

America's Role in The World

Understanding Muslims and Islam

America's Role in The World — a project funded by the University THEME Committee and the Office of the President of the University — is the catch-all title for a series of seminars and talks spanning several schools, centers and disciplines at Case Western University this fall. On September 25, 2002, the Center for Policy Studies offered its discussion: "Is America at War with the Muslim World?" featuring two distinguished experts: Dr. Juan Cole and Ambassador Wat Cluverius. Joe White, Director of the Center for Policy Studies kicked off this seminar, saying, "There are questions that may be lurking behind America's response to the events of September 11, 2001, and the role of the University is to encourage careful thinking about difficult questions."

While Dr. Cole, Professor of History at the University of Michigan and Editor of *The International Journal of Middle East Studies* lent his expertise in history and politics of the Muslim world, Ambassador Cluverius offered his wide-ranging knowledge of the Middle East from his days as a diplomat and Middle East advisor and his current position as President and CEO of the Cleveland Council on World Affairs.

Professor Cole immediately challenged the mainstream media-fueled myths about Muslims, the Middle East, and Islam vs. America or, vs. American Democracy. "There is research that shows most Middle Easterners are firm democrats who believe that democracy is an excellent form of government. Many of the governments in the Middle East are not democratic, or not fully, but a number of people wish that they were, or believe that they should be — much of the Muslim world are great admirers of the United States, and its inventiveness and culture," said Professor Cole. Ambassador Cluverius believes we do not understand Islam or Muslims very well because we, as a people, are not familiar with the people, the religion and the culture. "Once you get to know them, you'll find that they are like the rest of us. The Arab world I found was not unlike people anywhere else," he said.

However, reality does show that many in the Middle

East do have problems with American policy. "There are three main points of contention: (1) the Israeli conflict; in fact most of the rest of the world identifies with Palestinians; (2) the U.S.'s support for dictators; (3) that we intervene in the Middle East too much," explained Professor Cole. "However, I think a lot of grievances and aspirations are painted on the United States because we are a super power, and our presence is very much felt." Ambassador Cluverius added, "The Arab world liked the United States — what the Arab world didn't like was the United States' hypocrisy, along with our support of the creation of the state of Israel. The Arab world felt this creation was unfair, so they went to the United Nations and said, 'don't do it like this (by just creating a state), let's vote the American way -- one man, one vote.' But this didn't happen because the Christian world was feeling horribly guilty about the Holocaust (as it should have)."

When talking about the Muslim world or Islam, the word "fundamentalism" is thrown around quite a bit. "The word 'fundamentalist' is controversial in the region," said Professor Cole, "and most Muslims are not fundamentalists. However, the word does describe a literal approach to the scriptures and a fidelity to a set of laws, rituals and regulations quite well. Though you wouldn't learn it from the media, the fundamentalist tendency is a minority," he explained. "Even in Pakistan the fundamentalists don't get more than 3% or 4% of the vote, or in Germany there are 7 million Muslims, and of these, German police estimate there are only 100 members of Al Qaeda." However, he added, "we do know fundamentalists are a pool from which recruitment to extremist groups, like the Al Qaeda, can be carried out."

"In my humble opinion," said Ambassador Cluverius, "fundamentalism is a danger no matter what the source. My definition of it is: someone whose vision of the future is the past. People who are unhappy with the present and afraid of the future often turn back to some standard they think can elevate their souls. I think that's what happened in the some of Arab Muslim world."

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While the roots of modern fundamentalism and its problems can be traced back to 1928 Egypt in the guise of the “Muslim Brotherhood,” it is shocking to see how quickly the level of disorder has escalated in the Middle East in the short years that the United States has become actively involved. Sadly, all signs point to bad decision-making on the part of the U.S. -- by pumping money into fringe groups; by supporting military governments and dictatorships; and by doing almost anything to support our financial interests.

Ambassador Cluverius explained that the United States’s personal interest in the Arab world began, not surprisingly, with the pursuit of oil. “Prior to that, we had only a missionary involvement in that area. However, in the 1930s, some of our geologists were called into Bahrain to help find water, and found oil instead. Soon after, they began looking over at the land formations in eastern Saudi Arabia, positive there was oil under there,” he said. After the British gave up the area, a conglomeration of U.S. companies drilled and, not only found oil, but the biggest reserve ever found – 50,000 barrels a day. Before the drilling of Saudi Arabia, 2,000 barrels a day was considered ‘a gusher.’ “We were the only superpower at the end of WWII,” Ambassador Cluverius explained, “but the Soviets quickly surpassed us. Then we were concerned they would expand into the Persian gulf and near our (oil) supplies. Back then, our one touchstone was, ‘Who is with us against the soviets, and who wasn’t?’ In this process, we did some things we didn’t want to, but felt we had to, so we supported a lot of right wing militaries in the Arab world as well as in Central American.”

