ready to take the kind of abuse that they sometimes have to take in order to get something done.

FS: For example, I have been asked because of this role and because of the times asked to join some organizations but because of the stridency of the leaders I have shied away.

RPL: I agree that there is a problem there. Even one-dimensional people sometimes see a real evil. However, the approach that they take is distorted and thus does as much harm as good—and sometimes more harm than good, simply because of they way they operate. That's a problem.

FS: Your co-founder for the Center for Professional Ethics was the Director of the University Christian Movement. This show has been under quite a bit of criticism for showcasing various social cultures, religious and political ideologies. Would you address the role of religion and or spirituality in professional ethics?

RPL: That is a complicated question. The co-founder of the Center for Professional Ethics was, in fact, a Protestant minister and a great human being named Bob Clarke. When Bob and I started the Center we determined right from the get-go that despite his profession as a clergyperson and my own religious beliefs, that that would play no direct role in what we were doing. We were trying to talk about professional ethics—personal ethics, too, but only insofar as it connected to professional ethics—and we deliberately downplayed any direct connection to religion or spirituality. That said, it seems to me a great mistake to suggest that there is real division in the lives of individual people or that there should be a real division in the lives of people. I believe in attempting an integrated personality. I try to tell my students that part of what they have to do as a professional people is understand where your own religious, spiritual, philosophical beliefs are, and how they can play a role in what you are doing. In some cases, your own beliefs may forbid you from certain kinds of things, for example, in the great abortion debate. If you are a person who believes abortion is immoral and it is religiously based, then you are not to participate in it. It's a different question as to whether our society generally, and your participation in the society's deliberations about that, turn to religion. We all know that much harm has been done historically in the name of religion, but great good has been done, too; and great people need to have a base somewhere, and for many of us it is a religious base in terms of the way we think about and act in relationship to others. That is what ethics turns out to be all about. It's a very complicated question that ought to be very carefully talked about as to how your own position on matters could influence decisions that you make as a professional person, but that ought to be done with the understanding that others have different positions and that traditions of professional ethics tend to operate, not necessarily directly connected to religious groups, which is probably a good thing.

FS: Spirituality is crucial to the individual responsibility that we carry towards society everyday, but it does not have to be defined by society—it's a definitely personal thing.

RPL: Well, it's definitely a personal thing insofar as it is related to professional ethics. I want to be clear about one thing that is hard to be clear about. I don't think it is the case that we ought to be necessarily silent about our beliefs. Again, it's back to the question we were talking about a few minutes ago, about the stridency, but it is not inappropriate to express what your own personal beliefs are; at the same time, it is not a good enough answer to the question "what should I do?" or "what should the profession do?" to answer simply in a religious way. It's a much more nuanced kind of question. I think most of us would say if it's a very serious matter of conscience, and we would violate our conscience by doing something, we ought not to do it. But, that's different than saying that the profession itself or the societal rules ought to allow it or not allow it. That's a different kind of question. Yes, we should have our voice in that, but the voice has to be respectful and tolerant of other people's viewpoints because if it's not, you don't get anywhere and you might be wrong, and there's no way we're going to know for sure until the end—maybe!

FS: How about expanding this complicated question to our national responsibility as a world super-power?

RPL: Here, too, I think the question of arrogance and the manner in which we conduct our affairs is very

we are acting. I think there is a lot of bullying and imperialistic notions which are presently translated into actions and words that I think ought to be toned down by the United States of America. We are the only superpower and we do have the strength to kick other folks around, but that's the reason, almost above any reason, why we have to be very careful about how we talk and act and the way in which we go about dealing with other people. We need to listen respectfully to others' views—in national affairs, international affairs, as well as in personal matters.

FS: That's a wonderful analogy. We need to remember that the way we treat your neighbor is the way we should treat other countries. I am getting a little preachy here!

RPL: (laughs) That's always a danger in this field. Of all the things about this question, the idea of exchanging views and being respectful of other people's positions is the only solution to the problems that we do have. Somebody's got to be willing to talk about it and respectfully listen to other people who have differing views, otherwise it's all underground. People do act on the basis of right and wrong and their own notions of right and wrong, and if they don't talk about it with others, if they don't try their ideas and their positions out and respectfully listen to others, then we're going to work in a world of suspicious behavior and we're going to make judgments on unarticulated premises and ideas. In a university environment, there is the chance that all of the ideas and all of the positions that people have can be examined and debated and discussed in an atmosphere where there is no threat of anything other than a disagreement in a respectful way. That's a good reason for having a university ethics center.

