



F A S P E

FELLOWSHIPS AT
AUSCHWITZ
FOR THE STUDY OF
PROFESSIONAL ETHICS

2 0 1 2

JOURNAL



F A S P E

FELLOWSHIPS AT
AUSCHWITZ
FOR THE STUDY OF
PROFESSIONAL ETHICS

2 0 1 2
JOURNAL

FASPE
FELLOWSHIPS AT
AUSCHWITZ
FOR THE STUDY OF
PROFESSIONAL ETHICS

2012
JOURNAL

WITH SPECIAL THANKS TO

Professor Eric Muller, Professor Brett Dignam, Dr. Mark Mercurio, Dr. Jack Hughes, Professor LeRoy Walters, Professor Kevin Spicer, Michael Goldman, Dean Bill Grueskin, and Professor Andie Tucher.

Lead support for FASPE is provided by C. David Goldman, Frederick and Margaret Marino, and the Eder Family Foundation. Additional support has been provided by Carol and Bill Goldman and The Conference on Jewish Material Claims Against Germany.

EDITOR

THORIN R. TRITTER, PH.D.

ASSISTANT EDITOR

CHRIS BARTHEL, PH.D.

COVER PHOTOS COURTESY 2012 FASPE FELLOWS

THIS JOURNAL HAS BEEN PREPARED BY FASPE IN CONJUNCTION WITH THE MUSEUM OF JEWISH HERITAGE—A LIVING MEMORIAL TO THE HOLOCAUST.

© 2012 FASPE/MUSEUM OF JEWISH HERITAGE

F A S P E

FELLOWSHIPS AT
AUSCHWITZ
FOR THE STUDY OF
PROFESSIONAL ETHICS

2012 JOURNAL

STEERING COMMITTEE

Dr. Jolanta Ambrosewicz-Jacobs, Director,
The Center for Holocaust Studies,
Jagiellonian University

Dr. Nancy Angoff, Associate Dean
for Student Affairs, Yale School of Medicine

Ivy Barsky, Director, National Museum
of American Jewish History

Andrea Bartoli, Drucie French Cumbie Chair
of Conflict Analysis and Resolution,
George Mason University

Dr. Michael Berenbaum, Adjunct Professor
of Theology, University of Judaism

Debbie Bisno, Producer, Bisno Productions

Merrill Brown, Principal, MMB Media LLC

Judge Guido Calabresi, United States Circuit Court

Bal Das, Chairman BGD Holdings, LLC

Dr. Thomas Duffy, Director of the Program
for Humanities in Medicine,
Yale School of Medicine

Andy Eder, President, Eder Bros Inc.

C. David Goldman (CHAIR), Partner,
McDermott Will & Emery LLP

Piotr Kowalik, Museum of the History
of Polish Jews, Warsaw

Prof. Anthony Kronman, Sterling Professor
of Law, Yale Law School

Tomasz Kuncewicz, Director,
Auschwitz Jewish Center

John Langan, S.J., Cardinal Bernardin
Professor of Catholic Social Thought,
Georgetown University

Frederick Marino, Vice Chairman,
ProBuild Holdings, Inc.

David G. Marwell, Ph.D., Director,
Museum of Jewish Heritage

Nathan Milikowsky, Chairman,
C/G Electrodes LLC and Seadrift Coke LP

Rabbi Jay Henry Moses, Director,
Wexner Heritage Program

Sydney Perry, Executive Director,
Jewish Federation of Greater New Haven

Sigmund Rolat, Honorary Consul
of the Republic of Gambia

Rabbi Benjamin Scolnic,
Temple Beth Sholom, Hamden, CT

Regina Skyer, Skyer, Castro, and Foley

TABLE OF CONTENTS

The Basis for FASPE 1

C. DAVID GOLDMAN, CHAIR, FASPE STEERING COMMITTEE

FASPE Overview 2

Introduction to the Journalism Projects 3

ANDIE TUCHER AND BILL GRUESKIN, FASPE JOURNALISM FACULTY

Can It Wait? The Ethics of Writing for the News Desk Versus Writing for History..... 4

ALEX BOYD, CARLETON UNIVERSITY, CLASS OF 2013

Taking Photos on the Other Side 7

BRIELLE MORGAN, CARLETON UNIVERSITY, CLASS OF 2013

A Source of Controversy: The Ideal of Non-Intervention in Practice 11

MEGAN CAMM, UNIVERSITY OF NORTH CAROLINA SCHOOL OF JOURNALISM AND
MASS COMMUNICATION, CLASS OF 2012

Fact-Checking Atrocity: Is it “Crass” to Verify a Survivor’s Story?

Is it Unprofessional Not To? 15

SEAN EASTER, COLUMBIA UNIVERSITY GRADUATE SCHOOL OF JOURNALISM, CLASS OF 2012

Introduction to the Law Projects 18

ERIC MULLER, FASPE LAW FACULTY

Representations of Suffering and the Cultivation of Social Responsibility 19

MORENIKE FAJANA, COLUMBIA LAW SCHOOL, CLASS OF 2013

*Racial Profiling and Dehumanization of Latinos in Contemporary America: A Reflective Analysis
of Sheriff Joe Arpaio’s Rule and the American (In)Justice System* 23

MARIA SEVILLA, GEORGETOWN UNIVERSITY LAW SCHOOL, CLASS OF 2013

Stones Will Speak: Environmental Ethics and a Geography of the Holocaust 29

CARSON THOMAS, NEW YORK UNIVERSITY SCHOOL OF LAW, CLASS OF 2013

TABLE OF CONTENTS (CONTINUED)

Introduction to the Medical Projects 34

MARK MERCURIO AND JOHN S. HUGHES, FASPE MEDICAL FACULTY

The Specter of Race in American Medicine 35

MARIAM FOFANA, JOHNS HOPKINS UNIVERSITY SCHOOL OF MEDICINE, CLASS OF 2013

*A Writer and a Doctor: What a Physician's Account of Auschwitz Can Teach Us About the Ethics of
Storytelling in Medicine* 42

CHRISTINE HENNEBERG, UNIVERSITY OF CALIFORNIA, SAN FRANCISCO MEDICAL SCHOOL,
CLASS OF 2013

Science in the Service of Patients:

A Moral Battle for the Past and Future of Medical Education 49

DANIEL WEISBERG, YALE UNIVERSITY SCHOOL OF MEDICINE, CLASS OF 2013

Introduction to the Seminary Projects 59

LEROY WALTERS, FASPE SEMINARY FACULTY

Sermon: "Forgiveness is Not the End" (Luke 23-34) 60

JACOB BUCHHOLZ, PRINCETON THEOLOGICAL SEMINARY, CLASS OF 2012

Without Survivors: The Holocaust and Future Generations 64

KERRY CHAPLIN, ZIEGLER SCHOOL OF RABBINIC STUDIES, CLASS OF 2015

What Will You Do? 70

MARY RAWLINSON, GARRETT EVANGELICAL THEOLOGICAL SEMINARY, CLASS OF 2014

THE BASIS FOR FASPE

In 2009, FASPE was nothing more than an idea: the Holocaust should serve as a tool to teach graduate students about the importance of their ethical behavior as professionals. Four years later, it has grown into a fully functioning program with an established curriculum, a formal itinerary, a network of applicants from universities across the globe, and more than 150 alumni.

FASPE grew out of two main concerns, one related to the past and one related to the present. The first was a realization that with each passing year the Holocaust is becoming harder to connect with for the next generation. My generation grew up feeling the Holocaust. We knew survivors. Family members were victims or we knew those whose families had perished. We heard their stories or recognized their silence. But as the proximity in time lengthens and the number of survivors dwindles, that ability to feel the Holocaust cannot exist in the same way for future generations.

The second motivation was a series of highly publicized horrific breakdowns among professionals. Lawyers defrauding clients; journalists who reported inaccurately or without sufficient concern for accuracy; clergy who participated in, or failed to act to prevent, inappropriate behavior; and doctors whose motivations deviated from the interests of their patients. These failures by some of the leaders of civil society cause more than just financial damage. They undermine society. These failures speak to who we are; and what they say is not good.

FASPE was developed out of these concerns and seeks to address the current ethical failures of professionals while establishing a construct for the future study of the Holocaust. It is also grounded in the belief that members of the professions—lawyers, doctors, journalists, and clergy, among others in Nazi Germany—played an instrumental role in the implementation of the Holocaust and could have worked to stop the breakdown of societal mores that made the Holocaust happen. Equally important, members of the professions continue to play an instrumental role—positive and negative—in today’s America. FASPE Fellows start by examining the role of their profession in the Holocaust as a way to see the power (positive and negative) they themselves may wield. They then move to focus on contemporary professional ethics as a way to prepare them for the difficult issues they will face as they move forward with their careers.

The 2012 FASPE Fellows are a wonderful group whose experience last summer validates the core principles of FASPE: that exploration into the history of professionals during the Holocaust through visits to historical sites and in-depth seminars creates a transformative experience for each individual Fellow and establishes an ethical grounding for those who will be the future leaders of our professions.

We are deeply proud of the 2012 Fellows and are pleased to present some examples of their work.

C. DAVID GOLDMAN, CHAIR
FASPE STEERING COMMITTEE

FASPE OVERVIEW

Fellowships at Auschwitz for the Study of Professional Ethics (FASPE) is an innovative effort that uses a unique historical context to engage graduate students in professional schools in an intensive program about contemporary ethics. The Fellowships provide law, medical, seminary, and journalism students a structured course of study that focuses on the role of their chosen professions in Nazi Germany and the Holocaust, and uses that historic framework to explore present-day ethical issues.

Piloted initially in 2009, between twelve and fifteen Fellows from each profession are chosen to participate in FASPE each year through a competitive process that draws applicants from across the world. In 2012 56 students participated in the program. Following an introductory session at the Museum of Jewish Heritage—A Living Memorial to the Holocaust in New York, the Fellows traveled to Berlin, Krakow, and Oświęcim (Auschwitz). Law and Journalism students also visited Nuremberg. Over the course of 11 days, these students attended seminars with leading scholars and visited sites such as the House of the Wannsee Conference, where plans for the “Final Solution” were established; the Deportation Memorial “Track 17,” one of the train platforms where Berlin’s Jews were forced to board trains heading to concentration camps; and Auschwitz-Birkenau where more than one million people were murdered. Throughout the program the Fellows met, both formally and informally, to explore and discuss some of the contemporary ethical issues facing their professions.

The program has long-reaching goals. On an individual basis, it seeks to instill participants with a sense of personal responsibility for the ethical and moral choices they make. By extension it also seeks to have an impact on these professions, improving the practices of all clergy, doctors, lawyers, and journalists.

F A S P E

FELLOWSHIPS AT
AUSCHWITZ
FOR THE STUDY OF
PROFESSIONAL ETHICS

2012
JOURNAL

JOURNALISM
PROJECTS

INTRODUCTION TO THE JOURNALISM PROJECTS

On Sunday, May 20, 2012 a group of 13 journalists gathered in New York for the beginning of what would be a life-changing experience. They came from 10 schools and carried passports from eight countries. Their range of backgrounds and diversity of experience might have made any onlookers question how they would be able to work together. Yet they all gathered with the same basic interest: a desire to improve their work as journalists.

At its heart that is what FASPE is about. While students learn a great deal about the Holocaust, the focus is on what lessons can be learned from that horrific event.

For the next 12 days, those students traveled, socialized, and worked together. They were thrust quickly into the horrors of the Holocaust, hearing from a survivor, Bronia Brandman, on the first day and one of the Righteous among the Nations, Janina Rosciszewska, on the third. By day four the group was in Auschwitz, seeing the ultimate result of the breakdown in civil society. The rest of the trip was spent trying to understand how the Holocaust could have happened, learning about the role of journalists in that history, and considering the implications of that history for journalists today.

It was as much as learning experience for us, the faculty, as it was for the students. We came out enriched by their comments, challenged by their questions, and inspired by their dedication. They were and are a tremendous group. The seminars were models of how discussions can generate ideas and push everyone to think more deeply. The late night sessions in the “newsroom” were as valuable for the stories that resulted as for the group bonding and sharing that occurred. We were honored by the hard work and openness of these Fellows.

On the pages that follow is a small sample of the fellows’ work. The pieces by Alex Boyd, Brielle Morgan, Megan Camm, and Sean Easter reflect the impact that FASPE seeks to have. None of these pieces has the Holocaust as its only topic. The lessons from our trip are revealed in the way these students discuss their work in other far flung places. They focus on the ethical dilemmas that all journalists face, showing an awareness of blurry lines and ability to point out the complexities at play.

We commend these four students and the other nine for their hard work and passionate interest.

ANDIE TUCHER
FASPE FACULTY
ASSISTANT PROFESSOR
GRADUATE SCHOOL OF JOURNALISM
COLUMBIA UNIVERSITY

BILL GRUESKIN
FASPE FACULTY
DEAN OF ACADEMIC AFFAIRS
GRADUATE SCHOOL OF JOURNALISM
COLUMBIA UNIVERSITY

Can It Wait? The Ethics of Writing for the News Desk Versus Writing for History **By Alex Boyd**

It's hard to imagine a journalism assignment tougher than the one dealt to Oskar Rosenfeld during the Holocaust.

Having been deported to the Jewish ghetto in Lodz, Poland, he started working for the Daily Chronicle, the ghetto newspaper that traded in news, events and deaths. At a time when journalists everywhere were grasping for information about what was really happening on the European continent, Rosenfeld was swimming in first-hand knowledge. His challenge was deciding what to do with it.

It was an oddly prosaic assignment for such an erudite writer. Rosenfeld, a slender man with sharply hewn features and a bushy white mustache, had been a writer and editor with Jewish media before the war. From a family with artistic tastes, he had a doctorate in literature, founded the first Jewish theatre in Vienna, and was a correspondent in Bulgaria during the First World War.

But when World War II broke out, his Jewish identity eclipsed everything else. And so, he transported his reporting trade to the ghetto, but in the process he personified an ethical dilemma common to many war correspondents. At the same time he published the minutiae of daily ghetto life, Rosenfeld laid bare his real feelings in a succession of school notebooks, the raw material for a book he hoped to write one day. To keep the notebooks secret, he buried them as he finished them, beneath the earth over which the subjects he wrote about walked, worked and died.

At its most basic, the job of a journalist is to produce news: information about an event or situation that is accurate, as unbiased as possible, and, above all, timely. On the other hand, some journalists channel their experiences into books or documentaries, which serve as more complete, in-depth treatments of their experiences, but often arrive too late for people who need the information at the time.

When reporting on an event or a conflict, is there an obligation to publish as much as possible at the time— even when doing so might mean you're forced to stop writing? Or, it is ever justified to save your reporting for a more complete project, to preserve as much history as possible?

In other words, can the news ever wait?

Michael S. Sweeney, author of "The Military and the Press: An Uneasy Truce," says there is an inherent conflict between publishing news articles and a book.

"If they don't save something back for the book, then the book will likely have a muted impact," he said via email. "But if they save too much back, then the journalists risk not performing their primary duty, which is to inform the public in a timely manner so its members can make informed decisions on matters of public interest."

What Rosenfeld was holding back for his book was a trove of detail about life within one of the war's most isolated camps. Lodz was the second biggest ghetto established during the war for Jews and Roma in German-occupied Poland. Poles who had lived just beyond the walls were moved away, and into their houses were moved Germans loyal to the cause. Unlike other ghettos, no weapons and very little food were smuggled in; no contact with the Resistance was made.