We continued to support questionable regimes. “We gave, and continue to give, billions to Egypt: essentially a repressive, military government,” said Professor Cole. In the late 1970s, many fled Egypt for Afghanistan, forming “a kind of Muslim International to fight the godless communists.” These same radicals were supported and encouraged by the United States, and the CIA, and the State Department under the Reagan administration. “They decided that the way to get the Soviets out of there was to support these radicals,” explained Professor Cole. “The United States supported them, to the tune of a half a billion dollars a year, as well as putting pressure on the Saudis to do the same.”

Now, we suffer major side effects from these decisions. “After the Soviets left, many of these Afghani groups were radicalized. The people now knew weapons techniques, and were alienated from the other, largely secular countries,” said Professor Cole. “Afghanistan

soon fell into a warlord chaos. A short while later, Pakistani Intelligence backed a group of Muslim seminary students — called the Taliban – and sent them off to conquer Afghanistan. In 1996, Bin Laden was forced out of the Sudan and went to Afghanistan and was hosted by the now-ruling Taliban.” To further fuel the fire of radicalism, starting in the 1990s, there seemed to be a worldwide effort to rid the earth of Muslims. Professor Cole explained, “The Serbs began their massive ethnic cleansing campaign, the Russians brutalized the Chechens because they wanted more autonomy, and in Algeria, when Muslims fundamentalists won the majority in the parliamentary elections, a dictatorship was installed instead. A civil war has been raging there since — 120, 000 have been killed in the last decade.”

In Professor Cole’s view, the aim of the September 11th event was an attempt to push the United States as the “status quo” power out of the Middle East. “While Al Qaeda and its constituent supporters have been trying to overthrow the governments of the Middle East for years, they’ve had little success because their numbers are so minuscule,” he said. “While there are many Muslim activists and nationalists who object to the way these countries of the Middle East have been formed — by European colonialism and the United States — they have pushed for a kind of ‘United States of the Middle East.’ However, Al Qaeda wants to see a non secular, pan Islamic state with the ideal form of government being a caliphate.”

When asked if Iraq and Al Qaeda were connected, Professor Cole answered, “Absolutely not. The Baath Party (Iraq’s ruling party) is the deadliest enemy to religious fundamentalism you can find. Saddam Hussien has killed and persecuted both Shiite and Suni fundamentalists in large numbers. Perhaps, in some shadowy way, Iraq might have cooperated with or passed off information or money to fundamentalist groups. While that is possible, even the CIA has refused to certify that the Baath party is involved in Islamic fundamentalism.”

Where is Al Qaeda now, and what can we do to derail them? “There are 3,000-5,000 members in some 60 countries, all spread around the world in small cells,”

answered Professor Cole. “We need very effective counter subversion activities against Al Qaeda in Muslim communities in the west, in Africa and Asia. We need to penetrate the cells, break them up and discourage people from supporting them. We need to improve our image in the Muslim world, and not just in a Hollywood way, but by taking the type of action that the Muslims would appreciate. We need to intervene

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The School of Law remembered the anniversary of September 11, 2001 with an afternoon-long discussion titled: “One Year Later.” During the first half of the afternoon, many from the School of Law community crowded the Moot Court Room to hear their colleagues, coworkers and fellow students share thoughts and feelings about the date and the anniversary. The second half was dedicated to a panel discussion featuring four School of Law professors who, in the same thoughtful spirit of the previous 9-11 forums, shared their knowledge on international and domestic law, human rights and the Constitution. The panel consisted of: Michael Scharf, Lewis R. Katz, William M. Carter, and Jonathan L. Entin, each Professors of Law at CWRU.

Panel moderator and director of the Frederick K. Cox International Law Center, Professor Hiram Chodosh began the panel discussion, saying, “The issues we face present us with a series of tough choices; we call these “dilemmas” because we presuppose, at least on first glance, the alternative solutions to these questions are in some part unsatisfactory. Making imperfect choices forces us to choose among competing values with comparative benefits and harm, different policies and legal actions – in which context do we favor liberty over security, self-defense over human rights, military strategies over criminal justice mechanisms and how effective will our choices be?”