FS: They were playing Inherit the Wind this weekend and I thought it was quite topical considering I was going to speak with you. What do you think of the recall? For example, Mr. Isa poured nearly two million dollars of his own money and then was basically forced to resign and then not even run. What lessons can we draw from that?

RPL: I do have one thing to say generally about the whole recall situation. I think here is an example of where good people, and again, I am talking in general again, the good people of California maybe be short-sighted and impulsive in a situation where they ought not to be short-sighted and impulsive. I think politics and us because we tend to be impatient or angry if our person didn't win the election or the policies they are pursuing are not the ones they particularly adopt.rson didn't win the election or the policies they are pursuing are not the ones we would adopt. However, in a democracy, it seems to me, patience is important; and reflection is important. We are a little bit too willing to pull the trigger too quickly on things, or not pay attention to things, for example, when there are problems that need resolution but can't be resolved quickly. Your debt problem in California is a problem that is monumental, but in a sense, shared by every state in the union and the federal government. It is not going to be solved tomorrow by a new governor. Look at the problem we just had in the east (referring to the blackout), the first thing you hear are politicians blaming other politicians, but the truth of the matter is, in the United States, we don't pay attention until there is crisis. You would have thought, after 9-11, that foresighted people would have said, "Boy, one thing we really have to pay attention to is this outmoded grid system." It should have been in a high place on our political agenda and yet it was not. Well, something happened now, and it will be a high priority for a short time. The question is whether we will have the patience to stay the course and get an underlying serious problem under control.

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other than Dr. King said this: 'If your enemy has a conscience follow Ghandi and nonviolence, but if your enemy has no conscience like Hitler follow Bonhoeffer.' So beyond King, Bonhoeffer and Ghandi, there is conscience," said Professor Lawry.

Throughout the month of February, some Case groups, including the Hallinan Center and the Department of Religion, featured the film and afterwards, a discussion. The viewings were set up so the community can begin to think of the importance of conscience and how it is nurtured in ones' life. As he invited one and all to view the film and join in the discussion, Professor Lawry added, "We have consciences that can be educated and inspired; they can lead us to do something. Come and experience what we experienced. Talk and think together about your hopes and dreams for a better future for Case, for Cleveland, for America, and who knows, for the world."

Current Ethical Controversies in Internal Research

a talk by Ruth Maklin

Dr. Ruth Macklin, an alumnus and former professor at Case Western Reserve University, returned to give the *CEAR First Annual Lecture on HIV/AIDS* lecture: "Current Ethical Controversies in Internal Research," co-sponsored by the Department of Bioethics, the Center for Aids Research, and the Law–Medicine Center, Case Western Reserve University. Dr. Macklin is a Professor of Bioethics in the Department of Epidemiology and Population Health at Albert Einstein College of Medicine in the Bronx, New York. She received a Bachelor of Arts with Distinction from Cornell University and an MA and Ph.D. in Philosophy from Case Western Reserve University. She is also an advisor to the HIV/AIDS vaccine program at the World Health Organization.

Dr. Macklin began by explaining that her topic— which included examining the concept of moral imperatives and research that is conducted in developing countries and is sponsored by, or conducted by, industrialized countries or the pharmaceutical industry, was controversial, but worth examining because, as she put it, the topic is the meat and potatoes of bioethics. She told the group she had no answers, but hoped raising these concerns and questions would prompt people to change that.

"The first moral imperative is to avoid the moral wrong of exploitation," she explained. She quickly pointed out, however, that there is quite a bit of "disagreement or uncertainty about defining exploitation." Her own shortened definition of exploitation? "Exploitation occurs when wealthy or powerful agents (persons or organizations) take advantage of the poverty, powerlessness or dependence of people by using them as a *mere means* without adequate compensating benefit." The second moral imperative addresses abandoning the practice of "safari research." However, the once-prevalent practice of "researchers and sponsors entering a country, conducting the research and then packing up and leaving nothing behind" was fortunately drawing to a close. "Now researchers and sponsors have an obligation to leave something useful behind," she said. "But there is less agreement on WHAT should be left behind."

In any research guidelines involving human participants, international or otherwise, there lies an underlying ethical premise. "Mainly, the premise is that research should be responsive to the health needs of the population in which the research is carried out," she said. "The alternative would involve entering that developing country and conducting research that has very little to do with the health needs of the people there. The researchers could then take the results of the research and apply the benefits in the countries of the wealthy, industrialized sponsors. Regarding this issue, there is a weak interpretation of ethics and a strong interpretation of ethics," she said. "The weak: research is responsive to the health needs of the population, just so long as it addresses a health problem that is prominent in the country or community; and the strong: that there is an obligation or a responsibility to take some steps—before the research is initiated—to seek to insure that the successful products due to the research will be made available to the population at the conclusion of the research."