In his notebooks, Rosenfeld jotted down vivid descriptions of life in the ghetto, took note of the people he met, and fastidiously charted ebbs and flows in food prices.

“Clarinetist Leo Birkenfeld (Vienna), skin and bones, starving in the hospital, torn from the hospital bed at night, transported, deported,” he wrote on May 14, 1942. “A goat was spotted in the field. Three live chickens. One egg= 20 marks, one suit= 3dkg bread.”

It's clear that he considered his real thoughts unfit, or unsafe, for public consumption. But the differences were thrown into sharp relief as the situation within the ghetto became increasingly dire.

On June 30, 1944, the last day the Chronicle ever published, it reported, “The present Sunday too passed quietly. The praeses held various council meetings. All in all, however the ghetto is quiet and orderly.” It finished with, “Cause of death of today's mortality cases: suicide 1.”

That same month, Rosenfeld wrote in his notebook: “Of the seventy-eight thousand Jews in the ghetto, seventy thousand are sick. Everybody has incurred some kind of ailment. Suicide attempts in masses; insanity; stupefaction among younger people; manias. ‘Pants off, pants on, and the soup, that's what our life consists of,’ remarks a clearheaded one.”

Katherine Skiba is a journalist who covered, among other things, the invasion of Iraq for the Chicago Tribune, then wrote “Sister in the Band of Brothers: Embedded with the 101st Airborne in Iraq.”

Of course, Skiba's situation is vastly different from Rosenfeld's in terms of the immediacy and the gravity of danger, but when speaking of modern war correspondents, she says she see no point in holding back information gathered during conflict. If anything, the danger is an argument for publishing as soon as possible.

“In no case would I even consider holding back my best material. To do so would be would be unfair to my employer, to whom I owed my complete allegiance, and to my readers,” she said in an email interview.

“Covering a war is inherently dangerous, so it's unthinkable that I would squirrel away great material for later use. I don't mean to overstate the danger I felt, but, troops and journalists were dying regularly, so there was no guarantee of tomorrow.”

In Rosenfeld's case, it's impossible to know what might have happened had he tried to publish his observations in the Daily Chronicle. It's hard to imagine it would have been news to those in the ghetto, but at the very least, may have provided a truer voice for the community.

But Rosenfeld seemed to aspire to something greater with his work.

Jacques Leslie is the author of "The Mark: A War Correspondent's Memoir of Vietnam and Cambodia," about his time in Saigon. He says although a journalist also has a responsibility to get information out at the time, a book can express more than a news article can.

"The book voice is expansive, personal, and rid of the pretense of 'objectivity,'" he says.

"I can say what I think, follow my curiosity, use a bigger vocabulary to get at precise descriptions of things, and sound like a human voice."

In his case, Rosenfeld seemed to feel the utmost urgency to say what he thought. It was a freedom he seemed to feel would only come in the form of a book. In one of his first writings, he described his vision for his notebooks as "completely factual, short sentences, eliminating anything sentimental, reading of the self far from the world, without a thought of the surroundings..."

He didn't seem to feel as acute a need to get information out soon, possibly because it wasn't likely to get far, and because he clung to the hope that he would live to see his book written.

A few passages in his notebooks are written in carefully wrought English. He was practicing the language for when, he hoped, he could travel to Britain for an intensely important reason.

He had found love late in life; when he married his wife, Henriette, in the late 1930s, he was already in his late 50s. One of their first acts as a married couple was a move to Prague — not for a honeymoon, but to flee the Anschluss of Austria by the Nazis.

While in Prague, Rosenfeld and his wife watched the Germans take the Sudetenland, shatter a city during *Kristallnacht* and hear Hitler take to the Reichstag to pronounce the end of European Jewry.

His wife left for Britain in August 1939 and Rosenfeld made preparations to follow within weeks. But the war broke out in September, and Rosenfeld was trapped. He was deported from Prague to Lodz two years later.

In August of 1944 the ghetto was liquidated. It's thought he told one of the workers left behind where his diaries were hidden. Oskar was murdered upon arrival at Birkenau.

While in the ghetto, Oscar rehearsed his English, so he would be ready when he was one day able to join her.

He buried his work for the day that might happen.

Taking Photos on the Other Side By Brielle Morgan

Lugging around a DSLR camera can feel like a hassle. A luxurious Western hassle maybe, but a hassle nonetheless. Your neck quickly tires of the thick strap, the melon-esque weight. But the possibility of capturing something beautiful, something underreported and compelling, something *meaningful* -- is exciting.

That said, during my first maybe 36 hours in Kenya, I didn't take a shot.

And it wasn't because I didn't see anything particularly photographable. Kibera, East Africa's largest and most sensationalized slum, is bursting with color and music and markets and people. It was like no other place I'd been, and one of the complex algorithms we're taught in journalism school is different = good.

The challenge lies in figuring out whether someone's perceived difference also makes them vulnerable and how to respect that vulnerability – even post mortem. On our FASPE trip we viewed hundreds of photographs of the Nazis' victims, many of them injured and terrified, some of them going, knowing, to their deaths, and asked ourselves: do these images tell us something worthwhile, or do they make the viewer complicit in the crime? Do they inform or exploit? The answers were never easy and never clear.

In Kibera while there are no obvious parallels to death camps, I found myself asking some of the same questions. Many of the ethical considerations we apply retrospectively to Auschwitz are applicable in other contexts. In Kibera, the extreme poverty made me hyper-conscious of my own advantages and before I took any photos I wanted time to think about whether I'd be taking anything else in the process.

I didn't feel ready to shoot until day three. My subject was a pack of dogs, collarless, and skinny. They were lazily carving paths back and forth across the street, lit by a fading sun. For two days I'd watched them take naps in pockets of dusty quiet between busy stalls, and for two nights I'd listened to them yelp and fight in the street. I was starting to get a sense for them, and so I pulled out my camera.

As I crouched to take a second shot, two local journalists I'd come to regard as friends, Josh Ogure and Jacob Ouma, nudged me to my feet. They politely suggested I tuck my camera out of sight. You're basically inviting trouble by showcasing such a valuable, they told me.

Feeling foolish, I took their advice and followed them down a slippery network of winding paths through the muddy heart of Kibera. We stopped on a footbridge over a brown stream. Its banks,



My first photo: pack of dogs.
Photo by Brielle Morgan

overwhelmed with trash, gave way to bright green hillside. Josh asked if I'd take their photo. I pulled out my camera and a small photo shoot ensued, my Nikon D3000 switching hands over and over again.

It was one of those afternoons you can't predict when you're writing up a research proposal. I'd come here to work on a radio documentary about the "slum tourism" industry. I wanted to determine whether its critics were right in calling it exploitative. Critics like Kibera native Kennedy Odede, who in a 2010 New York Times op-ed, wrote:

I was outside my 100-square-foot house washing dishes, looking at the utensils with longing because I hadn't eaten in two days. Suddenly a white woman was taking my picture. I felt like a tiger in a cage. Before I could say anything, she had moved on.

Now here I was – a white woman in the slum with a camera. But I'm a journalist, not a tourist. Josh and Jacob are friends, not strangers. I'm taking their photo and they're taking mine. So, it's different right?

Maybe.

I'm still the one going home with the camera. (Neither Josh nor Jacob has a DSLR, let alone his own *unbroken* camera.) I've got the raw material and the choice whether to use it or not. I can edit, delete, or publish. And this power of choice extends importantly, beyond the photos.

Sure, this week I'm staying in a Kibera guesthouse for three bucks a night. But next week I'll repack my suitcase, drag it through the hall past the communal hole in the floor that serves as a toilet, down the dark stairwell which reeks of urine, and chuck it, with a sigh of relief and a sliver of shame, into the back of a cab.

The driver will take me to a corner of Nairobi called Lavington, where flush toilets, domestic help, and long, gated driveways await.

"You won't come back to this side," Jacob says. I'm not sure if he genuinely believes that, but it bothers me that he might.

A few days later I'm back in Kibera, on the other side, so to speak. I sit across from tour operator Freddy Omondi, staring at the sandwich I bought for him, wondering if I'm violating one of the loose rules governing the relationship between journalists and their subjects.

Omondi holds a thick, manila folder with Swedish stamps on it. Inside, there's a bundle of photos of Kibera residents, taken weeks ago by a professional photographer. Omondi tells me these photos, mostly portraits, will be used in a book. Today, he's handing 5x7s out to those captured on camera by the Swedish photographer. And he says I can come along.

With his trademark swagger, Omondi weaves through Toi market, an area swollen with buckets of charcoal and beans, piles of vintage radios and fat avocados. He stops to address a woman

selling tomatoes. They speak to each other in a language I don't understand, while he leafs through glossy faces. He finds hers and hands it over. She beams. People from neighboring stands come to peek over her shoulder, giggle, and make comments. It's a lovely portrait.

We move on, dodging chickens and trash piles. We stop at a barbershop blaring punchy hip-hop, a charcoal distributor, a mechanics' lair. Omondi is happy to play postman. He figures most people have never seen themselves through the eyes of a professional photographer. It seems he's right. I wonder how often these people have their photos taken by foreigners. How many are asked for their permission? How many are sent copies in the mail?

I get a chance to ask my questions soon enough. While walking through Kibera's bustling Olympic district, I recognize Fredrick Ochieng – a young entrepreneur whom Omondi gave a photo to. He sits with his friends in plastic chairs under a hand-painted sign advertising services: water supply, shoeshine, garbage collection. Ochieng says he prefers electrical work to anything else. I ask him how he felt when Omondi gave him the photo.

“I was happy. The photo was good. It was big. It looks very different than others taken of me here... In fact, I didn't realize that he would try and find me in this home and bring back the photo the way he did. I didn't think he would come back.”

Ochieng's friends, self-described “hustlers” named Ernest Lgasa and Collins Otieno, are itching to weigh in.

“There are some white men coming and taking photos without permission,” Lgasa tells me. “When you take photos of somebody without permission, he's thinking maybe you're going with it abroad and saying that you've been helping him.”

Experience and rumors have left Ochieng and his friends understandably guarded. To them, a photo can be a hostile thing. A camera can represent a power differential and a bag of dollars they'll never see. They say they know many people who've been scammed by supposedly well-intentioned foreigners who profit from their photo without sharing the wealth.

“That's why we even beat them by firing the stones at their cars because we don't like it,” Lgasa says. “Why they are taking our photos... why, *why*? Are you something different?”

I stand there, a white woman who this time left her camera behind, wondering the same thing: Am I something different? Lgasa reminds me that one way to answer this question is with a photo.

Like that photo I saw at a recent presentation; the one with the woman lying with her baby on a bed under a mosquito net, their corrugated home softly lit, neat and tidy.

The photo was taken by Jide Jones, a Nigerian photographer with decades of experience shooting for fashion, news, and non-profits. Jones bounces often between Nairobi, Washington, D.C., and Lagos. Tomorrow he's flying with his only daughter to the U.S. to shop universities. Today, he sits across from me at the Java Hut, coughing out the tail end of a cold.

I ask him about the photo.



Photo by Jide Jones.

“I love it... even the roof has got these like plastic sheets, but they’re put up

Jones says the cleanliness is an attribute we generally don’t associate with “poverty,” a word he uses carefully:

I feel that we brand people with poverty, and perhaps because of guilt or self-preservation people talk about poverty as somehow being the fault of the poor person...so people are living in poverty because they’re lazy, because they’re not willing... that’s not true.

He stops to sip the hot lemon, ginger and honey concoction in front of him. Jones has a long history of working with people you might describe as vulnerable: sex workers, beggars with polio, HIV-positive Nigerians. He means to tell stories from the margins, crediting this desire at least in part, to his father.

“My father was a doctor and when we were small he used to go out to the infectious diseases hospital...so I could shake hands with a guy who had leprosy.”

But what if he went back to that hospital with camera and notebook in hand? How as a photographer, a journalist – a storyteller – do you gain the trust of people often marginalized? How do you respect their integrity through your work?

“It’s very important I think for people who I photograph, if you came along two weeks after, they would be able to give you a reason why I took their photograph.”

There’s a definite distinction to be made between asking permission to shoot and offering a reason. One’s a basic courtesy, easily manipulated, the other – when sincere – an invitation to be part of the process. I picture Lgasa, chucking rocks at cars full of camera-happy tourists. And then I think of Ochieng, hanging his portrait on the wall.

A reason. Yep. Makes sense – as reasons have a way of doing.

A Source of Controversy: The Ideal of Non-Intervention in Practice
By Megan Camm

I learned of Ngonu's death from a text message: "Bjr Megan! Ca va un peu mal ici, l'insecurit_ devient tr_s grave! Ngonu viens d'etre tu_ par les lendu... appele moi pous le detail!" wrote my fixer in northeastern Democratic Republic of the Congo. "Hi Megan! It's going a little badly here, the insecurity is becoming very serious! Ngonu was just killed by the Lendu.... Call me for the details!"



Ngonu's wife Graciana, with their son Dragiro, in the one-room hut the family lived in for nearly 10 years. Graciana was evicted after Ngonu was killed in an ethnic hate crime in 2012. Photograph by Megan Camm.

Ngonu was a Hema, a member of the minority ethnic group in the village of Sanduku. As a leader of the Hema, he was obsessed with the land conflicts that pitted the Hema and the majority ethnic group, the Lendu, against each other. Though Ngonu had lost his first wife and several children in a war over land fought by the two groups, he wanted peace and enough land to support his family, which could only be achieved through state-led land reform. So Ngonu sent countless petitions to the unresponsive Congolese government, received training in land-conflict mediation from the United Nations, meticulously documented relations between the Hema and Lendu communities of Sanduku, and testified at local courts in cases of land conflict.

Ngona was walking home from the court after testifying against a Lendu man in conflict with a Hema when he was attacked by a group of Lendu. They beat him badly, and Ngona died of his injuries the following day, on March 29, 2012.

I had known Ngona for nearly two years. He was my primary source for a narrative nonfiction project that documented the impact of land conflicts between the Hema and Lendu on Sandukans of both ethnic groups. Because of his activism and his habit of documentation, Ngona had become my most valuable source.

Mark Kramer, founding director of the Nieman Program for Narrative Journalism, wrote in his essay “Breakable Rules for Literary Journalists,” that the relationship between the “literary nonfiction” writer and his long-term source “is likely to develop into something that feels to both parties a lot like a partnership or friendship, if not quite like marriage,” even when the professional boundaries of the relationship are clearly defined from the outset.¹ The development of close relationships is crucial to the success of the genre, which relies on authentic and intimate access to the inner life of the source. That I also had similar relationships with Lendu sources—“the enemies,” Ngona called them—did not detract from my bond with Ngona.

During three visits that spanned a total of over four months, I spent hundreds of hours shadowing Ngona as he tended his banana trees and talked about land conflicts. I shared his simple meals and slept curled for warmth against his teenage daughter in the family’s one-room hut. Ngona patiently recounted not only the facts but also the painful emotions he experienced when his first wife and infant daughter were massacred during the civil war. The connection I had with Ngona went beyond the traditional journalist-source relationship, for my goal was to produce an intimate story about how it felt to live in the midst of unresolved and unaddressed conflict.