Professor Scharf asked, “Our response to September 11th is testing us as a country and people, both domestically and internationally -- who is grading this test? Perhaps the international community will, by watching our continued response in the face of a war that has continued as well as the vestiges of our past aggressions rearing their heads again. Everyone is wondering, ‘What’s going to happen with Iraq?’ ”

“If you were to read the newspapers you’d think this idea of preemptive self-defensive was a new creation,” said Professor Scharf.

In reality, what we keep hearing about is known as the Sofaer Doctrine. The doctrine is based on the UN Charter, which, in combination with Article 51, basically says: while one country cannot invade another, countries have the right of self-defense, and countries must be able to respond, not only after they are attacked, but during an attack, and sometimes before an attack.

Professor Scharf reminded the attendees that the United States aggressively used the Sofaer Doctrine under the Reagan, Bush the Elder, and Clinton administrations in Libya, Iraq, and in the Former Yugoslavia, respectively. Some international communities found these aggressions problematic; perhaps, with good reason. “There are two very important requirements that have not always been met,” he said. “As a country, you must show, before you invade, attack, or drop bombs, that there were no alternative means of resolution, perhaps, because of the immediacy of the threat or the timing, proving that this was the only way of responding. Secondly, your response can not be disproportionate to the threat.”

It is important to note that when it came to the September 11 attacks, the international community via the United Nations supported the United States without question, passing two new resolutions to assist the United States in seeking out terrorists. “However, if you try to apply this all to Iraq, you’ll find the situation is much different,” explained Professor Scharf.

The biggest case against the use of force in Iraq is the one against jumping to judgment because, unlike the September 11 attacks, the evidence is lacking. “Interestingly,” he said, “many of the UN inspectors who were in Iraq disagree with the United States about the current threat posed by that country. On top of that, the Allies don’t support our idea of a full scale invasion of Iraq.”

In Professor Scharf’s opinion, what should the United States do? “Turn to the United Nations for inspectors. Maybe we need to build an international coalition to create an ad hoc tribunal to indict Saddam Hussien as an international war criminal. It would be an easy thing to do since we already have an ad hoc tribunal created by the Security Council dealing with Yugoslavia and Rwanda. With a simple U.N. resolution, the jurisdiction of that tribunal could be extended to cover the crimes against humanity and war crimes that Saddam has been alleged to have committed. The role of mature leadership is not to stoke the fires for political gain, but to show that cooler heads can prevail for the good of our country,” he concluded.

From the domestic standpoint, Professor Katz warned against the public blindly accepting what the media offers us as real and true information since the attacks. “The media has failed to inform us of what is actually going on, serving instead as cheerleaders for the

government and the military,” he explained. “Reporters and broadcasters actually read from military press releases. Where is the media as the guardian of the people’s right to know? Where is our Ernie Pyle? Perhaps the media is fearful of turning off their audiences with the truth?” Professor Katz also sees “the absence of transparency in government” as disconcerting. He added, “The enemy of freedom is secrecy, and that secrecy makes it impossible for us to monitor government behavior.” While he understands that now may be a time for a certain amount of secrecy, it shouldn’t stop us from asking our government “to justify its failure to expose its behavior to the light of day and the light of public opinion.”

However, he believes that President Bush and the rest of the country deserve credit for taking efforts to embrace Muslim and Arab American communities after the attacks of September 11, 2001. “And for some, it’s not always been easy. There are still people in the Arab world that deny Al Qaeda’s involvement in the 9-11 attacks, not withstanding the evidence and Al Qaeda’s own statements,” he explained.

In wrapping up, Professor Katz wondered aloud about how to live in these times. “We need to be watchful as history shows that our government, in times like these, will seek the power it needs, as well the power it doesn’t need; our government will attempt to further unrelated interests,” he said. “As lawyers, I believe we have a special obligation to protect this country, and to insure that the America that prevails is the home of freedom that it was prior to September 11th. However, we must always remember we experienced, and continue to experience, very real emotions; let us not bury them under cynicism or pseudo-sophistication. Let us use our very appropriate love for this country and way of life to guide us in these difficult days.”

Professor Carter believes the September 11 attacks were a human rights violation. Looking at them in that way places us at “the correct moral starting place” for understanding the proper place to begin. “Ignoring the massive human rights violation of the attacks both distorts our discussion of the root causes and distorts the discussion of the justice of our response,” Professor Carter said.

“Unfortunately,” he said, “the international legal system, outside the area of war crimes, is not completely comfortable with the idea of individual responsibility for human rights violations. Personally, I think that needs to change.” But going about making changes may be difficult due to the “almost universally agreed upon

plummeting world opinion of the United States, not only among our enemies, but also among our friends, and people who share our values — it is no longer just a fringe position.”