While interpretations are well and good, Dr. Macklin explained that actually looking at the international guidelines would shed more light on those "underlying ethical premises." She began with the well-known Declaration of Helsinki, first developed in 1964. "The Declaration was revised in very minor ways up through 1996. However, in the year 2000, there were extensive revisions made; most notably: 'research is only justified if there's a reasonable likelihood that the populations in which the research is carried out stand to benefit from the results of the research.' While it's a little bit vague, at least we have here a general statement of principle," she said. There are also other guidelines to consider. CIOMS (Council for International Organizations of Medical Sciences) has a set of international guidelines for biomedical research which concur, and NBAC (National Bioethics Advisory Commission)—a commission that was in existence for about four years but recently disbanded by President Bush—in one of its last reports, found its guidelines concurring as well. With the changes, there have come controversies.

"There are two ethical concerns that have prompted the controversies," Dr. Macklin said. "The first of these is the so-called 'standard of care.' There are three compo-

nents to this standard of care question; the first involving the matter of research design." During the 1997 Mother to Child HIV transmission studies conducted in Thailand, a controversy arose. "That study could not have been done in the United States because there was a proven effective method that drastically reduced the transmission of HIV from mother to child; and in the United States, and in other countries, a premise of research ethics is: people who are in a study should not deliberately or knowingly be made worse off by being in the study than they would be if they were not in the study," she explained. The question here was: if a proven effective treatment exists for a condition or disease, and people are in enrolled in a study that withholds that proven effective treatment—is that the same kind of problem it would be in the United States versus Thailand?

She explained the problem here was this proven effective method was in the United States, and the people who were in Thailand's study did not have access outside of the study in their country for this proven effective treatment. "So, some people argue, that you are not making these Thai women worse off than they would otherwise be, because they can't get this product outside the study," she explained. The second component of the 'standard of care' problem is whether or not people who are research subjects should be provided with treatments for any of what Dr. Macklin calls "inter-current illness" that they might have. "In a developed country like the United States, if people get sick during the research, people get treated—even if the researchers themselves do not have a direct responsibility to provide care, the point is treatment is available and accessible," she explained. "This is not the case in very many developing countries where the people are very poor and the Ministry of Health has an extremely low budget for the public health system." The third area of the 'standard of care' issue largely, but not exclusively, involves ongoing studies of preventing HIV instances. "In these HIV preventive vaccine trials, some research subjects are going to become infected—not by vaccine, but by engaging in risky behavior. Is there an obligation on the part of someone to provide antiretroviral drugs?" she asked.

The next ethical concern Dr. Macklin addressed is the idea of distributive justice (fair distribution of the benefits and burdens of research). "Here the question is, what, if anything, is owed to the research participants or a community where research is carried out. Afterwards, is there any obligation to the participants? If they still need the experimental medication or the medication that has been demonstrated to be successful when the trial is over—is there any obligation to the people providing it?" In order to more closely examine these questions, Dr. Macklin explained the ideas around these ethical standards. "If you look at the literature on this topic you will see that people do not agree on what they consider to be the ethical standard. In one interpretation, the requirement is to use the same ethical standards *(i.e.* not using one standard for a wealthy country and another for a poor country.) What that means, for some people, is use the same ethical principle," she said. "Is the requirement for having the same standards when you use the same ethical principles—some of which are: respect for your research subject; informed consent; a favorable benefit–risk ratio; and distributive justice— satisfied?"

And what about research design and ethical standards? Dr. Macklin explained there are two ways of examining this puzzling question—by looking at the single standard position and the double standard position. "The single standard is as follows: one may not use placebos in a control group in a poor country where there exists an effective treatment for that condition somewhere else in the world. The effective treatment may be in a developed country, but it may actually be found in another poor country because developing countries are developing along a continuum—they are not all desperately poor," she said. "A second point in defense of the single standard position is: if patients in a developing country who are not enrolled in a clinical trial would receive treatment, you can not justify withholding an effective treatment from subjects in research."

Next, she examined the double standard. "It would say: placebo controls are acceptable in developing countries if you could not conduct the trial with a placebo control *of the same design* in an industrialized country," she explained. "It is ethically acceptable to use the placebo in this situation because the subjects who are getting the placebo are not made worse off than they would be if they were not involved in the trial because providing placebos to a control group does not fall below the 'standard of care?' You are not giving people less than they would get in that country's medical system."