After Ngona was killed, I grilled my contacts on the situation in Sanduku. No, there had been no investigation of Ngona’s murder, though the perpetrators were known. Yes, Ngona’s wife Graciana had been evicted from the contested land they had called home for 10 years. She and their five children, including one-month-old Rose, were squatting on her parents’ crowded land, but they would soon outstay their welcome. They had nowhere to go, and there was no safety net. She was completely dependent on the uncertain help of her extended family.

From my reporting, I knew that land in this village was inexpensive in absolute terms but that a family might save for years to scrape together the \$100 or \$150 required to buy an average-sized plot.

My immediate impulse was to send a few hundred dollars to Graciana, who could then support her family with dignity. But my journalistic training intervened. I’ve been taught that it’s unprofessional to compensate a source, lest I alter the story. But is it still wrong help Graciana after my story is finished?

¹ Mark Kramer, “Breakable Rules for Literary Journalists,” January 1, 1995, accessed at <http://www.niemanstoryboard.org/1995/01/01/breakable-rules-for-literary-journalists/>.

Many journalists have faced similar questions and decided that the benefits of helping sources outweighed the consequences of breaking journalism's code of ethics.

Varian Fry was an American correspondent in Berlin in the years before World War II and reported on the surging anti-Semitism that was the hallmark of the Nazi Regime. He returned to Europe in the early 1940s and worked with a rescue network to save as many as 4,000 people while simultaneously writing about the atrocities being committed in Nazi Germany. His 1942 article for the *New Republic*, "The Massacre of the Jews," is seen as one of the earliest articles in a U.S. publication to warn Americans of the progress of the Holocaust.

Nicholas Kristof, a columnist for *The New York Times*, wrote in 2004 about buying the freedom of two Cambodian sex slaves for \$353. He told NPR's Steve Inskeep, "Even though I think it was kind of a borderline thing to do, I'm very happy I did it." But Kristof also acknowledged, "I don't think that buying slaves is a solution to the problem. . . . Fundamentally it creates incentives to traffic in people." A year later, Kristof confessed in a 2005 *Times* multimedia piece that what he did was "dreadfully unjournalistic."

The Kristof case encapsulates my dilemma.

Neither Graciana nor Ngona ever asked me for money, food or other material help. Ngona devoted himself to my project because he felt it was his best opportunity to push for reform and his only chance to have his voice heard. If either of them had viewed me as a source of enrichment, I would have felt that my reporting was compromised. Their respect for the professional boundaries of our relationship made me more inclined to breach those boundaries myself now that the story was published.

Though it might be "unjournalistic" to give Graciana money to help her through a difficult time, in practice, news organizations have discovered ways of working around the rule never to compensate sources. For example, they offer sources a fee for rights to photos, video or other primary source material. I might ethically be able to buy "rights" to Ngona's archive of notes on land conflict in Sanduku from Graciana and achieve the same end, thus supplying her family with income.

But what of the longer term? If I gave Graciana money, would I be unable to write about her or the village of Sanduku in the years to come? I would want to be transparent and thus would be seen as a journalist who gave money to a source. My reporting would be received differently, and I would open myself up to compromising scenarios with other disadvantaged sources in future stories.

Ethics aside, however, helping Graciana would spell the end of my reporting career in Sanduku. If the Lendu found out I had helped her, they would view me as partisan, and I would lose access to those sources. I might even find myself in physical danger if I returned to the community.

Of greater concern, my decision to intervene might create unintended consequences for Graciana and her family. Her sudden increase in fortune would make her a target for theft and extortion,

and jealousies would surely affect her relationship with friends and family. Segments of the Lendu population, those responsible for killing her husband, might also threaten the family's safety.

So where do I draw the line between being a journalist and being a human being?

Ultimately, I believe it is best not to send Graciana the few hundred dollars that might improve her life and the lives of her children. This is not an easy decision, and it stems more from my fear that my involvement could hinder Graciana's prospects than from an ironclad belief in the profession's ethical precept of non-intervention.

I am convinced that I must accept the personal discomfort that results from watching someone I care about suffer in the hope that my reporting will eventually create positive change, if not for Ngoni and his family, for others like them.

**Fact-Checking Atrocity: Is it “Crass” to Verify a Survivor’s Story?
Is it Unprofessional Not To?
By Sean Easter**

“The survivor can always say, ‘You weren’t there.’”

Pawel Sawicki, a press officer at the Auschwitz-Birkenau State Museum in Poland, was speaking to a group of fifteen of us as we toured Auschwitz I. Thirteen of us were journalism fellows in a program that brings law, medical, seminary and journalism students to historical sites in Germany and Poland to contemplate the involvement of their professions in and their response to the atrocity; the remaining two were our faculty advisors.



Pawel Sawicki, Press and PR Officer at the Auschwitz-Birkenau State Museum, talks at Auschwitz I. Photograph by Sean Easter.

Sawicki was explaining that historians and survivors could often find themselves at odds. In this particular example, he was speaking of the estimated number of people murdered at Auschwitz. According to the Center for Holocaust and Genocide Studies at the University of Minnesota, the postwar Polish government maintained an estimate of 4 million. The museum now publishes an estimate of 1.1 million murdered Jews. Survivors, Sawicki

told us, took great offense, particularly after having faced such daunting skepticism when they first told their stories. Indeed, Holocaust deniers like the so-called “Institute for Historical Review” in Newport Beach, California, cite the revised numbers as evidence that a “deliberate myth” had been designed to exaggerate the horrors of the death camp.

Nonetheless, said Sawicki, survivors are not always the best sources of historical information about events in which they are, understandably, emotionally entangled.

It soon occurred to me that journalists and historians share many of the same struggles when writing about atrocity. Both share a professional dedication to an accurate record, and are rigorously beholden to facts. In journalist circles, that commitment to facts is usually seen as mandating an equal commitment to dispassion and objectivity. Famously, the combative CBS News correspondent Mike Wallace said on a PBS program in 1989 that, were he embedded with an enemy military unit, he would not warn American troops of an impending ambush. Peter Jennings of ABC News, who moments before had said he would warn the Americans knowing

full well that it would mean his likely death, heard Wallace and back-peddled to agree with him, saying, “I chickened out.”

This to me represents an unforgiving hard line and a cynical detachment I really cannot engage. Journalist or no, I am also a combat veteran, and simply wouldn’t have made an agreement to accompany a declared enemy of the United States in the first place. Ethics aside, reporters receive no special status under the law, and if one is willing to pursue a story that may entail committing treason, it gives me cause to doubt their judgment.

Whatever motivated Wallace, moreover, is vastly removed from the impetus of many reporters who do enterprise trauma reporting. A certain undeniable sympathy motivates us. Suggesting that we are concerned about our sources may be a taboo, but let’s face it, very few enterprise reporters work on stories of sexual assault, genocide, or hate crimes just for the paycheck. We value these stories of suffering at least enough to hear and tell them. By that very act we affirm our sympathy, however at odds it may be with the advertised necessities of our profession. The challenge for journalists is that while reporters in these situations never wish to cause further harm to a fragile, traumatized source, our sympathy does not erode our need for verified facts. But a journalist’s standard toolbox—fact-checking, returning to sources with conflicting narratives, seeking out documents—can do just that if it produces facts somehow painful to a delicate source. A source’s very involvement in our reporting can be retraumatizing. That poses a number of problems for us. How do we maintain the degree of sympathy that motivates our work without letting it skew our perceptions of fact? How do we perform the rougher work of rigorous journalism without further harming a source?

That was the dilemma confronted by Julia Lieblich, co-author of a new book recounting the experience of Esad Boskailo, a Bosnian concentration camp survivor. After spending three years with Boskailo, as Lieblich wrote in March in the Los Angeles Times, she resisted her agent’s call to fact-check the work. “I had checked the dates and names in Esad’s account,” Lieblich wrote, “and his memory matched reality. But when it came to the core of the story, I trusted my instincts to tell me whether his highly personal account was true. I did not want to further traumatize him by asking for proof of atrocities that had already been well documented.” Instead Lieblich went to Bosnia and interviewed seven other survivors who had spent time in the same camp. Inconsistencies were rare, Lieblich found, and in the end her fact-checking expedition led to many new details and helped fill in gaps.

“I think in the end we do a disservice to survivors if we don’t do that sort of work,” Lieblich said to me when we spoke over the phone. She recounted her work reporting on Neris Gonzalez, a victim of torture during the Salvadoran civil war. From the start, Lieblich was clear about her need to speak to everyone involved, even those who would dispute Gonzalez’s account. The process of accounting for conflicting narratives can devastate a source, and for that reason Lieblich advocates increased transparency from reporters at the start. But she was surprised to find that many survivors valued her dedication to building an accurate record.

Kristen Lombardi, an investigative reporter for the Center for Public Integrity, faced the problem of avoiding new trauma when she reported on the silence surrounding sexual assault on college campuses. As she explained in a phone interview, many survivors of sexual assault have had

unfortunate run-ins with the press. Many have been approached by crime reporters or other local outlets who hadn't cultivated a sensitivity of approach. Many have encountered disbelief from even their own family and friends, giving the journalist's practiced skepticism a potential for deep harm.

Like Lieblich, Lombardi discloses the requirements of the process up front: contacting everyone who has intersected with a sexual assault case, researching documents, verifying facts and reconciling conflicting accounts. Survivors can then make informed decisions about whether to involve themselves. "The nature of what you do is question," Lombardi said, "and just by that act you're going to evoke those feelings of being disbelieved." To the uninitiated, even our professional jargon can sound "crass," as Lombardi put it.

That skeptical process of cobbling together a narrative can be very foreign to anyone without media experience. We may take our work requirements for granted, but as Lombardi noted, many members of the public are unaware of everything we do. As Lombardi said, "You have to be able to articulate the rules of our profession."

Being involved in a story can be daunting and emotionally challenging for a source. If we cultivate and maintain our own awareness of that reality, then perhaps we too can move past crass questions of whether to fact-check the victim. Toward the end of our fellowship, we shared a joint session with law fellows, in which each group considered an ethical problem within the other group's profession. I found myself answering questions about the web of sourcing that develops when a reporter asks a first source whom else she should interview. One of the law fellows asked if a reporter interviews those sources to fact-check the first, or simply because it will improve the story. I would like to argue here that our profession's struggle to answer these questions results from inadequate terms.

Few reporters would argue that single-source stories are superior, but we lack a simple, concise verb meaning "improve the breadth and depth of an account via additional reporting." The closest we have is "report out," and yet we so often rely on the cynical ring of "fact-check." If we ask ourselves whether we should fact-check survivors of atrocity, violence, and rape, we are left feeling that we are overly cynical, that we are doubting something that we should simply trust. But if we begin with transparency, discard the cynical language, and ask whether we should improve our work with additional reporting, then we can affirm both our sympathy for victimized sources, and our professional pride in accurate, thorough stories.

F A S P E

FELLOWSHIPS AT
AUSCHWITZ
FOR THE STUDY OF
PROFESSIONAL ETHICS

2012
JOURNAL

LAW PROJECTS

INTRODUCTION TO THE LAW PROJECTS

Last March, fourteen carefully chosen law students from eleven schools were asked to put themselves into the shoes of an English-trained lawyer on the Nazi-occupied Isle of Jersey in 1943 and write a memo determining whether two of their fellow islanders were or were not “Jews” under the law governing the island. On its surface, this opening assignment of the FASPE 2012 Law Program was typical law school fare: take a general legal rule, mix in some facts, and write like a clever lawyer. But the Fellows’ written responses – and our discussions of them in our first session together in New York as our travels began – revealed something different and unsettling beneath the surface. Hard questions came quickly: To what end this cleverness? How much freedom do I have to shape the facts? Must I do what my client asks? If this is what lawyering might be, what kind of a lawyer do I want to be?

The hard questions began that day, but they did not stop. They continued as we considered the implications of Stanley Milgram’s horrifying obedience experiments and as we wandered the rows of off-kilter slabs of the Memorial to the Murdered Jews of Europe. They dogged us as we explored the ethics of undermining a truthful witness’s credibility and as we stood in the room where Nazi lawyer-bureaucrats sipped schnapps after sealing the fates of millions. And of course they overwhelmed us before a sea of human hair and a mountain of suitcases.

On some mornings my co-teacher Brett Dignam or I read a poem chosen to highlight a potential theme for the day’s investigations. Unfortunately we did not find time for the reading we’d selected for our last day together in Nuremberg, the poem “1945” by Bernard Mikofsky. It speaks of that final year of war, “when the fires ceased/And the ovens were finally cool,” and “a strange wind moved out/In slow, grief-laden eddies/And sooty swirls/Across Europe--/And even beyond.” That wind “edd[ied] into the deepest corners” of people’s minds, “to remind them,/To stir them for an instant/From their dream of well-being.”¹

Our time together – in discussion, in thought, in noisy conviviality and in silent companionship – eddied into the deepest corners of our minds. It helped us form the sorts of thoughts and explorations that are reflected in the outstanding papers that follow. And it continues to stir each of us to work out, in each day of our practice, what ethical lawyering entails.

ERIC MULLER

FASPE FACULTY

DAN K. MOORE DISTINGUISHED PROFESSOR IN JURISPRUDENCE AND ETHICS

UNIVERSITY OF NORTH CAROLINA SCHOOL OF LAW

1 Bernard Mikofsky, “1945,” in *Beyond Lament: Poets of the World Bearing Witness to the Holocaust* (Marguerite M. Striar ed., 1998), 332-33.

Representations of Suffering and the Cultivation of Social Responsibility **By Morenike Fajana**

Viewing images of violent suffering is a complex endeavor. At the outset, one must confront conflicting feelings of empathy for the victims and antipathy for the capacity of human cruelty. Depending upon the graphic nature of the images presented, one may also find oneself at the mercy of uncontrollable, visceral reactions. As a result, it would be neither uncommon nor unwise to turn one's head to avoid a violent image. But consider, for a moment, another scenario; a scenario in which the viewer is forced not only to maintain one's gaze at graphic images of violence, but also images of violence beyond one's own choosing. Consider further that instead of viewing *sights* of suffering, one is physically transported to a *site* of suffering – the Dachau concentration camp.

* * *

The 2011 History Channel documentary film “Engineering Evil” provides a historical account centered on the individuals in the Third Reich who conspired and executed the heinous crimes of the Holocaust, rather than the narratives of the survivors or victims.¹ The film details the technological, ideological, and philosophical frameworks that helped to set the Third Reich's plan of mass extermination into motion. In one of the most striking moments in the film, the viewer watches a group of German men and women after the war's end walk in a single file line and observe frail and deceased concentration camp victims.² Although the scene lasts no more than a few seconds, the viewer can nonetheless perceive the shock and horror felt by these German men and women as they grapple with the sights before them.

To a contemporary viewer, there is a cruel irony in witnessing these men and women react with such indignation over deceased concentration camp inhabitants. *Where was this indignation while the war was going on, one wonders. Or even in the months and years beforehand – surely intelligent men and women were aware of the Third Reich's malevolent intentions, even if they were unsure of the end result.* The contemporary viewer, largely unsympathetic to the emotional hardships of the men and women complicit in, or at least, indifferent towards, an atrocity such as the Holocaust, would consider the momentary discomfort felt by these men and women to be nearly inconsequential in comparison to the hardships felt by those persecuted, terrorized, and murdered by the Third Reich.