Professor Carter pointed out that there is a double standard that the United States seems to cultivate throughout the rest of the world. “For example,” he explained, “the US is loudly critical on the suppression of democracy in China, but fairly silent on the repression of democracy in Saudi Arabia or Pakistan; we make a lot noise about land seizures and the destruction of homes in Zimbabwe, but says almost nothing about land seizures and the destruction of homes in occupied territories in Israel and Palestine; or we complain loudly about the arrest and harassment of human rights activists in Iran, but not about these same events in Egypt. The resentment will build up, in fact, it has already.”

Changing this idea of the United States will be a difficult one, but one, Professor Carter feels, that is not impossible. “We are fighting a story that is told, an idea that the U.S. is an evil, imperialist society that needs to be brought down,” he said. Is there any way to change this? “We can begin by respecting the human rights of all people in our nation, including immigrants and citizens because this battle will be fought less with guns and wire taps, and more with new ideas and new stories that take place and are told in mosques and churches, in barber-shops, and at the corner store,” he said.

Professor Entin wrapped up the day by giving an abbreviated, but important history of how the United States has responded to its citizens, as dissidents and critics of war, in times of national crisis. “To begin, I think that it would be a mistake for us to believe, on the basis of history, that courts and lawyers are likely to be effective in dealing with civil liberties violations in times of national crisis – however, if you look at the problems that we face today through a historical perspective, we are actually in a better shape than we were at some points in the past,” he said.

In 1798, the Sedition Act was passed. “In particular, this act made it a crime to publish false, scandalous and malicious statements about the U.S. Government. While it expired by its own terms in 1801, it was never tested in the Supreme Court,” said Professor Entin

“During the Civil War, critics of the war effort were prosecuted. Civilians were tried in military courts even when the civil courts were open,” said Professor Entin.

CWRU President, Dr. Edward Hundert

The September 12, 2002 *Conversation on Bioethics* seminar was a special one, evidenced by the faculty, staff and students who packed the room the last 10 minutes before the speaker began. The brand new Department of Biomedical Ethics kicked off its fall semester *Conversations* with CWRU's brand new president, Dr. Edward Hundert, presenting his talk, "A Practical Model for Ethical Problem Solving in Medicine."

Dr. Hundert jokingly referred to this as his "recruiting seminar," but it was clear from the outset that the President was eager to let all present get to know him a little better, professionally and personally. "The community of bioethics here at CWRU would like to engage in a dialogue about how we can do a better job of creating a (common) language so when we discuss ethical issues, we are all talking about the same thing. I'd like to present a model that I hope can help us focus on where there are actual *ethical* issues in medicine, along with an approach to trying to solve these ethical problems in medicine."

He came to medical school directly after attending Oxford where he studied moral philosophy and learned "what all the great thinkers thought about the problems of right and wrong, and good and evil." He added, "I was conversant in a host of frameworks and models concerning how to think about moral issues. Upon entering medical school he felt a bit of a culture shock. To acclimate himself, he thought he'd approach medical school the same way he found successful at Oxford. "I set up appointments to meet with the wisest professors there. And each time I met with one, I would ask, 'What model, framework, or theory of moral philosophy do you use for the ethical part of a clinical situation?'"

He thought they'd pull out the Golden Rule of ethics – "do unto others as you would have them do unto you." They didn't, and additionally, he was surprised at what some did say. "Many of them said, 'I think to myself, if this were my mother what would I want for her.' Even at that time it seemed to me -- and you don't have to be a psychiatrist in order to see this -- there was a methodological flaw in the golden rule corollary that says, 'Do unto others as you would have them to unto your mother,' " he laughed.

It was at this stage in his career that he saw the beginnings of "what psychiatrists call 'the counter-transference issue' in ethical problem solving. "When you solve

ethical problems, a whole bunch of personal, emotional things can come up that can cloud a sort of more objective academic analysis of the values in question," he said. All of this discovered merely by searching for one, simple catch-all rule! While he never did uncover the perfect rule, one that can be pulled out in all situations, he has spent the last 25 years searching. "At the end, I am going to give you my current version of the simple rule, and I think this rule can be helpful," he said.