According Dr. Macklin, this spawns another philosophical and bioethical debate. "In this case, what does it mean to treat people fairly; or equally; or equitably? To

treat them equally means that research subjects in the same kind of trial in South Africa, Botswana, Argentina or Cambodia, should be treated equally to how research subjects in the same trial (same design and same purpose) would be treated in the United States or Western Europe. Treating people equitably, however, could mean that there are obligations only to treat research subjects in the same way as other people in their country are treated."

Many of these issues are explored in controversial Paragraph 29 in the Declaration of Helsinki. It says: "the benefits, risks, burdens and effectiveness of a new method should be tested against those of the best current prophylactic, diagnostic, and therapeutic methods. This does not exclude the use of placebo, or no treatment, in studies where no proven prophylactic, diagnostic or therapeutic method exists." Professor Macklin clarified the problem. "In other words, you can use a placebo, but only when there does not exits a proven effective method." But why is this controversial? "There are three possible reasons it is controversial," she said. "The first is: some people (pharmaceutical industry, some researchers and FDA) want to use placebos—placebo control trials are faster, cheaper and require fewer subjects. Second, the FDA has a strong preference for placebo-control methodology whenever possible. Third, there is the issue of what is 'the pertinent research question;' people have argued that the pertinent question is: the experimental product, the drug being tested, is it better than nothing at all?"

Because of this controversy, in 2002, the World Medical Association issued what it called "a clarification" of Paragraph 29. Dr. Macklin explained that it weakened the original paragraph. "It states: 'even if a proven therapy is available, you may use placebo in either of the following circumstances: 1.) where for compelling and scientifically sound methodological reasons its use is necessary to determine the efficacy or safety of a method; or 2) where a method is being investigated for a minor condition and the patients who receive placebo will not be subject to any additional risk of serious or irreversible harm,' " she said. "This clarification has been soundly criticized because, in many eyes, it clarifies nothing as well as failing to "provide criteria for what counts as compelling reasons."

Nearing the end of her speech, Dr. Macklin wondered what part justice and fairness played at the end of these trials; is there a fair distribution of the benefits and the burdens of research in these countries? "When there is a successful product that results from the research, what is owed to research participants when the trial is over? There are many possibilities: access to medications that are still needed after the trial is over; and as well, perhaps, the product provided to the control group, if it is something other than placebo. The Declaration of Helsinki in Paragraph 30 says, 'At the conclusion of the study, every patient entered into the study should be assured of access to the best proven prophylactic, diagnostic and therapeutic methods identified by the study,' " she said. "While it's clear that there is an obligation to provide that product after the study, there has been opposition to this as well."

And in the end, what is owed to the community or the country? "While the Declaration of Helsinki is silent on this point, the CIOMS guidelines say products should remain reasonably available at the conclusion of research. NBAC says: you should make products available if at all possible—but there are many loopholes," she said. "Part of the issue is that researchers themselves can't provide the products, and the companies who can are unwilling because they are in the business of making money. On one side, this could be an impediment to research and beneficial research would therefore be delayed or avoided all together in developing countries. On the other side, this protects developing countries from exploitation."

At the end, Dr. Macklin urged to keep things in perspective. "Research is a means, not an end in itself," she said in her closing point. "My view is that double standards in research are ethically unacceptable and yet, as you can see by the questions that I raised but did not answer, many issues remain unresolved."

"The man who can really stand alone in the world, only taking counsel from his conscience—that man is a hero."

—Søren Kierkergaard

Civic Duty, Civic Courage

I remember one line from a 7th grade textbook: "An example of a purely civic duty is voting. I took that statement as a moral directive; and do not remember missing an opportunity to vote since I became eligible to do so—even when I am not thrilled with the choices presented.

Another example of a purely civic duty is serving on a jury. As a lawyer, I have been excluded from serving until recently. In the last eighteen months I have been called to sit in the Cuyahoga Court of Common Pleas and in the Shaker Heights Municipal Court. I showed up and mostly sat around both times, since no one picked me. The first time it was a week of driving to and from the downtown courthouse in rush hour traffic. The second lasted mercifully only a half-day.

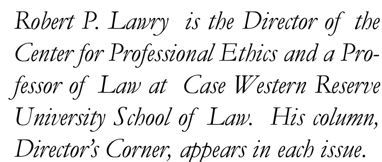
Currently, I am serving on a federal grand jury panel which requires twenty-four of us to sit one to two days per month for eighteen months (though they tell us the last six months we are just "on call.") It is mostly not fun, since our task is simply to make certain the federal persecutors have sufficient evidence to present facts that establish it-is-more-than-likely-than-not this person committed that crime. We hear second-hand stories of perversion, deceit and violence, not nearly as exciting as *Law and Order* serves up nightly on our T.V. screens; but enough to provide a lay check on the danger of government over-reaching. Most of us would rather not be there any given month. But we understand: it is our civic duty.