And yet the contemporary viewer still has reason to pause. Is it right for German citizens to be forced to regard concentration camp atrocities without an inquiry into their individual culpability? Will this make any positive contribution towards making the world more hospitable, or does this impart its own irreparable harms on the viewers? More fundamentally, one may simply ask whether this practice is right or wrong in the first instance. To put it another way – is this practice *ethical*?

¹ *Engineering Evil* (2011; A&E Television Networks, 2011), DVD.

² *Engineering Evil* (2011; A&E Television Networks, 2011), DVD.

The idea that individuals could be forced to observe and interact with dead bodies seems to be antithetical to contemporary notions of ordered liberty and dignity. At stake is the dignity not only of those made to view, but also of those being viewed, as they certainly had no opportunity to offer their informed consent to have their bodies presented in such a fashion. Further, modern conceptions of individual liberty encompass the right to be left alone surely just as much as the right to engage with others. A compulsory interaction with recently deceased individuals runs counter to conventional understandings of this right. Given the affronts that this practice makes on contemporary norms, on what principled basis would one justify exposing individuals to graphic images against their will today?

* * *

To answer this question, it may be wise to consider the conditions under which individuals expose themselves to images of suffering, and what benefits are conferred onto them through this viewing process. Excluding those with a particular penchant for the macabre, are there already individuals who willingly submit themselves to consider images of suffering? And more importantly, are there individuals who have yet to submit themselves in this fashion, but perhaps *should*? Provided that such images are presented in contextualized settings which minimize their sensational character, there is a case to be made for subjecting students of law to more realistic depictions of human suffering. First, scholars on legal ethics advocate for legal curricula to incorporate coursework which more decisively relays socially responsible narratives.³ These narratives are necessary to effectuate ethical lawyering, which calls for law students and lawyers to more critically assess their position within society, and recognize their duty to augment social good. Thus, compelling law students to view images of suffering could help effectively cultivate socially responsible law students.

Contemporary legal scholars have recognized that the legal curriculum must serve to instill distinct values amongst new lawyers, in particular, a deep concern for the social welfare. Scholars have called for law schools to expose students to academic experiences that will emphasize the lawyer's role as a public professional in order to broaden and modernize their understanding of professional ethics. In her essay, "Disappearing Act: The Lack of Values Training in Legal Education – A Case for Cultural Competency," Beverly I. Moran emphasizes the duties placed on lawyers by virtue of the social compact. Professionals such as lawyers receive the privileges and power associated with their chosen field in exchange for the provision "of certain important social services," and for the promise "to discipline their own ranks for the public welfare."⁴ Similarly, professionalism has been interpreted to require that "lawyers . . . remain mindful that their primary obligations are to the institutions of law and the betterment of

³ For advocating for the use of documentary film as a tool to educate lawyers about the shortcomings of the criminal justice system, see Roslyn Myers, "Crime Victims as Subjects of Documentaries: Exploitation or Advocacy?" *Fordham Intellectual Property, Media & Entertainment Law Journal*, 16(2006):3, 733-788; For paper arguing that that film can serve as a tool for critiquing legal frameworks, including prevailing notions of what culpability and persuasion require see Jennifer L. Mnookin, Nancy West, "Theaters of Proof: Visual Evidence and the Law in Call Northside 777," *Yale Journal of Law and the Humanities* 13 (2001):330-402.

⁴ Beverly I. Moran, "Disappearing Act: The Lack of Values Training in Legal Education - A Case for Cultural Competency," *Southern University Law Review* 38, (2010): 1, 26.

society.”⁵ Law students who are instilled with these ideals will not only be ethical lawyers, they will be better lawyers, as they will be more adept at “understand[ing] their individual clients, improv[ing] their strategies and decisions . . . and [at] appreciating the other contexts that affect their day-to-day professional lives.”⁶ To achieve this end, law schools must unequivocally “integrate moral and ethical” teaching into the curriculum.⁷

Undoubtedly, images of suffering and, in particular, photographs, could serve as a mechanism with which to integrate these teachings.⁸ Photographs of human suffering would provide powerful, indelible ways to facilitate the analysis of past events and the ways in which law has perpetuated the suffering involved in past events. Indeed, photographs enable individuals to learn about the world in ways that are often more poignant than what the written word provides. This is in part because photographs contribute to an understanding that involves what Randy Cohen of the *New York Times* calls “a visceral emotional connection to an event.”⁹ For contested events, or events that appear to defy conventional wisdom or practice, photographs may be the most effective way to educate, as well as inspire. In writing on the public value of photographs, Barbie Zelizer notes that the use of photographs of concentration camp victims helped “secure waning support for the war effort,” in World War II.¹⁰ She further highlights that the popular sentiment immediately following the end of the war held that “had there been [more] pictures available of the atrocities as they unfolded, the Holocaust might never have happened.”¹¹ Whether or not this is factually accurate, it nonetheless reflects the contemporary understanding of power of photographs.

This suggests that using graphic depictions of suffering today, such as victims of concentration camps, provided they are presented in a responsible way, can impart meaningful information upon the viewer about the nature of the human suffering. Further, these images can in fact contribute to maintaining the dignity of those depicted, by ensuring that their experiences are not forgotten and forcing viewers to recognize the tragedy suffered. As war photojournalist David Leeson explains, “sometimes, as with my pictures of child victims, the greatest dignity and respect you can give them is to show the horror they have suffered, the absolutely gruesome horror.”¹²

⁵ Susan L. Brooks, Meeting the Professional Identity Challenge in Legal Education Through A Relationship-Centered Experiential Curriculum, *University of Baltimore Law Review* 41 (2012): 395, 400- 01.

⁶ Brooks, “Disappearing Act,” 406-7.

⁷ Brooks, “Disappearing Act,” 401.

⁸ I have chosen photographs as the mode for viewing images of suffering, instead of necessitating a direct, physical interaction with individual victims of suffering, as I do not believe that a physical interaction is necessary to obtain the benefits of being confronted with notions of suffering. Furthermore, the ethical considerations which would need to be explored in order to justify these physical interactions are too numerous to be contained within the scope of this brief paper.

⁹ Randy Cohen, “Neda, Obama and the Power of Pictures,” *The New York Times*, June 29, 2009, <http://ethicist.blogs.nytimes.com/2009/06/29/the-power-of-pictures/>.

¹⁰ Barbie Zelizer, *About to Die: How News Images Move the Public* (Oxford: Oxford University Press, 2010), 20.

¹¹ Zelizer, *About to Die*, 20.

¹² Schanberg, “Not a Pretty Picture.”

There is also a danger in shying away from graphic depictions of past events. Avoiding such presentations may result in a failure to recognize their significance. Indeed, photojournalist Sidney Schanberg writes that if viewers agree with the merits of particular acts of state-sponsored violence, they would have little reason to avoid depictions of such violence. He asks, “if we believe that the present war in Iraq is just and necessary, why do we shrink from looking at the damage it wreaks?”¹³ The same could be said for our legal order and the way that it imparts violence and suffering through official action. One might think that law students could convey their disapproval of legally sanctioned violence by choosing to disregard visual depictions of it; the process of viewing and learning from these images, however, is essential if future generations of lawyers are ever to learn from past mistakes. Lessons in contemporary professional ethics and modern lawyering cannot sufficiently prepare students to practice law by merely presenting the traditional narrative of law as an ordered system of rules and regulations to be studied in cold, abstract terms. Instead, students must learn to connect images of those who have suffered with an understanding of the law’s potential to be a tool of oppression and aggression.

¹³ Schanberg, “Not a Pretty Picture.”

*First they came for the communists,
and I didn't speak out because I wasn't a communist.
Then they came for the socialists,
and I didn't speak out because I wasn't a socialist.
Then they came for the trade unionists,
and I didn't speak out because I wasn't a trade unionist.
Then they came for me,
and there was no one left to speak for me.
-Martin Niemöller*

**Racial Profiling and Dehumanization of Latinos in Contemporary America: A Reflective
Analysis of Sheriff Joe Arpaio's Rule and the American (In)Justice System
By Maria Sevilla**

As my sister tells me about her new internship in Phoenix, Arizona, I cannot help but respond “Well, that’s great. Just remember to bring your green card everywhere you go!” We laugh and go on with our conversation, giving almost no consideration to the serious issues raised by my comment.

I was born and raised in Argentina, and my family moved to the United States when I was seventeen years old. Being Latina is something that I had never thought of before my arrival in this country; however, since the very moment I started my new life in this great country, that thing which I had never given thought to -- *being Latina* -- has become the single most salient element of how I and others identify me. As I talk to my sister, the joking about “bring your green card” hides a hurtful concern. It is a sad reflection of what, in many instances, being Latina, has come to feel like: living life under a popular presumption of being guilty (illegal) until proven innocent.

Today, there is probably no worse place to be Latino in this country than in Maricopa County, Arizona. Since 1992, Maricopa County, Arizona has been characterized by the rule of Sheriff Joe Arpaio (“Sheriff Joe”), America’s self-proclaimed “toughest sheriff.” Sheriff Joe is notorious for his hard line approach on immigration. The alarming aspect of his law enforcement is not his commitment to end illegal immigration, but rather the tools he uses towards such end: social profiling and dehumanizing treatment of Latinos. Andrew Straus, a Rabbi in Tempe, Arizona, has been one of many to criticize the Sheriff’s approach, writing in an article that “while we can have a debate and disagree about the proper policy concerning our immigration crisis, there can be no debate about the fact that we have a responsibility to treat all residents of our country with dignity and respect.”¹ But what role, if any, should legal practitioners play in putting an end to Sheriff Joe’s leadership? This paper links the current

¹ Andrew Straus, "A Call for Morality: Sheriff Arpaio and the Immigrants," *Jewish News of Greater Phoenix*, April 18, 2008, accessed September 25, 2012, <http://www.jewishaz.com/issues/story.mv?080418+sheriff>.

treatment of Latinos in Maricopa County to the treatment of Jews in the Holocaust, and argues that this Sheriff needs to be stopped not for the sake of Latinos, but for the sake of all people.

Lessons from the Holocaust

A 2008 editorial in *The Jewish News of Greater Phoenix* drew a connection between the struggles of many Latino immigrants and the Jewish experience “of being branded a stranger and then hunted for it, the dark period of wandering in search of a better life, and, at long last, the opportunity to stop running and give thanks in a safe place”.² The poignant point that the editorial continued is that we cannot wait until the next Holocaust in order to take an active position against dehumanization; rather, we need to look at the smaller violations of human dignity, identify those places where we see seeds of hate similar to those that motivated Holocaust perpetrators, and act preemptively to make sure that atrocities of such magnitude never occur again.

The thought that someone would proudly say, in America in 2012, that they run a “concentration camp” is sickening to the stomach. Sheriff Joe, however, has used exactly those words when referring to Tent City, a tented portion of his jail which is used to house inmates who do not fit in the detention facility building.³ His words and actions make it hard not to be reminded of the hurtful history of the Holocaust when reading about Maricopa, Arizona, today: the isolation of a group of individuals, their dehumanization simply for being who they are, and the compliance by the larger society.

If there is anything that we can learn from the most systematized murder of millions of Europeans under the Nazi rule, it is the importance of holding the government accountable for treating each individual with dignity. The evolution of the “final solution” in Germany was a gradual one, which succeeded because of the consistent lack of organized protest against the increasingly restrictive measures imposed on Jews. Many times this lack of action was motivated by economic concerns much as contemporary concerns focus on immigrants taking “our” jobs. Today, it is our duty to identify abusive and denigrating practices and put a stop to them. We cannot wait until the next Holocaust in order to take a stand. Taking an active role to fight racial profiling and dehumanization through dignity stripping methods is the best way we can pay living tribute to those who died as victims to the Nazi regime, both as prisoners or in the fight to bring the regime down.

Sheriff Joe’s Racial Profiling and Dehumanizing techniques

Joe Arpaio was first elected Sheriff in 1992. In the recent years, he has gained media attention, mostly for his outspoken role in demanding the release of Obama’s birth certificate. Furthermore, since the passage of Arizona’s controversial law SB1070 (a law which among other things required that state law enforcement officers attempt to determine an individual's immigration status during a "lawful stop, detention or arrest", or during a "lawful contact" not specific to any activity when there is reasonable suspicion that the individual is an illegal

² "Editorial: This Year in Phoenix," *Jewish News of Greater Phoenix*, April 18, 2008, accessed September 1, 2012, <http://www.jewishaz.com/issues/printstory.mv?080418+edit>.

³ Dan DeVivo and Valeria Fernandez, *Two Americans*, 2012 Video. Accessed September 17, 2012, <http://www.twoamericans.com/downloads/TwoAmericansPreview.mov>.

immigrant), Arpaio's techniques of dealing with immigrants have also gained more attention, but unfortunately have failed to dominate the media in the same way.

Racial profiling has undoubtedly been a characteristic of Sheriff Joe's "law enforcement" system. According to the Justice Department, Arpaio has frequently arrested and detained U.S. citizens and legal residents of Latino origin, including children, for hours at a time without a charge or a warrant. Neighborhood raids in which Arpaio's men relied on factors "such as whether passengers look 'disheveled' or do not speak English."⁴ Some stops were justified after the fact: a group of Latinos who were photographed sitting in a car, neatly dressed, were described in the police report as appearing "dirty," the ostensible rationale for the pull-over. Testifying on the stand on July 24th in a federal trial over his department's blatant record of racial profiling, Arpaio himself acknowledged that he once called the crackdown a "pure program to go after the illegals and not the crime first."⁵ In Arizona, Latinos express that they live in fear of being stopped by authorities for reasons that are usually dismissed by the police; for example, failing to use a turn light when switching lanes in the highway.⁶ A number of Rabbis from the area further state that Arpaio's techniques have been "creating an environment of fear and intimidation in the Latino community among legal and illegal immigrants alike. We feel that this policy can only lead to the further dehumanization of individuals and groups of individuals in our community."⁷

After bringing them under his authority, Arpaio treats immigrants in a way that is denigrating and dehumanizing. His "Tent City," opened in August of 1993, accommodates large numbers of individuals who would not otherwise fit inside the detention facility. These inmates have been suffering some of the worst living conditions possible. During Arizona's hot summers, temperatures inside the tents have been measured to reach up to 141 degrees Fahrenheit.⁸ Rather than trying to conceal the atrocious conditions, Arpaio is proud of the ways in which this system has enabled him to save Maricopa County millions of dollars in construction and operating costs; "I am always thinking of ways to save taxpayers money," he says in defense of his policies.⁹

The use of chain gangs is another feature of human mistreatment that is prevalent in Arpaio's jail. Used primarily in the American South in the early 20th century, this type of convict labor was phased out of use by 1955, with Georgia the last state to abandon the practice.¹⁰ Chain gangs were reintroduced by a few states during the "get tough on crime" 1990s, led by Alabama in 1995, but in most places the experiment ended after only a year -- except Maricopa County where inmates can volunteer for a chain gang to earn credit toward a high school

⁴ Quoted in Joe Hagan, "The Long, Lawless Ride of Sheriff Joe Arpaio," *Rolling Stone*, August 16, 2012, accessed October 1, 2012, <http://www.rollingstone.com/culture/news/the-long-lawless-ride-of-sheriff-joe-arpaio-20120802>.