In searching for his rule, he studied people by "hanging out in emergency rooms, in ICUs and other places where I intuited that there would be a lot of moral issues." He decided it was best to take an anthropological or sociological approach to this research. "I studied how people *really* make these decisions, not how they *should*, but how they *do*. I talked to the doctors, nurses, and the many other people involved. I talked to them about what the features of these moral decision makings (i.e. dilemmas that people face) are, and what might help me understand the nature of these problems. My conclusion? Moral dilemmas seemed to make people anxious — these cases were a source anxiety for both the clinicians and families involved," he said. "And a *problem* becomes a *dilemma* when you really feel like, either way, you are going to make a big mistake."

Dr. Hundert found, in these dilemmas, "a multiplicity of values that weigh on each side" — meaning, whichever way you decide to take action you will "compromise one value or another that you hold dear." But the issue within the issue is that, as people, our values weigh in at different weights. "These different sides (and weights) are what philosophers call incommensurable; there is no mathematical or quantitative way you can say how much individual liberty and autonomy is worth in terms of relief from suffering, from pain," Dr. Hundert said. Trying to equal these out, puts you, as he explained, "in between a rock and hard place."

Dr. Hundert gave his own, real life example of this phenomenon. "I spent a year as Chief Resident at McClain Hospital — a large, inpatient psychiatric hospital. We had so many commitment hearings, the judge came to the hospital (rather than the patients going to the judge)," he said. "I would present these dilemmas about the patients, all who had very, very difficult psychiatric conditions, many of whom were suicidal or homicidal and were refusing treatment, and all who wanted to be released. I would think about the appro-

priateness of making a case to keep a patient here despite the fact that the patient wanted to leave. I realized that these are values that weigh in on the two different sides of the scale. In the example I just gave, the weighing in on the side ‘to commit:’ the patient’s welfare and safety (at least the medical model version of that); treatment to relieve their suffering; welfare and safety of other people who could be affected by the patient — perhaps even killed by the patient. And then on the other side ‘to not commit’ was: the patient’s individual liberty; and their privacy.” To add to this, Dr. Hundert reminded the group that when facing ethical dilemmas “the uncertainty of an outcome often weighs a little bit on both sides of the scale, but always more on one side than the other.”

In looking at one’s experience in cases such as that, Dr. Hundert believes that people can come up with their own “moral principle” via “a mathematical formula.”

“You look at the many cases you’ve had, and in each case you do know how much liberty or privacy you would be willing to trade off against how much welfare and safety; you think what every one of the fundamental values that you uphold are worth in terms of all the others,” he explained. “If you pay attention to your own moral instinct (what you think is ‘right and wrong’) in each case — you could figure out your own formula. And if you did, I would argue that what you discovered, in its raw, crude mathematical form, is what I call ‘your moral principles.’”

Dr. Hundert displayed a heuristic graph to explain how values may balance, one against the next. “What I tried to show is a timeline. On the horizontal axis, is the beginning point, the day you start medical school or nursing school. The end point is the day you retire from practice, basically your career,” he said. “On the vertical axis is the weight that you attach to some particular value, relative to all other values in your value space (your moral principles), which are not static over the course of your career.” The graph also included dots which he labeled “problems that come your way.”

It is the two lines on the graph — the dotted line as one’s actual moral experience; and the solid line as one’s articulated moral principle — that Dr. Hundert probably finds the most familiar from his Oxford days. “This is a variation of John Rawls theory of a reflective equilibrium. As your reflective equilibrium between your articulated moral principle and your actual moral experience changes (i.e. the more cases the world throws at you), it sets up values in complicated ways to be balanced one against the next. So, the more experience

you have clinically (all different kinds of cases), the better you get at articulating what your principles are and why,” he explained.

He thinks this model can also be a useful tool in moral discourse. In Dr. Hundert’s view, there is a point where there can be “an interesting moral dialogue about the appropriateness of what to do next in a situation and still all be talking about the same thing. Equally ethical people, in those cases in the middle, can actually come to very different conclusions.”

However, he told the group, “I would argue that 99% of the cases are not at that point. And as an application to the teaching of medical ethics, I consider it a huge problem that we have medical education that focuses on those cases/points because these are the fun cases to debate and argue. We have these casebooks, and whole books are filled with cases that have been chosen because they have that quality that inadvertently leaves people (medical students, residents and others) with the mistaken impression that when they leave medical school, they go off with the sense that equally ethical people can have opposite opinions and that there are no rules. The truth is: if you look at these euthanasia and ventilator issues on the wards, in 99.9% of them, everyone agrees what the appropriate thing is to do. And those are medical ethics issues, too.”