"Why do I write of such mundane matters as these? First of all, they are not mundane. The right to vote is the lynchpin of democratic government. Without it, we are slaves to power alone."

An even more irksome example of civic duty is paying taxes. In the U.S.A. we grumble a lot about about taxes, even though most Europeans pay far more than we do, including a sizable bit more at the gas pump. We grumble, but mostly, we pay. It's not just the fear of being caught. No. We simply recognize tax-paying as a civic duty, a tangible expression of our obligations to one another, so the roads get paved, criminals get caught, and fires put out.

Why do I write of such mundane matters as these? First of all, they are not mundane. The right to vote is the lynchpin of democratic government. Without it, we are slaves to power alone. Jury service allows us to participate in determining who shall be deprived of liberty and for what reason. Taxes have been called the blood-lines of government. Nothing works if we don't ante up. Of course, many do not vote. Many manipulate the system and never serve on juries. Some think cheating on taxes a national pastime. Shame on them. And shame on us for taking any of these duties lightly, or of making light of these basic obligations. Still, they seem on the surface of things to be, well, pretty ho-hum virtues. Compare these to the civic work of others mentioned in the pages of this issue of the CPE newsletter. King. Bonhoeffer. Gandhi. These were brave citizens. Two were assassinated, the third executed, because they stood up courageously against strong and sometimes brutal opponents. Opponents of what? Those who would deny fellow citizens basic rights, including the right to vote, the right to serve on juries, the right, yes, even to earn their daily bread so they could pay taxes. Most of us will never—hopefully—have our courage tested as they did. Nevertheless, we honor them and participate vicariously in their acts of political and moral courage when we perform the civic duties they gave their lives that others might enjoy. We might go further than that. We live in

perilous times. But let's start with a basic appreciation of what we do have—and a renewed commitment to exercise the civic rights and duties we possess. The courage to do more might come from such a start and such a renewal.



Robert P. Lawry is the Director of the Center for Professional Ethics and a Professor of Law at Case Western Reserve University School of Law. His column, Director's Corner, appears in each issue.

The Center for Professional Ethics

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The Center for Professional Ethics at Case Western Reserve University provides opportunities for students, faculty, administrators and professionals to explore more fully the foundations of personal and professional ethics. This newsletter is printed four times yearly.

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News and Notes

Thomas H. Murray, president of The Hastings Center and former director of Case Western Reserve University's Center for Biomedical Ethics and Center for Professional Ethics Ethics Associate will deliver the keynote address at Case's Research ShowCASE 2004. Murray's speech will address the moral challenges and moral significance in biomedical research. Research ShowCASE 2004 will be held Friday, April 2 from 8 a.m.-5 p.m. in the Veale Convocation Center. It is an opportunity for faculty, researchers, undergraduate and professional/graduate students and post-doctoral fellows from Case and its affiliated research institutions to display their latest research. For more information please visit: http://ora.ra.cwru.edu/showcase/index.htm Thanks to the *Campus News*

Christopher Cullis, 1996 Ethics Fellow and professor of biology at Case Western Reserve University, along with Samantha Rademan and Karl Kunert, have received a patent, "Method for Detecting Genomic Destabilization Arising During Tissue Culture of Plant Cells" to detect malformed plants. Professor Cullis plans to expand this idea to other crops as well. While Case owns the patent for Cullis' work, he serves as the CEO for NovoMark Technologies, the company who will license the technology. Thanks to *Campus News*

Jenifer Neils, 1996 Ethics Fellow and Ruth Coulter Heede Professor of art history at Case Western Reserve University, has helped organize the first major art exhibit exploring childhood in ancient Greece entitled: *The Coming of Age in Ancient Greece: Images of Childhood from the Classical Past.* The exhibit will be at Cincinnati Art Museum in Cincinnati (May 1–August 1, 2004) and the J. Paul Getty Museum in Los Angeles, Calif. (September 14–December 5, 2004). Another version of the exhibit may currently be viewed at the Onassis Cultural Center in New York City, January 19–April 1, 2004. Thanks to *Campus News*

Robert P. Lawry, the Center's director, had a busy 2003 thanks to the national media vying for both his attention and pithy quotes. Not only was he featured guest on the radio interview show *It's About You!* in August (you can read that interview in its entirety in this issue), but was quoted in such esteemed publications and periodicals as *the New York Times*, *the Christian Science Monitor*, *Good Housekeeping* and the popular online magazine, Salon.com.

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