⁵ Quoted in Hagan, "The Long, Lawless Ride of Sheriff Joe Arpaio."

⁶ DeVivo and Fernandez, *Two Americans*.

⁷ "Valley Rabbis' Statement on Sheriff Joe Arpaio." *Jewish News of Greater Phoenix*, April 25, 2008, accessed September 2012, <http://www.jewishaz.com/issues/story.mv?080425+statement>.

⁸ Hagan, "The Long, Lawless Ride of Sheriff Joe Arpaio."

⁹ Joe Arpaio, "A New Sheriff in Town," *Re-Elect Sheriff Joe Arpaio*, accessed September 25, 2012, <http://www.sheriffjoe.org/background-mainmenu-29/elected-sheriff-mainmenu-33.html>.

¹⁰ Mitchel Roth, *Prisons and Prison Systems: A Global Encyclopedia* (Westport, CT: Greenwood Press, 2006), 56–57.

diploma or to avoid disciplinary lockdowns for rule infractions.¹¹ The dehumanizing effect of chaining prisoners together during tasks that they could perform equally well when unrestrained, is an unjustified excessive use of power .

Other characteristics of Arpaio's jail include feeding prisoners only two meals a day -- costing 13 to 20 cents each -- and making prisoners wear pink underwear.¹² While first introduced under the guise of dissuading prisoners from stealing the white underwear that they were being offered by the facility, making prisoners wear pink underwear has become one of Arpaio's methods to deprive prisoners of their dignity. Since this controversial program gained media attention, Arpaio has incorporated the use of pink handcuffs as well.¹³

American (in)Justice: the role of the American people

It would be easy, and somewhat comforting, to single out Sheriff Joe as "the bad guy," and the only responsible person for these dehumanizing and illegal "law enforcement techniques" The saddest part about this story, however, is that through all these atrocious actions Sheriff Joe has received the support, either explicit or implied, of the American people. Since 1993 Arpaio has been consistently re-elected by his constituents, mainly a retired, elderly community.¹⁴

As a senior elected official, Arpaio has almost no check on his power other than the voters of Maricopa County, and they have largely looked the other way even as evidence of abuse has mounted -- including a Pulitzer Prize-winning series by the local East Valley Tribune that detailed Arpaio's practice of racial profiling.¹⁵

A story in *Rolling Stone* in August 2012, as Arpaio ran for re-election, also highlighted some concerns:

Last December [2011], the Justice Department released findings from a three-year investigation into Arpaio's office, publishing a 22-page report of numerous instances of racial profiling and civil rights abuses. Instead of filing a lawsuit, prosecutors requested that Arpaio accept a federal monitor inside his office to observe his operation, something the Justice Department successfully tried with the Los Angeles Police Department in 2001. Arpaio refused to cooperate, claiming that the feds didn't have any evidence. "After they went after me," he bragged to an audience at an anti-immigration fundraiser, "we arrested 500 more just for spite.

As voters and the American justice system fail to bring justice and restore dignity to the victims of Arpaio's practices, the issue has raised the concern of Amnesty International. It is the first

¹¹ Joe Arpaio, "A New Sheriff in Town."

¹² Arpaio, "A New Sheriff in Town."

¹³ Hagan, "The Long, Lawless Ride of Sheriff Joe Arpaio."

¹⁴ Hagan, "The Long, Lawless Ride of Sheriff Joe Arpaio."

¹⁵ Hagan, "The Long, Lawless Ride of Sheriff Joe Arpaio."

time that Amnesty International has focused its attention on a relatively small, local jail. This has been because of the extreme abuses that occur in the detention center.¹⁶

Until recently, Arpaio's office was being investigated by the Justice Department for a litany of civil rights violations against Latinos – the "unlawful and unconstitutional" targeting and detention of people because of their "race, color or national-origin." As a result, federal prosecutors charge, the Maricopa County Sheriff's Office has created "a pervasive culture of discriminatory bias against Latinos" that "reaches the highest levels of the agency." This case, however, has failed to reach the mainstream media headlines in the way that many celebrity news does. Many Americans, unfortunately, remain ignorant of the grave implications of the abuses committed by Arpaio's office. On August 31, 2012, however, the agency announced that it was closing its abuse-of-power investigation. Pablo Alvarado, director of the National Day Laborer Organizing Network, was one who raised his voice in response saying "It is a miscarriage of justice that the federal government is dropping its case against Sheriff Arpaio and to make such an announcement on the Friday night before the Democratic National Convention can only be politically motivated to shield the administration from criticism."¹⁷

Arpaio has submitted a bid for re-election in the county elections scheduled for this fall; he has raised over \$7 million dollars for his campaign and says he is confident of his approval rates and that the people will re-elect him.¹⁸ But as one reporter recently noted, "the Joe Arpaio show may be losing steam, especially as evidence emerges that his focus on illegal immigrants has come at the expense of serious crimes in his county. Last year, Arpaio was stung by a report that showed his office had failed to adequately investigate more than 400 sex crimes in Maricopa County from 2005 to 2007."¹⁹

The recent Supreme Court ruling curbing the validity of Arizona's SB1070 immigration law might also pose an obstacle for Arpaio's illegal racial profiling enforced battle against illegal immigration. The ruling makes it harder for Arpaio to deport illegal immigrants who have committed no crimes. "Now, if he turns innocent detainees over to Immigration and Customs Enforcement, they are supposed to be released."²⁰

While an electoral loss due to these changes in circumstances would be good to the extent that it would put an end to Arpaio's tyrannical ways, it is important to reflect on what this man's re-election for the past decade tells us about the American people and American justice. The upcoming Maricopa County Sheriff election and the other ongoing Justice Department cases against Joe Arpaio should become national issues, not remain local. Furthermore, they should not be regarded as an immigrant issue, but as an American issue, and a human issue. Joe

¹⁶ Alesandra Soler, "Sheriff Joe's Inhumane Circus," ACLU Blog of Rights, accessed May 2, 2009, <http://www.aclu.org/blog/human-rights-immigrants-rights-racial-justice/sheriff-joes-inhumane-circus>.

¹⁷ Quoted in Bob Christie and Jaques Billeaud, "Joe Arpaio Investigation Closed; No Federal Charges Will Be Filed Against Him," *Huffington Post*, August 31, 2012, accessed October 1, 2012, http://www.huffingtonpost.com/2012/08/31/joe-arpaio-investigation-_n_1848384.html.

¹⁸ David Sands, "Arpaio Pulls in \$7.5 Million for Re-Election Bid," *Washington Times*, August 22, 2012, accessed October 1, 2012.

¹⁹ Hagan, "The Long, Lawless Ride of Sheriff Joe Arpaio."

²⁰ Hagan, "The Long, Lawless Ride of Sheriff Joe Arpaio."

Arpaio's rule over the past decade poses a threat to American justice as a whole. Under the guise of law enforcement of immigration policy, Joe Arpaio's office has engaged in practices that many Americans would find it hard to believe have been silently going on for ten years. The targeting of a group because of their identity, and the purposeful dehumanization and mistreatment, is something that goes against the most basic principles of American justice.

Possibly the most atrocious characteristics of the Nazi regime was the enactment of laws sanctioning the mistreatment of individuals; eventually leading to the development of "the final solution." It is imperative that we stop officials in this day and age from legitimizing the use of violence against certain groups of people in the name of legitimate law enforcement. While in this case, unlike in Nazi Germany, the laws might be facially neutral, when the practical effect of their application is racial profiling and mistreatment, the American people, and particularly American judges, must take measures to ensure that justice is truly served.

Conclusion

Rabbi Straus in his 2008 article quoted a colleague at the American Jewish Committee: "The question is not whether the sheriff has the legal right to perform his crime sweeps: The question is, does he have the moral right?"²¹ Straus's point was that if he has no moral right, then any legal right cannot be justified. The laws must be changed.

We have a duty to stand up against the brutal and dehumanizing methods used by Sheriff Joe and his subordinates. Regardless of political affiliation or views on immigration policy, dignity and respect are values that Americans need to stand for. It is the power and duty of the people to hold our government officials accountable for the laws they enact, and the way those laws are enforced. If a law is unfair, it is within the people's power to demand it be changed; if it is unfairly implemented, it is within our power to demand fair implementation. The best way to honor the victims of past atrocities, such as the Holocaust, is by ensuring the protection of human life and dignity today. Taking a stance to end Sheriff Joe's practices is a way to honor victims, a way to protect innocent individuals, and, most importantly, the only way to ensure that human dignity and justice remain features of the American reality.

As I think of the future, and continue to build my life in this great country, I hope that my children will be able to display their Latino heritage fearlessly, and that the days of being presumed guilty just because of Latino identity will be gone soon.

²¹ Straus, "A Call for Morality: Sheriff Arpaio and the Immigrants."

Stones Will Speak: Environmental Ethics and a Geography of the Holocaust **By Carson Thomas**

One truth stands at the beginning and the end of each historical epoch: stones will talk when the people have fallen silent.

-Heinrich Himmler¹

In 2009, the United Nations Environment Programme declared that “the environment continues to be the silent victim of armed conflicts worldwide.”² Environmental protection is seldom considered a legal, policy, or military priority in situations of armed conflict or ethnic violence. I have spent the last year on a project to challenge this view and to increase legal protections for the environment in armed conflict.³ The experience of visiting Auschwitz and seeing physical evidence of the Holocaust led me to question the place of environmental considerations in the face of overwhelming human tragedy. In a world with limited attention and political capital for addressing humanitarian concerns, should environmental protection be a priority? This paper is a brief exploration of geographical aspects of the Holocaust and the Rwandan genocide. In these geographies, I find connections between the environment and situations of extreme violence and propose that environmental protection has an important place in the humanitarian mission.

Auschwitz is a name that has become a symbol: a metonym for the systematic deportation and murder of millions. Poets and philosophers have declared that Auschwitz represents a violent caesura in human understanding, even that “[t]he world of Auschwitz lies outside speech as it lies outside reason.”⁴ Auschwitz has undergone a process of mythification which “acts economically; it abolishes the complexity of human acts, it gives them simplicity of essences.”⁵ While Auschwitz the myth often dominates the cultural discourse, Auschwitz is also a place, near the town of Oświęcim in southern Poland, a few kilometers from the intersection of the Vistula and Sola rivers. Restoring Auschwitz’s historical contingencies and situating the site in the geographical imagination of its Nazi architects reveals a project of domination and transformation of the human and the natural world.⁶

In his investigation of the development of the Auschwitz concentration camps, Robert-Jan Van Pelt recounts SS plans for the large-scale ecological, architectural and urban reconstruction of

¹ Heinrich Himmler, “Deutsche Burgen im Osten,” *Das Schwarze Korps* 7 (January 23, 1941) 4, quoted in Robert-Jan Van Pelt, “A Site in Search of a Mission,” in *Anatomy of the Auschwitz Death Camp*, eds. Yisrael Gutman and Michael Berenbaum (Bloomington: Indiana University Press, 1994) 100.

² United Nations Environment Programme, *Protecting the Environment During Armed Conflict: An Inventory and Analysis of International Law* (Nairobi: UNEP, 2009) 4.

³ In 2011, the United Nations International Law Commission accepted the proposal of Dr. Marie Jacobsson to include the topic The Protection of the Environment in Relation to Armed Conflict on its future program of work. I assisted Dr. Jacobsson in researching and drafting this proposal. I have since participated in a preparatory workshop in Sweden and submitted an article to be published in the *Nordic Journal of International Law*.

⁴ George Steiner, *Language and Silence: Essays on Language, Literature, and the Inhuman* (New Haven: Yale University Press, 1998), 123.

⁵ Roland Barthes, *Mythologies*, trans. Annette Lavers (London: Paladin, 1972), 143, quoted in Van Pelt, 93.

⁶ For a philosophical and personal reflection on the relationship between ideas of the natural world and the concepts of domination and genocide see Eric Katz, “Nature’s Healing Power, the Holocaust, and the Environmental Crisis,” *Judaism: A Quarterly Journal of Jewish Life and Thought* 46 (Winter 1997).

Upper Silesia.⁷ In early 1940, Heinrich Himmler traveled through Poland to inspect the progress of his program of ethnic cleansing. The description of this journey, written by his friend and companion, Hanns Johst, combines evidence of recent violence, pastoral rapture, and a chilling vision of Poland as *terra nullius*, waiting for German settlement:

The Reichsführer-SS stopped the car, climbed over the furrowed ditches, walked into fields plowed over by grenade shells, took some dirt between his fingers, smelled it thoughtfully with his head bowed, crushed the crumbs of the field between his fingers, and looked then over the vast, vast space which was full, full to the horizon, with this good, fertile earth. Thus we stood like ancient farmers and we smiled at each other with twinkling eyes. All of this was now German soil!⁸

The landscape of Polish farmland was to be transformed into a massive industrial center, including IG Farben's Buna Werke, and German agricultural settlement under scientific principles of management. At one point in the planning of Auschwitz, Himmler instructed Commandant Rudolf Höss, in great detail, to drain the marshlands of the Vistula and create an enormous agricultural experimental station complete with laboratories, plant cultivation departments, and cattle breeding operations.⁹ Van Pelt describes it as "a Faustian project to create a German paradise amid Polish perdition" where "the design for utopia and the reality of dystopia existed side by side."¹⁰

Of course, the Polish inhabitants, both Gentile and Jewish, would have to be removed or eliminated to provide space for German colonization. Imbued with the Nazi ideology of "blood and soil," the SS were charged with the task of ethnic cleansing.¹¹ The 1941 SS handbook *Der Kampf um die deutsche Ostgrenze (The Struggle for the German Eastern Border)* made explicit the connection between geography and demography: "The *ethnic mosaic* of the East demands a *new arrangement*, which is historically, morally, and ethically totally justified. With the *new ordering of the space of the East* there is not only the *German-Polish problem*...but also the *Solution of the Jewish Problem* as such."¹² Ethnic cleansing, land reform, and ecological transformation are steps linked by Nazi ideology into the same process: "*In the regained areas in the East a comprehensive reconstruction is taking place, with the aim to overcome this Polish State of Affairs [produced by the cooperation of Jewry and Poles] and to bring in its place German order...and finally linking this soil forever with the German nation.*"¹³

The SS handbook observes that the "land will have to be rebuilt from the soil up."¹⁴ Such radical transformation was impossible without a large labor force. In a 1942 speech, Himmler,

⁷ Van Pelt, "A Site in Search of a Mission," 94.

⁸ Hanns Johst, *Ruf des Reiches – Echo des Volkes: Eine Ostfahrt* (Munich, 1940) 86, quoted in Van Pelt, 102-3.

⁹ Van Pelt, 114.

¹⁰ Van Pelt, 94.

¹¹ Van Pelt, 100.

¹² SS-Hauptamt-Schulungsamt, *Der Kampf um die deutsche Ostgrenze* (Berlin, 1941) 41, quoted in Van Pelt, 101.

¹³ SS-Hauptamt-Schulungsamt, *Der Kampf um die deutsche Ostgrenze*, 41.