To help combat this, when Dr. Hundert does medical ethics rounds, he always asks to see the last admitted patient as the case to study. While at first his students are disappointed that he chose such an “uninteresting case,” they soon discover that “every case is a medical ethics case” and find themselves debating ethical issues surrounding that “uninteresting case” — things like informed consent.

It is important to remember that one’s perspective will change over time as one ages, but Dr. Hundert wants people to be mindful of why changes are occurring. For example, if you had a parent on a ventilator, and in your practice, also had patients on ventilators, the question, according to Dr. Hundert, would be: “Are you being unduly influenced by your own situations and feelings at home? Could this be a counter-transference issue where your feelings from your own life are interfering?”

He believes this model has great potential for that type of realization. “If you take this model seriously, and actually write down when these cases come up, you may find an articulation of tradeoffs; a deeper understanding, consciously, of what your moral principles are,” he added, “and if you were to do that, you might actually

be able to catch yourself in the act of counter transference, you might be able to say, ‘I am feeling that very strongly, but it really is out of whack with how my last 30 years of clinical experience has informed me what is an appropriate approach to this. Am I rushing into one decision or another here too quickly because of what’s going on with my parent?’ ” He added, “That’s not to say that your own experiences as a son or daughter is irrelevant to ethical problem solving in medicine — we are all human, and if we didn’t bring our own experiences to them, a machine could do this. I don’t think a machine can do this.”

Dr. Hundert recognizes there could be a problem with calling these specific ethical questions “medical ethical questions.” He has wondered himself if it is “legitimate to talk about a field called ‘medical ethics.’ If Emmanuel Kant taught us anything it’s that ‘ethics are ethics,’ ” he said. “However, I would propose an elegant solution in defining what medical ethics means. Perhaps they refer to the characteristic set of value balancing equations that, throughout history, have been owned by the profession of medicine?”

And what is contained in these specific value-balancing equations?

Dr. Hundert proposes that when “individual liberty considerations conflict with welfare considerations,” a medical ethic exists. “And in contrast, the legal ethic is much more concerned with justice and liberty consideration, even if it means more people are going to be less well off in other ways,” he said. “During that year I spent doing all of those commitment hearings, the most striking feature was this: the lawyer in the room was always arguing one side: to let the patient out of the hospital; and the doctor in the room was always arguing the other side: to keep the patient in the hospital.”

As a student of young adult development, this was very interesting to Dr. Hundert. “I’d known many people who were on the fence of whether they were going to go to law school or medical school after college. Obviously, they think liberty and welfare are both important, but half of them chose law school and half of them chose medical school,” he said.

Dr. Hundert explained that “professionalization” may be the culprit which causes strict, and perhaps, unwelcome value balancing along their respective professions’ lines.

“Upon entering medical school or law school, there are people who are still right in the middle, and then, there is a reinforcement from day one of medical or law school.

It’s a reinforcement of a pattern of value balancing characteristic of the profession,” he added, “the case you always hear in medical school is about the person who got let out of the hospital and killed himself; and in the legal cases, you are hearing about the people who are kept in hospitals later to find out they didn’t even have psychiatric illnesses.” He thinks it is very important for professional schools to stop doing this. “If this is part of the way we calibrate the ethic of the profession, what does that say about the way we should engage in ethical discourse in multidisciplinary settings with lawyers, economists, doctors and the rest?”

Dr. Hundert believes his model, by giving people a language with which to discuss tradeoffs may help to avoid the “dilemma situation” as well as help correct some of the problems of “professionalization.”

“The real goal of ethical discourse is to get out of the ‘whether or not’ mode. Once you get a language of the basic values and understand how they are trading off, you start to realize that maybe there’s a way that we could uphold a person’s individual freedom and their welfare — and that’s always preferable.” He added, “It also speaks to the importance of having a multidisciplinary group of diverse people with diverse backgrounds talking about this type of stuff together.” He’s seen a multidisciplinary group interaction first hand during a ten year period of studying discourse at ethics committees. “What you expect is that every single person sitting around the table actually has all the same basic values — in fact they have them in a way that is not that dissimilar, but within the group, each takes up one of these values; and the group as a group is doing what each individual person could be doing for themselves.”

So, back to the rule — is there a rule someone can use in the heat of the moment?

Dr. Hundert explained that while the traditional Golden Rule is good in some cases, a better rule may be his “Rule of Caring” which is: “If this patient were this patient, but I cared about this patient as much as I cared about myself, then what would I do?”

He explained, “One advantage to ‘the rule of caring’ is that it tries to engage the fact that you might take the extra heroic effort to find out whether there was family member or a friend this person had expressed some preferences to, because you know if it were you, you would want them to take that extra effort to find out that information. Another advantage to the rule of caring is that caring is actually at the heart of the

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Dr. Hundert

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Golden Rule in the first place. It's at the heart of any ethical standard of professional conduct. It's at the heart of the whole profession of medicine."

Recently, Doctor Hundert published a piece on "The Rule of Caring" in *Journal of the American Medical Association* (JAMA), and shortly after, was asked by the psychiatry department at Columbia University to give a talk on this subject. "After I finished my talk, the hand of one of the world's most famous psychoanalysts shot up. With some trepidation, I called on him, and he said, 'Dr. Hundert, I am most concerned about your rule of caring because, in my experience, doctors are very self-hating people;' and unfortunately, he had a point," he agreed. "One of the things I told the first year students as I welcomed them is: we tend to be so harsh on ourselves in medicine; we tend to have superhuman expectations. That is not good. Everything I know as a student of the human mind informs me that the degree to which we care about ourselves; and the degree to which we are gentle on ourselves sets an absolute cognitive and emotional limit on how gentle we can ever be with our patients, or how much we can care about anyone else in our lives." (*The full, unedited version of this talk is available on cassette through the Center for Professional Ethics Library*).

Muslims

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more forcefully to resolve some hot spots that are long lasting; we need to respect Muslims. And finally, we need to encourage democracy in the Muslim world. Democracy is the biggest weapon in the war against extremism — if someone thinks they can change society by ballot box, they would much rather do that than to blow themselves up."

Law School

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"During the World War I period, the courts used what might be called a 'bad tendency test' — if someone said something that had a tendency toward opposition or had a difficulty with the war, that would be sufficient for prosecution." Interestingly, directly after the Civil War, the Supreme Court admitted that perhaps the government had acted rashly, while after World War I, it would take the Supreme Court another fifty years before "they would view protection of dissident speech in war time as worthy of protection."

Most people are familiar with the biggest civil liberties violation during the WWII, but perhaps not with the fact that our Supreme Court passed up three chances to right this wrong. "The internment of many, many Japanese citizens in camps during World War II was upheld by the Supreme Court in three notorious decisions during this time." Coincidentally, members of traditional peace churches were allowed to conscientiously object, but were given dangerous work to do in lieu of fighting.

"During the Cold War, citizens were subject to interpretations of statutes like the Smith Act which made it a crime to be a member of the Communist Party," he said. "But during the Vietnam War, the definition of conscientious objectors was broadened to include a class of people who were not members of traditional peace churches -- although the numbers of these people were very small. At the same time, the free speech doctrine did expand."

"I am not an adherent of what you'd might call a celebratory tradition of American constitutional law," concluded Professor Entin. "Still, over time, I think things have moved in the right direction. However, eternal vigilance is the price of liberty, and vigilance is surely warranted at a time when government officials characterize critics as giving aid and comfort to terrorists. We ought to be prepared to defend our traditional rights and liberties, but I think we also ought to recognize that the law will only take us so far."

While Professor Entin may be right about the law only taking us so far, the continued discussion and debate about our still-changing, post-9-11 world can take us farther than we ever thought possible. In the words of Professor Chodosh, "Discussion and dissent is so central to the success of our society, and perhaps, this is the only process that can help us emerge from these dilemmas, although imperfectly. No one person has the final word on these questions."

A Different Kind of Close Up Looking at Cinematic Justice

When is a movie just a movie? If you were to ask Linda Ehrlich, she would probably say, "Never!" As a professor of Film Studies (as well as Japanese and Comparative Literature) at CWRU, and someone who is also a frequently published writer on the subject of cinema, she would be the one to know.

In May 2002, the Center for Professional Ethics held an Ethics Dinner featuring lecturer Professor Ehrlich and her talk, "Cinematic Justice." The evening was a departure from the usual ethics discussion format, but nevertheless, ethics were the main focus of the evening as Professor Ehrlich showed the group how the art of the filmmaker can tell the viewer things about guilt & innocence.

Scenes from the featured movies, *The Thin Blue Line* (1988), *To Kill a Mockingbird* (1962), *A Man For all Seasons* (1966) *I'm No Angel* (1933), were shown as individual pieces, but also as parts of a whole concept about courtroom drama and the way justice is depicted in movies. One of her questions: "Do you think the camera can affect the way we view a person's relative innocence or guilt," shed new light on the scene in *A Man For all Seasons* where Paul Scofield as Sir Thomas More begins his long walk down a tunnel and into the court room; while another question made the viewer pay attention to the how the jury is depicted. "Viewing" with that new awareness, the courtroom scenes in *To Kill a Mockingbird* seemed almost otherworldly.