¹⁴ SS-Hauptamt-Schulungsamt, *Der Kampf um die deutsche Ostgrenze*, 41.

who was not only Reichsführer of the SS but also Reichskommissar for the Resettlement of the German People, announced the creation of an enormous force of “work slaves who will build our cities, our villages, and our farms...to create settlements that will allow a truly Germanic people to live with dignity and to take root in one generation.”¹⁵ In September of 1941, Himmler negotiated the transfer of 100,000 Soviet prisoners of war from the army to the SS.¹⁶ Birkenau was constructed to house these prisoners who were intended to become Auschwitz’s labor reserve to reconstruct Upper Silesia.¹⁷ By the end of October, however, the Wehrmacht’s advance into the Soviet Union had stalled. More German men were needed in the army, and Soviet prisoners of war were transferred to the armaments industry.¹⁸ On January 26th, 1942, six days after the Wannsee Conference, Himmler sent a telegram to the Inspector of the Concentration Camps Richard Glücks:

As no Russian prisoners of war can be expected in the near future, I am sending to the camps a large number of Jews who have emigrated from Germany. Will you therefore make preparations to receive within the next four weeks 100,000 Jews and up to 50,000 Jewesses in the concentration camps. The concentration camps will be faced with great economic tasks in the coming weeks.¹⁹

The Nazi dream to remake the East and their disregard for the laws of war were inextricable from racist ideology: “In the East the soldier is not only a fighter according to the rules of warfare, but also a carrier of an inexorable racial conception and the avenger of all the bestialities which have been committed against the German.”²⁰ Nazi propagandists dehumanized the enemies of National Socialism to enable both their brutalization and a denial of their right to land. These efforts frequently contained geographic undertones, “contrasting the bestialized bolshevik types with the free and open gaze of the German worker, filthy Soviet hutments with Germans worker settlements, muddy tracks with the German Reich highways.”²¹ One of the legal results of this rhetoric was the decision of the German high command to disregard the minimum standards for prisoners of war, codified in the Hague Conventions of 1899 and 1907 and considered customary international law, for Soviet prisoners.²² The Jews who were eventually sent to Auschwitz would fare even worse.

The physical remains of Birkenau are eloquent testimony both to the scale of the Nazi project and to the inhuman conditions imposed on its prisoners. The Nazi ideology linked domination of the human world with domination of the natural world. An industrialized process of ethnic

¹⁵ “Der Reichsführer-SS vor den Oberabschnittsführern und Hauptamtschefs im Haus der Flieger in Berlin am 9.Juni 1942,” ms., German Federal Archives, Koblenz, Coll. NS 19, no. 4009, 18, quoted in Van Pelt, 104.

¹⁶ Van Pelt, 148.

¹⁷ Van Pelt, 106.

¹⁸ Van Pelt, 148.

¹⁹ Quoted in Van Pelt, 149.

²⁰ The words of a German commander in early October, 1941, quoted in Omer Bartov, *Hitler’s Army: Soldiers, Nazis and War in the Third Reich* (Oxford: Oxford University Press, 1991) 129.

²¹ Joseph Goebbels’ instructions to the media from the minutes of the ministerial conference held at the Ministry of Propaganda, Berlin, on July 5, 1941, quoted in Willi A. Boelcke, ed., *The Secret Conferences of Dr. Goebbels: The Nazi Propaganda War 1939-1943*, trans. Ewald Osers (New York: E.P. Dutton, 1970) 177.

²² Van Pelt, 117.

cleansing and slave labor would eventually lead to an industrial organization of natural resources and land use. The SS plan was to fundamentally transform the political, demographic and physical map of Central and Eastern Europe. In the words of C.S. Lewis, “what we call man's power over nature turns out to be a power exercised by some men over other men with nature as its instrument.”²³

There is a substantial and growing body of literature on the increasingly important relationship between environmental degradation, scarcity of natural resources and violent conflict. The field of environmental security maps the interaction between local, national and global environmental problems and instability and conflict.²⁴ The paradigmatic case in recent history is that of the Rwandan genocide. By the early 1990s, Rwanda was the most densely populated country in Africa and one of the poorest countries in the world.²⁵ It had experienced a decades-long shift to unsustainable agricultural practices as well as decreasing land productivity.²⁶ The result was increased poverty and severe economic disparity between those with productive agriculture and those forced to cultivate marginal land. While the Rwandan genocide is understood primarily as an ethnic conflict, there is compelling evidence that environmental factors, especially population and land pressures,²⁷ played a significant role in enabling the “failure of humanity.”²⁸ Some scholars go so far as to say that ethnicity was only a “cover” for competition over scarce land and resources.²⁹ Ethnic animosity, however, does not need to be minimized to argue that “severe economic, demographic, and environmental pressures on Rwandan society unleashed local grievances, while extremist forces among the Hutu *manipulated* ethnic identities and resorted to large scale violence.”³⁰

²³ C.S. Lewis, “The Abolition of Man,” reprinted in *Philosophy and Technology: Readings in the Philosophical Problems of Technology*, Carl Mitcham and Robert Mackey, eds. (New York: Free Press, 1983) 143.

²⁴ See, for example, Robert D. Kaplan, “The Coming Anarchy,” *Atlantic Monthly*, February 1994, 44-76; Thomas F. Homer-Dixon, “On the Threshold: Environmental Changes as Causes of Acute Conflict,” *International Security* 16 (1991): 76-116; “Environmental Scarcities and Violent Conflict: Evidence from Cases,” *International Security* 19 (1994): 5-40; David J. Campbell, “Conceptualizing Global Change as Society-Environment Interaction: From the Local to the Global in Rwanda,” *Rwanda Society-Environment Project, Working Paper 6* (East Lansing, Michigan: Department of Geography and the Center for Advanced Study of International Development, Michigan State University, 1994): 1.

²⁵ Richard Nyrop et al., *Rwanda: A Country Study* (American University, 1985), Ch.4, p. 1.

²⁶ Valerie Percival and Thomas Homer-Dixon, “Environmental Scarcity and Violent Conflict: The Case of Rwanda,” *Occasional Paper for the Project on Environment, Population and Security* (American Association for the Advancement of Science and the University of Toronto, 1995), <<http://www.library.utoronto.ca/pcs/eps/rwanda/rwanda1.htm>> (8 March 2005).

²⁷ Stephen Brosha, “The Environment and Conflict in the Rwandan Genocide,” *Atlantic International Studies Organization*, available at <http://atlismta.org/online-journals/0607-journal-development-genocide/#_ftn2>.

²⁸ Roméo Dallaire, *Shake Hands with the Devil: The Failure of Humanity in Rwanda* (Toronto: Random House, 2003).

²⁹ Jean Bigagaza, Carolyn Abong and Cecile Mukarubuga, “Land Scarcity, Distribution and Conflict in Rwanda,” *Scarcity and Surfeit: The Ecology of Africa's Conflicts*, Jeremy Lind and Kathryn Sturman, eds. (Pretoria: Institute for Security Studies, 2002) 51.

³⁰ Michael Renner, *Fighting for Survival: Environmental Decline, Social Conflict, and the New Age of Insecurity* (New York: W.W. Norton & Co., 1996) 122.

The environmental factors in the Rwandan genocide are more transparent and played a more direct causal role than those of the Holocaust. However, in both historical atrocities, the reality and the perception of social relationships to the land and its resources operated as a *casus belli*. People were disposable means to ends that included radical social and environmental transformation. In contrast, the focus of my work on the protection of the environment in relation to armed conflict has been the means and methods of warfare, exemplified by the use of chemical defoliants in the Vietnam War by the United States.

One must always tread carefully when making comparisons to the Holocaust. I do not assert a moral equivalency between Nazis and genocidaires on the one hand and the military and political decision-makers who made the decision to use Agent Orange, or similarly environmentally destructive tactics. However, the record of the decision to use defoliants, drawn from a memorandum from Secretary of State Rusk to President Kennedy, shows troubling parallels. The conclusory legal analysis is based on a single and contentious precedent: “The use of defoliant does not violate any rule of international law concerning the conduct of chemical warfare and is an accepted tactic of war. Precedent has been established by the British during the emergency in Malaya in their use of helicopters for destroying crops by chemical spraying.”³¹ Perhaps more problematic is the discussion of the most effective euphemisms, “[w]e must also stay away from the term 'chemical warfare' and any connection with the Chemical Corps, and rather talk about 'weed killers'. Defense and the Chemical Corps entirely agree on this;”³² as well as the optimistic projections of the defoliant’s limited effect. These predictions of precise targeting and discreet consequences proved to be tragically misguided: “[I recommend] to go ahead with a selective and carefully controlled program starting with the clearance of key routes, proceeding thereafter to food denial only if the most careful basis of resettlement and alternative food supply has been created.”³³

The Rusk Memorandum objectifies the enemy’s environment and exhibits a readiness to manipulate fundamental ecological systems for ideological ends. The deliberate environmentally destructive actions of the United States in Vietnam, as well as the actions of the Soviet Union in Afghanistan among other recent examples, demonstrate an unwillingness to come to terms with the basic fact of shared social and natural environments. Legally and morally, the goal of warfare cannot be the extermination of the way of life of the enemy. For the Nazis and the genocidaires, it was impossible to share the same “blood and soil” with the objects of their hatred so they endeavored to annihilate entire peoples. In today’s wars, we must not make peace impossible with our enemies by destroying the world they, and we, live in. At the very least, stronger legal protection for the environment should force a more careful consideration of the long-term effects of attacks on the environment. As any visitor to Auschwitz, or Hiroshima, or many other scarred landscapes, can attest, the stones will speak even after the victims and survivors have fallen silent.

³¹ Memorandum from Secretary of State Dean Rusk to President Kennedy, November 24, 1961. Kennedy Library, National Security Files, Vietnam Country Series, Reports & Memos. Top Secret. Available at <http://www.state.gov/www/about_state/history/vol_i_1961/z.html>.

³² Memorandum from Secretary of State Dean Rusk to President Kennedy, November 24, 1961

³³ Memorandum from Secretary of State Dean Rusk to President Kennedy, November 24, 1961.

F A S P E

FELLOWSHIPS AT
AUSCHWITZ
FOR THE STUDY OF
PROFESSIONAL ETHICS

2012
JOURNAL

MEDICAL
PROJECTS

INTRODUCTION TO THE MEDICAL PROJECTS

GREETINGS FRIENDS:

It's hard to believe that six months have already passed since we had the privilege of joining the 2012 FASPE Medical fellows on their journey. The experiences, as well as the fellows, were once again truly extraordinary. Together we all learned a great deal from what we saw and heard, and from one another. It was a trip that at times broke our hearts, but also opened our eyes to the past, present, and future. That FASPE is such a valuable learning experience is due to the wonderful leadership and careful planning that the organization provides. It is also due, in no small part, to the quality of the medical students that join us each year. It is a great gift to work with students of this caliber, and for this opportunity we are most grateful to the FASPE organization.

At the completion of the fellowship each year, the students write essays on various topics related in some way to what they saw and learned. What follows is a small sample of that work, which stands as a marvelous illustration of just how strong this year's group of students was and is. We were very impressed, and along with Thorin had difficulty choosing just three as space required, but we think you will agree we chose three excellent papers. We should quickly add, however, that they are just three of many wonderful essays submitted, and we appreciate the hard work that each student put forth. Many others could easily have been chosen for this journal.

The medical students from the third trip have joined those from the previous two years, and the "pioneers" from the pilot trip, as FASPE alumni. With each year we become more convinced of the great value of this unique program. And with each year our ranks continue to grow!

To the readers of this journal, we invite you to enjoy these fine samples of the work of the FASPE 2012 Medical Fellows. To the 2012 Fellows, we have great confidence in you, and wish you happiness and success! And remember you are now part of the growing FASPE family, so keep us posted on your progress.

MARK R. MERCURIO, M.D., MA.
FASPE FACULTY
PROFESSOR OF PEDIATRICS
DIRECTOR, PROGRAM FOR BIOMEDICAL ETHICS
YALE SCHOOL OF MEDICINE

JOHN S. HUGHES, M.D.
FASPE FACULTY
PROFESSOR OF MEDICINE
DIRECTOR, PROFESSIONAL
RESPONSIBILITY COURSE
YALE SCHOOL OF MEDICINE

The Specter of Race in American Medicine

By Mariam Fofana

From the eugenics movement to the infamous Tuskegee syphilis study, controversies and debates surrounding race have long been a fixture in American Medicine, a reflection of our nation's complicated history. More recently, controversy on the role of race in medical research and clinical practice resurfaced when the Federal Drug Administration approved the drug BiDil for the treatment of heart failure specifically in African-Americans.¹ Race looms heavy in other, perhaps more subtle ways as well. It is still surprisingly common for clinicians to routinely note patients' race in rounds presentations, a practice that students quickly adopt.² Similarly, many clinical research publications present outcomes by race, irrespective of its relevance to the hypothesis or conclusions. Lest we think that the days of Tuskegee are far behind us, these examples remind us that race remains a powerful force in American medicine. In this paper, I will explore historical and current controversies to describe how the biological concept of race that gave rise to past abuses remains firmly rooted – and harmful – in American medicine today.

Definitions

“Race” can be understood to mean many things. In common parlance, it often refers to a combination of characteristic physical traits – most notably skin color – geographic origin(s), and sociocultural affiliation(s), and mediated by context-specific historical and political factors (e.g., colonization, immigration).³ Although I will focus on the *biological* concept of race, that is, the idea that racial classifications are biologically meaningful, in this paper, the term “race” should be understood to denote only *social* categories and to encompass other related and overlapping concepts such as “ethnicity.” Where the paper refers to specific racial categories, membership in these categories is to be understood as based on self-identification or, in the case of research studies, on the criteria established by the investigators for assignment of race.

Political and historical context for the biological concept of race: slavery and Tuskegee

At its most extreme, the biological concept of race led early theorists on evolution to hypothesize that racial groups in fact constituted different species of humans.⁴ In the United States as in several other contexts, (including, notoriously, Nazi Germany) this concept has historically been used to justify political aims that relied on the discrimination of groups of people considered inferior based on racial classifications.

In the early 19th century, American physicians became eager participants in the debate on slavery, providing the “scientific” evidence supporting the biological inferiority that not only justified but required that blacks be enslaved. This “evidence” relied on the presupposition that

¹ Howard Brody and Linda Hunt, “BiDil: Assessing a Race-Based Pharmaceutical,” *Annals of Family Medicine* 4 (2006): 556-60.

² Robert S. Schwartz, “Racial Profiling in Medical Research,” *New England Journal of Medicine* 344(2001): 1392-3.

³ Thomas A. LaVeist, “Beyond Dummy Variables and Sample Selection: What Health Services Researchers Ought to Know about Race as a Variable,” in Thomas A. LaVeist, ed., *Race, Ethnicity, and Health: A Public Health Reader* (San Francisco: Jossey-Bass, 2002), 115-28; Gisli Palsson, “How Deep Is The Skin? The Geneticization of Race and Medicine,” *Biosocieties* 2 (2007): 257-272.

⁴ S.A. Tishkoff and K.K. Kidd, “Implications of Biogeography of Human Populations for 'Race' and Medicine,” *Nature Genetics* 36 (2004): S21-7.

there were and must be biological differences between whites and blacks, and that biology was the cause for just about any observed differences, eschewing any explanation that might call into question the morality of slavery. Following this logic of biological determinism, one southern physician declared the higher mortality from tuberculosis among black slaves to be due to a biological intolerance to cold weather – not the crowded, unsanitary living quarters. Entire disease entities were created based on the belief in biologically determined differences: drapetomania was defined as a madness that led slaves to run away, in contradiction to their innate (biological) tendency for servility.⁵ Although there were dissenting voices – among them black physicians – those who sought to challenge these racist theories had to tread carefully for their scientific arguments could be dismissed as being politically motivated, tainted by their abolitionist sympathies. Thus, the idea of scientific neutrality was instrumentalized to support racist – and unscientific – arguments for biological inferiority and squelch opposing views. Nancy Krieger, a professor of Society, Human Development and Health at Harvard University, argues that this was not simply a case of politics influencing a scientific debate, but rather a political debate altogether: from the same observations, two camps of physicians with diverging worldviews came to opposing conclusions.⁶

Biological determinism, a key ingredient in the biological concept of race, has survived far longer than slavery but often goes unrecognized. It is notable for instance that, as a case study of past failures in biomedical ethics, the Tuskegee study is faulted primarily for the refusal of a known treatment to study participants. It is less often noted that the very premise of the study hypothesis rested upon the same biological determinism and presupposition of racial differences that featured so prominently in the slavery debate. Indeed, there had already been a long-term-study of the natural history of untreated syphilis in white patients. The crucial argument that the Tuskegee investigators presented to justify replicating this study was that the progression of syphilis was not the same in blacks as it was in whites.⁷ This was an argument that could not exist without a belief in biological determinism and the drive to justify the perceived inferiority of one group through “scientific” inquiry. As in the slavery debate, difference and inferiority were not the conclusions, but rather the starting point, the foundation without which the hypothesis collapsed. Patricia King, a law professor at Georgetown, points out that, at the time of the study, it was widely believed that higher rates of syphilis among blacks were also due to an innate aversion to seeking or complying with the course of treatment.⁸ It is not surprising then, that the investigators thought little of withholding treatment from patients whom they believed would not comply and benefit from it anyway.

Contemporary examples: the case of BiDil and the use of race in medical research

One of the most notable examples of how race and the presupposition of difference continue to shape American medicine is the approval of the drug BiDil, which was based in part on a case-control study suggesting that angiotensin-converting enzyme (ACE) inhibitors were not as

⁵ Nancy Krieger, “Shades of Difference: Theoretical Underpinnings of the Medical Controversy on Black/White Differences in the United States, 1830-1870,” in LaVeist, ed., *Race, Ethnicity, and Health*, 11-33.

⁶ Krieger, “Shades of Difference,” 11-33.

⁷ Patricia A. King, “The Dangers of Difference,” in Tom L. Beauchamp et al., eds., *Contemporary Issues in Bioethics* (Belmont, Calif.: Thomson/Wadsworth, 2008), 82-5.

⁸ King, “The Dangers of Difference.”

effective in this population.⁹ Published in a high-profile journal, the paper invited a variety of responses, as evidenced by subsequent editorials: one editorial protested the attribution of differences in study outcomes to race as scientifically “imprecise” and “of no proven value” in clinical treatment, whereas another praised the study as paving the way for the discovery of “important underlying genetic determinants of drug response” that would help physicians better treat their patients.”¹⁰ The results of this study described led to the initiation of a clinical trial, the African-American Heart Failure Trial (A-HeFT), which included only patients who self-identified as black/African-American.¹¹ However, the year after the publication of the initial case-control study, and well after the initiation of A-HeFT, the authors revealed in an erratum that the conclusion they had made regarding response to ACE inhibitors were not consistent when analyzed with respect to a different endpoint; they concluded that ACE inhibitors were equally effective in both black and white patients.¹²

The biological concept of race operated at several levels in this sequence of events. First, the hypothesis behind the case-control study rested on the premise that biological differences provided a plausible explanation for the observation of poorer prognosis among black patients with heart failure. Although this may not seem particularly implausible or egregious, I would argue that it is this presupposition of biologically determined differences that led the investigators to accept their initial findings as evidence that blacks respond less well to ACE inhibitors. They believed so much in their hypothesis that they saw proof of it in their data, even though, as the erratum makes clear, the initial conclusion reflected an error in interpretation. They were not the only ones: that this study passed muster in peer review and was published in a leading medical journal speaks to a *shared* belief in the inherent biological significance of race among physicians and researchers. Perhaps, had the investigators been more skeptical of the notion of such differences, they might have conducted additional analyses to challenge their initial conclusions and caught their error earlier.

An article by Jonathan Kahn and Pamela Sankar described another problematic aspect of the BiDil story: because it enrolled only black patients, the A-HeFT study could provide no evidence that BiDil works only, or better, in black patients. Whereas the FDA routinely approved drugs for the general population that had been tested primarily if not exclusively among white patients, in the case of BiDil, a drug tested in black patients was approved only for that specific population. Kahn and Sankar attribute these decisions to the fact that, when drugs were tested among white patients, there was no presumption that race is a biological relevant factor; rather, decisions were premised on the notion that “the category ‘white’ was coextensive with the category ‘human being.’” Indeed, as they point out, if the same logic applied in the case of BiDil

⁹ Richard S. Cooper, Jay S. Kaufman, and Ryk Ward, “Race and Genomics,” *New England Journal of Medicine* 348 (2003):1166-70; Derek V. Exner et al., “Lesser Response to Angiotensin-Converting-Enzyme Inhibitor Therapy in Black as Compared with White Patients with Left Ventricular Dysfunction,” *New England Journal of Medicine*, 344 (2001):1351-7.

¹⁰ Schwartz, “Racial Profiling”; Alastair J. Wood, “Racial Differences in the Response to Drugs--Pointers to Genetic Differences,” *New England Journal of Medicine* 344 (2001): 1394-6.

¹¹ Cooper et al., “Race and Genomics;” Joseph Franciosa et al., “African-American Heart Failure Trial (A-HeFT): Rationale, Design, and Methodology,” *Journal of Cardiac Failure* 8 (2002):128-35.

¹² Daniel L. Dries et al., “Efficacy of Angiotensin-Converting Enzyme Inhibition in Reducing Progression from Asymptomatic Left Ventricular Dysfunction to Symptomatic Heart Failure in Black and White Patients,” *Journal of the American College of Cardiology* 40 (2002): 311-7.

were extended to other situations, the majority of drugs currently available would be approved specifically for white patients.¹³ Thus, the race-specific approval of BiDil also betrays an internalization of the concept of racial hierarchies and the hegemony of whiteness as the standard of reference.

The racial categories used by federal health services agencies shows the same persistent influence of historical conceptions of race. In an attempt to provide choices for racial identification that correspond more closely with participants' self-perception, these agencies have included more detailed options beyond the six mandated census categories. The 2008 National Health Interview Survey (NHIS) included 30 options for race/ethnicity; an individual who might otherwise have been lumped in as "Asian" could specify "Asian Indian," "Chinese," "Filipino," "Japanese," "Korean," "Vietnamese," or "Other Asian" origin. In contrast to these detailed categories, there was a single category lumping together all "White" or "Black/African-American" respondents.¹⁴ It is not difficult to imagine the diversity of cultures, customs and even geographic origins that lies within each of these categories. The NHIS race categories reflect the persistent and internalized notion, rooted in the history of slavery, of black vs. white as the primary racial distinction in the United States, albeit with some flexibility to accommodate those who fall outside this dominant classification scheme.

A subset of arguments in the debate over the use of race in clinical research revolves around the principle of justice as it relates to the health disparities experienced by minority communities. Because it is impossible to conduct research about racial disparities without using racial categories, those who seek to eliminate such disparities support the use of racial categories as necessary and essential to research.¹⁵ On the other end of the spectrum, others argue that the continued use of racial categories only serves to reify the biological concept of race and reinforce existing preconceptions, thus perpetuating the sinister legacy of racial medicine in the United States. It is not impossible to find a meeting ground between these two camps. Certainly, both sides would agree that the common use of race-based analyses in routine clinical studies, when there is no plausible role for race in the hypothesis, is likely to be more harmful than beneficial and thus should be avoided.

It is telling that in South Africa, which is geographically and culturally distant but shares the United States' history of government-enforced discrimination, researchers in the apartheid era routinely framed their hypotheses and analyses along the lines of census race classifications.¹⁶ This cross-country comparison further supports the idea that the understanding of race in contemporary American medicine is borne out of the nation's peculiar history. In 1990, the South African Medical Journal made the decision to no longer publish research "making unwarranted reference to 'race.'"¹⁶ Although American journals have lagged behind somewhat, in 2001, the editorial board of the Archives of Pediatric and Adolescent Medicine noted that "analysis by race and ethnicity has become an analytical knee-jerk reflex" and asked that authors

¹³ Jonathan Kahn and Pamela Sankar, "Being Specific about Race-Specific Medicine," *Health Affairs* 25 (2006): w375-w377.

¹⁴ Cheryl Ulmer, Bernadette McFadden, and David Nerenz, eds., *Race, Ethnicity, and Language Data: Standardization for Health Care Quality Improvement* (Washington, D.C.: National Academies Press, 2009).

¹⁵ Michael Root, "The Problem of Race in Medicine," *Philosophy of the Social Sciences* 31 (2001): 20-39.

¹⁶ Daniel J. Ncayiyana, "Racial Profiling in Medical Research: What Are We Measuring?" *South African Medical Journal* 97 (2007):1225-6.

no longer “use race and ethnicity when there is no biological, scientific, or sociological reason for doing so [and] when the underlying constructs are variables that can, and should, be measured directly (eg, educational level of subjects [...])”¹⁷ This policy restricts the reflexive use of race in research while allowing for its deliberate use in disparities research, where it is justified as a sociological variable. It encourages authors to dig deeper for the explanatory variables that are confounded in the single variable of race.

Race and medicine in the age of genomics

The advent of the human genome project brought with it the hope of clarifying definitively the question of the validity of race as a biological concept. However, instead of providing a conclusive answer to the debate, genomics research has only fueled the flames. While many saw differences in the prevalence of certain genetic markers as *confirming* the existence of biologically distinct human populations along pre-established racial categories, others hailed the finding that all humans share 99.6-99.8% of their DNA sequence as evidence of the contrary argument. They argued that sequence polymorphisms cover too minuscule a portion of the genome to be biologically – let alone clinically – meaningful.¹⁸

I will not attempt to parse out or offer a conclusion in the debate on race and genomics. Here, I seek only to point out the similarities between this ongoing debate and the controversy over 150 years prior on slavery. Once more, armed with the very same data, two camps have come to opposing conclusions on the existence and relevance of racial differences in biology and medicine. I will also note that much of the debate continues to operate within the antiquated paradigm of black vs. white as *the* major racial distinction. For example, one study that examined the degree of African ancestry based on genetic markers found that there was a high degree of genetic admixture, with the majority of self-identified blacks being of mixed race – some having as little as 0-10% African ancestry – and some self-identified whites having as much as 70-80% African ancestry. In a logic eerily reminiscent of the one-drop rule, the authors concluded that, because study subjects could be separated dichotomously based on presence of *any* African ancestry (93% self-identified whites but only 4% of self-identified blacks had 0-10% African ancestry), their findings confirmed that self-reported race reflects the existence of genetically distinct populations.¹⁹

Helpful or harmful? Race in clinical medicine

In clinical practice as in research, there is a dilemma regarding the use of race as a useful heuristic on one hand and a practice that can reinforce harmful biases and inequities in care on the other hand. However, even in cases where the use of race as a heuristic is most defensible, there are serious pitfalls and a risk of distorted clinical judgment. No more than a century ago, physicians thought so strongly of sickle cell as a “black disease that they refused to diagnose the

¹⁷ Frederick P. Rivara and Laurence Finberg, “Use of the Terms Race and Ethnicity,” *Archives of Pediatric & Adolescent Medicine* 155 (2001): 119.

¹⁸ Ncayiyana, “Racial Profiling”; Perry W. Payne, Jr. and Charmaine Royal, “The Role Of Genetic and Sociopolitical Definitions of Race in Clinical Trials,” *Journal of the American Academy of Orthopaedic Surgeons* 15 Suppl 1 (2007): S100-4; Esteban Gonzalez Burchard et al., “The Importance of Race and Ethnic Background in Biomedical Research and Clinical Practice,” *New England Journal of Medicine* 348 (2003):1170-5.

¹⁹ David Brunnsma and Kerry Ann Rockquemore, “What Does “Black” Mean? Exploring the Epistemological Stranglehold of Racial Categorization,” *Critical Sociology* 28 (2002): 101-21; Moumita Sinha et al., “Self-Reported Race and Genetic Admixture,” *New England Journal of Medicine* 354 (2006):421-2.

disease in white patients or reasoned that apparently white patients with the disease were really black.”²⁰ The excessive reliance on race-based heuristics leads to miscategorization and stereotypes, and physicians are not immune to racial biases. In one study conducted in New York state hospitals, physicians were less likely to describe their black patients as “pleasant” and perceived them, on average, to be less intelligent and educated than white patients of similar educational achievement and socioeconomic status.²¹ Unconscious biases are also prevalent among medical students.²² Yet, rather than combating students’ biases, medical education, I believe, tends to reinforce them. Medical students learn by example and are quick to emulate the routine use of race in describing patients. If we believe that a drug name on a pen can influence our clinical practices, then certainly the frivolous use of race in our language is bound to affect our perceptions and reasoning. While incorporating a vast body of knowledge, students fall prey to the quick and easy race-disease associations that are so commonly taught – on an exam, respiratory symptoms in a white child automatically conjure up cystic fibrosis, and a facial rash in a young black woman means, almost without fail, lupus. We are not so far removed from our predecessors as we think.

But this can change. One important way in which the medical education process can combat the biases and preconceptions that students bring with them, is by reinforcing awareness not only of health disparities, but also of students’ and physicians’ own implicit biases and how they affect the patient-physician relationship. Perhaps the most troublesome aspect of the belief in a biological concept of race is that it is not necessarily ill-intended. Indeed, the desire to find biological explanations may be borne out of an idealized worldview where race does not limit one’s potential and health outcomes, leaving differences to be explained by innate biological factors. As we march forth towards a “postracial” America, we must ward ourselves against forgetting the legacy of our nation’s and our profession’s history with race, and becoming blinded to internalized prejudices and their effects. Nancy Krieger argues that we must become *more* race conscious, not less, in order to eliminate inequities.²³ I am inclined to agree. Only when we are conscious of our vulnerabilities can we properly evaluate and rectify them.

Conclusions

I have described how controversies surrounding the use of race in contemporary medicine reflect the unique historical context of race relations and racialized medicine in the United States, rooted in the biological concept of race and the internalization of social hierarchies. With regard to the belief in – and efforts to prove – biological inferiority and the justification of social subjugation, the history of American medicine bears the echoes of what has been the most tragic expression of racialized medicine, that of Nazi medicine in the Holocaust. Certainly, the mores, regulations and democratic institutions of contemporary America provide protection against such monumental crimes, but we must not believe ourselves immune to the susceptibilities that have led medicine astray in the past. Race still casts a heavy shadow on our practice of medicine and research today, albeit in ways that are much less flagrant and thus easier to condone. Our

²⁰ Root, “The Problem of Race in Medicine.”

²¹ Michelle Van Ryn and Jane Burke, “The Effect of Patient Race and Socioeconomic Status on Physicians’ Perception of Patients,” in LaVeist, ed., *Race, Ethnicity, and Health: A Public Health Reader* (San Francisco: Jossey-Bass, 2002), 547-74.