Along with Professor Ehrlich, Center Director Robert Lawry arranged this event to take place in conjunction with the showing of *To Kill a Mockingbird* at the Cleveland Cinematheque; and also as the community book to read, as chosen by the Cleveland Public Library.

Winter 2003 News, Notes, and Future Events

Ethics Fellow Tim Shuckerow Wins Award

Tim Shuckerow, director of Case Western Reserve University's art education and art studio program and ethics fellow, won the Ohio Art Education Association's 2002 Higher Education Division Educator of the Year Award. Currently, as the OAEA's northeast regional director, he represents over 500 art teachers. *Thanks to CWRU's Campus News.*

CPE's Drama Discussions Featured in Local Magazine

The December 2002 issue of a local magazine, *Northern Ohio Live*, featured a piece on Dr. Marvin Rosenberg and his project, Drama Discussions: Voices of Diversity. The project, since its inception in 1998, has put on countless performances of select scenes from the awarding-winning plays: "I'm Not Rappaport" and "Cold Storage." Along with the plays, Dr. Rosenberg and his actors conduct workshops for attendees afterward. Live theater, in the words of the Dr. Rosenberg, "is a powerful tool for training and sensitizing human service professionals and community groups to the issues of race, aging, and health care." The next issue of the Center for Professional Ethics Newsletter will feature an in-depth article on this, and some other of Dr. Rosenberg's projects.

APPE 's Twelfth Annual Meeting

The Association for Practical and Professional Ethics will host its 2003 meeting in Charlotte, North Carolina, February 27-March 2, 2003. The meeting is open to Association members and nonmembers, welcomes persons from various disciplines and professions for discussion of common concerns in practical and professional ethics. Please see the Association's website for further information: <http://php.ucs.indiana.edu/~appe/program.html>

What Are We Going To Do About It?

Often, difficult moral problems occur when we are confronted by another's moral lapse. A biblical response might be for us to rid ourselves of our own sin before castigating another. That, of course, is good advice on a personal level, because who among us is blameless? Nevertheless, we have responsibilities to others that make it sometimes cowardly to say or do nothing in response to evil. Nothing allows corruption to flourish like the silence of ordinary good people. I have been thinking about this paradox in connection with a number of moral problems. I am not at all sure I have a handle on the way to frame an adequate response, but here are some preliminary thoughts.

One thing to assess is the role you have to play in the case. If I were told by a friend of an ethical lapse on their part, I might offer advice, but rarely would I go farther than that. The value of confidentiality in friendship is very high. Of course, if I myself noticed the ethical lapse, I may be obligated to bring it to my friend's attention - even at the cost of some discomfort. It would probably depend upon who was being hurt, and how badly. But what if the problem is garden variety cheating on an exam, or plagiarism

- by a student - and I am the teacher? Whatever obligations I may have to the student, I also have a high obligation to the institution of which I am a part, and to the other students, faculty members and various stakeholders in the enterprise. Exactly what I should do in that case partly depends on a second consideration: what institutional rules have been adopted for such matters?

The role of rules is important here. How much discretion is permitted at the institution? In places like West Point or the University of Virginia, where Honor Codes are in place, the answer may be: none. Reporting to the appropriate administrator may be the only ethical answer; and expulsion the only remedy. Where no such tradition obtains, institutional policies vary widely. Nevertheless, as a faculty member of any institution, I have some obligation to assess the institution's rules (or have them assessed from time to time) to see whether or not they are producing appropriate results. Of course, that leads to the larger question: what are the appropriate results?

Here, all that can be said in this rather abstract analysis of mine is: knee-jerk reactions are

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usually not good ones. There must be some thought and discussion about the matter before a decision is made. At times, the luxury of extended thought and discussion is not available; but an effort must be made. After the episode that produced the dilemma is handled, then reflection and coordinated effort to put a better system in place is demanded. I am convinced that institutions and special groups (like professional associations) must bear a greater burden in putting procedures and policies in place to aid individuals “when things go wrong.” The problem, of course, is that all institutions and groups are self-protective. They often cannot make the best choices for the greater good because they focus too readily on their own survival or benefit. How to solve that difficult problem is a subject I must leave for another day.



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. To join, please fill out the membership form on the back page of this newsletter. This newsletter is printed four times yearly. All rights reserved.

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