²² Adil H. Haider et al., “Association of Unconscious Race and Social Class Bias with Vignette-Based Clinical Assessments by Medical Students,” *Journal of the American Medical Association* 306 (2011):942-51.

²³ Krieger, “Shades of Difference.”

challenge, as guardians of the future of American medicine, lies not just in understanding past abuses, but in recognizing the subtler ways in which our current context and practices cause harm or predispose us to do so. It is an exercise, one might say, in detecting the undetectable, the “ether” within which we live, learn and practice.

**A Writer and a Doctor: What a Physician's Account of Auschwitz Can Teach Us
About the Ethics of Storytelling in Medicine
By Christine Henneberg**

In writing this work I am not aiming for any literary success. When I lived through these horrors, which were beyond all imagining, I was not a writer but a doctor. Today, in telling about them, I write not as a reporter but as a doctor.¹

The opening “declaration” of Dr. Miklos Nyiszli’s book, *Auschwitz: A Doctor’s Eyewitness Account*, is at once straightforward and troubling. On the one hand, Dr. Nyiszli underscores a point that must be made absolutely clear in any personal, firsthand account of the Holocaust: *No part of this story has been imagined, made up, or exaggerated. The pages that you are about to read contain facts, not fiction.* On the other hand, by highlighting the fact-fiction divide – by declaring himself “not a writer but a doctor” and thereby placing himself, by implication, firmly on the side of *fact* – Nyiszli problematizes the very notion of the doctor who writes, the objective scientist who tells a subjective story. *A story is still a story*, Nyiszli’s declaration reminds us. And it may prompt us to ask, *What job does a doctor have writing stories? And once he has done so, how can he not be a writer?*

Nyiszli’s declaration thus describes a narrative conflict: As narrator, he simultaneously inhabits two apparently discordant roles, that of the objective physician, and that of the subjective storyteller. This conflict is evidenced repeatedly throughout the book, thematically played out in his own conflicting coping mechanisms of emotional detachment on the one hand and human connection on the other, of purposeful forgetting at some times and deliberate remembering at other times. In this essay, I draw parallels between these conflicts as they appear in Nyiszli’s narrative and the ways in which such conflicts pervade medicine in any time and place, not only in the setting of such murderous atrocities that characterized the Nazi death camps. I then discuss the ways in which this conflict has been identified and used in the contemporary literature to argue for an approach known as “Narrative Medicine” – which is based on the crucial ethical and humanitarian function of stories and storytelling in medicine. Ultimately, Nyiszli’s narrative conflict – and its resolution – offers an example of how doctors might choose to engage more deeply with patients, their suffering, and their stories.

Choosing to remember, choosing to forget

I must begin with a brief story of my own: Throughout medical school, I have used daily journal-writing to cope with the emotional stressors of caring for sick patients in the hospital and witnessing profound, often overwhelming suffering. The reflective writing process has been a way to renew my energy and maintain my empathy for patients, even when I am physically and emotionally exhausted. As I approach the end of my final year of medical school, I can look back and see a curious pattern to this reflective practice: During my most rigorous clerkships, when I was spending long hours at the hospital learning to care for the sickest patients, I often would stop writing for days and sometimes weeks on end. During those times, I used the excuse of being “too tired” or “too busy” to write. But in retrospect, I see that I was purposely refraining

¹ Miklos Nyiszli, *Auschwitz: A Doctor's Eyewitness Account*, trans. Tibere Kremer and Richard Seaver (New York: Arcade, 2011), 12.

from writing – neglecting my daily exercise in compassion, reflection, and remembrance – in order to detach from my emotions, to detach from my patients and their terrible suffering. By *not* writing, I was able to maintain a certain emotional stamina, which I now recognize as emotional numbness. I was choosing to forget.

Choosing to forget: Nyiszli the doctor

*...it was absolutely necessary to forget it if we wanted to keep from going mad. Darkness before and darkness behind... When I thought of the past, it often seemed to me that all this was merely a horrible dream. My only desire was to forget everything, to think of nothing.*²

The decision to forget was one that Dr. Nyiszli made repeatedly, and often deliberately, during his time at Auschwitz. Some of the starkest examples emerged in his early days at the camp, when he witnessed for the first time the Nazis' various forms of mass murder. One evening, after hearing a series of gunshots in an adjacent room, and rushing in to find the bodies of seventy women who had been shot in the head (of whom a few are still barely alive), he says simply, "I took note... but meditated no further; I was afraid of going mad."³ Although he quickly developed other tools to disconnect from his daily experiences (among them sleeping pills and alcohol), this is an example of simple selective consciousness: He saw something atrocious, but with almost inhuman strength of will, he chose not to think about it.

In other instances, Nyiszli does not explicitly describe deliberate emotional detachment, but instead implies it in his language. When he is tasked with performing the autopsy of several pairs of murdered twin siblings, we know the experience must be heart-wrenching. Yet without so much as a pause, he launches into a description of the autopsy with an eerily matter-of-fact tone: "They delivered me four pairs from the Gypsy Camp; all four were under ten years old. I began the dissection of one set of twins and recorded each phase of my work ..."⁴ His description is void of emotion and emotional awareness; instead, he focuses on the minutiae of his medical responsibilities (recording "each phase of my work"). In this way, Nyiszli aligns his work as a physician with a self-enforced ethic of detachment and objectivity. Never does he remark upon this detachment as strange or unnerving; rather, in service of his professional responsibilities, he seems to be able to detach himself, almost automatically, from the horrors of his work and his environment.

Much later in the book, Nyiszli recalls another example of such self-enforced professional detachment—this time with some degree of introspection and a hint of inner conflict. After refusing to assist the suicide of a young *Sonderkommando* officer, he later feels private remorse: "Now that I was no longer beside his bed, now that his face no longer called forth the doctor in me, the purely human side of my nature was forced to admit that [his] friends had been right. I should have 'let him go his way,' not in front of the cold steel barrel of a machine gun, but in [a] pleasant narcosis ... where he was free from all moral and physical pain."⁵ Here, Nyiszli consciously aligns his physician identity with detachment and his "purely human side" with

² Nyiszli, 184.

³ Nyiszli, 67.

⁴ Nyiszli, 61.

⁵ Nyiszli, 109.

compassion and altruism. It is this human side that longs to free this fellow human being from not only physical but also “moral” pain.

Choosing to remember: Nyiszli the writer

*I felt it my duty to my people and to the entire world to be able to give an accurate account of what I had seen...*⁶

Nyiszli the doctor is clearly quite capable of detaching and forgetting. But it is perhaps his “human side” that fuels his determination to *remember*. He recalls this determination at multiple points throughout his narrative. Interestingly, while his strict clinical detachment seems to be self-enforced, he describes the act of remembering as a duty that is somehow external and larger than himself. Upon entering a crematorium for the first time after a mass killing, he writes, “I had no reason to be here, and yet I had come down among the dead. I felt it my duty to my people and to the entire world to be able to give an accurate account of what I had seen if ever, by some miraculous whim of fate, I should escape.”⁷

Describing plans among the *Sonderkommando* for escape, he says: “We wanted to live. We wanted to get out of here. But even if most of us failed to make it, even if only one or two escaped, we would still have won out, for there would then be someone to tell the world about the dark mysteries of these death factories.”⁸ And later, describing a failed escape attempt: “After so much effort and loss of life, still no one had succeeded in escaping to tell the world the full story of this hellish prison.”⁹ On a separate occasion, he says, “It was our [the *Sonderkommando*’s] bounden (sic) duty to make certain that the world learned of the unimaginable cruelty... It was imperative that a message addressed to the world leaves this place.”¹⁰

In this way, Nyiszli clearly and repeatedly names his “duty.” He must deliver “a message addressed to the world.” And this is, of course, precisely what he has done in writing his book. The book itself is the realization of his duty.

Finally, in the last few hours before Auschwitz was abandoned, he describes standing on the crematorium stairway, where millions had descended to their death. In an exquisitely beautiful moment of connection, humanity, and memory, he says: “Standing there alone, on the top step of this, their last brief voyage on earth, I felt it my duty to pause and think of them for a moment with heartfelt compassion, in the name of their relatives and friends who, perhaps happy and well, were still alive somewhere in the world.”¹¹

This passage again refers to a duty, but it does not explicitly link “duty” to a message or story. A story is, nonetheless, implied. By invoking the friends and relatives of the murdered victims of Auschwitz, “alive somewhere in the world,” Nyiszli acknowledges that the individual stories of

⁶ Nyiszli, 52.

⁷ Nyiszli, 52.

⁸ Nyiszli, 130.

⁹ Nyiszli, 166.

¹⁰ Nyiszli, 123.

¹¹ Nyiszli, 185.

each of the dead, which would have provided meaning and comfort to their loved ones, cannot be told and will never be heard. This very moment in *his* story, a dedicated act of remembering, is the best he can offer. Born purely of compassion, it is a final and crucial part of his duty to the world.

Nyiszli's remarkable (sometimes uncanny) ability to forget, to separate, to detach, is perhaps not surprising in light of his professional training. Presumably this ability is a product of that particular feature of medical training – these days called the “hidden curriculum” – which promotes and rewards an attitude of detached objectivity.¹² It could be argued that this attitude ultimately served Dr. Nyiszli well, enabling him to endure the trials of his time at Auschwitz by maintaining some degree of emotional stamina and avoiding utter psychological breakdown.

But his ability to stay connected to his “human side,” if only intermittently, was also crucial to Nyiszli's physical and emotional survival. This is suggested by his choice to end the book with the reunification of his family, which itself centers on storytelling: “We had much to do, much to relate, much to rebuild.”¹³ The rebuilding of his family will arise from the “relating” – the re-telling, the remembering – between himself, his wife, and his daughter. In this closing paragraph, we see Nyiszli's “purely human side” perhaps more clearly than we have seen it at any other point in the book. We see that it is this side of him, the storyteller, that has kept him alive at Auschwitz and will bring his family back to life now.

The narrative conflict in contemporary medicine and medical training

The dire circumstances – “beyond all imagining” – in which Nyiszli found himself at Auschwitz create a dramatic case study by which to examine the problematic value of emotional detachment in the face of suffering. But this conflict is not confined to such horrible circumstances and situations as those found in the Nazi death camps. Although nearly everything about his book lies far outside the realm of the typical doctor's experience, Nyiszli's strategy of emotional detachment is quite typical of doctors today in the United States, and likely elsewhere. Indeed, it has been widely observed in the contemporary literature that the medical profession – including the training process of medical school and residency – embodies a continual conflict between two opposing sets of values: On the one hand, the competent physician must embrace an ethic of scientific objectivity and “detached concern,” in order to prevent feelings from clouding judgment and to avoid emotional “burnout.” On the other hand, members of a healing profession should embody the values of empathy, altruism, and compassion, in order to best serve their patients.¹⁴

My experience of this conflict in medical school – when I found myself temporarily abandoning my writing practice in order to detach from my most troubling emotions – is just one example.

¹² See Jack Coulehan, “Compassionate Solidarity: Suffering, Poetry, and Medicine,” *Perspectives in Biological Medicine* 52 (2009): 585-603; Jack Coulehan and Peter C. Williams, “Vanquishing Virtue: The Impact of Medical Education,” *Academic Medicine* 76 (2001): 598-605; Elizabeth Gaufberg et al., “The Hidden Curriculum: What Can We Learn from Third-Year Medical Student Narrative Reflections?” *Academic Medicine* 85 (2010): 1709-16; Frederic W. Hafferty and Ronald Franks, “The Hidden Curriculum, Ethics Teaching, and the Structure of Medical Education,” *Academic Medicine* 85 (1994): 861-71.

¹³ Nyiszli, 222.

¹⁴ Coulehan and Williams, “Vanquishing Virtue”; Hafferty and Franks, “The Hidden Curriculum.”

Numerous studies describe the emotional distress, “burnout,” loss of empathy, and pervasive substance abuse problems that commonly occur among medical students and residents.¹⁵ In the name of scientific objectivity, an ethic of humanism and compassion is often lost to a destructive ethic of detachment.

Narrative medicine and the ethic of “compassionate solidarity”

In his 2009 article “Compassionate Solidarity”, physician-writer and ethicist Jack Coulehan defines suffering as “the experience of distress or disharmony caused by the loss, or threatened loss, of what we most cherish.” He continues, “Such losses may strip away the beliefs and symbols by which we construct a meaningful narrative of human life in general and our own in particular.”¹⁶ This broad but incisive definition would seem to encompass the senseless suffering inflicted on the victims at Auschwitz as well as the timeless suffering of the sick and dying. Whatever form it takes, Coulehan argues that physicians are ill-equipped to respond to suffering on an existential level, because they are trained according to the pedagogy of “detached concern.” He writes, “Contemporary medical education and practice favor a process of progressive detachment from patients that devalues subjectivity, emotion, solidarity, and relationship as both irrelevant and harmful.”¹⁷

This is precisely the detachment we see in Nyiszli when he calmly declines to think about the seventy women he found shot in cold blood, or when he describes the dissection of murdered children with scientific precision and not a hint of emotion. We see it in the distraught medical student who conveniently “forgets” to write about her sickest patients. We see it in the tragedy of a young resident who injects himself with Fentanyl in order to help himself fall asleep at night.

Coulehan proposes an alternative model for the physician response to suffering, which he calls “compassionate solidarity.” It is a call for doctors to meet patients and their suffering on an existential level – that is, not only treating their physical pain but acknowledging the psychological and emotional distress that accompanies illness and death, thereby helping patients to restore meaning to their lives. He argues that the act of writing can help physicians to “gain deeper understanding of suffering,” thus moving them closer to their patients and to the realm of “symbolic healing.”¹⁸

¹⁵ See Lisa M. Bellini, Michael Baime, and Judy A. Shea, “Variation of Mood and Empathy During Internship,” *The Journal of the American Medical Association* 287 (2002): 3143-3146; Chantal Brazeau et al., “Relationships Between Medical Student Burnout, Empathy, and Professionalization Climate,” *Academic Medicine* 85 (2010): 3-6; Daniel Chen et al., “Characterizing Changes in Student Empathy throughout Medical School,” *Medical Teacher* 34 (2012): 305-11; Liselotte N. Dyrbye et al., “Systematic Review of Depression, Anxiety and Other Indicators of Psychologic Distress among US and Canadian Medical Students,” *Academic Medicine* 81 (2006): 354-73; Matthew R. Thomas et al., “How Do Distress and Well-Being Relate to Medical Student Empathy? A Multicenter Study,” *Journal of General Internal Medicine* 22 (2007): 177-83; Reidar Tyssen, “Suicidal Ideation among Medical Students and Young Physicians: A Nationwide and Prospective Study of Prevalence and Predictors,” *Journal of Affective Disorders* 64 (2001): 69-79.

¹⁶ Coulehan, “Compassionate Solidarity,” 600.

¹⁷ Coulehan, “Compassionate Solidarity,” 600.

¹⁸ Coulehan, “Compassionate Solidarity,” 601.

Narrative Medicine is one answer to this call for a more humanistic and holistic model of healing, a deeper and more compassionate response to suffering. Defined and pioneered by the physician Rita Charon at Columbia University, Narrative Medicine espouses “a practice informed by the theory and practice of reading, writing, telling and receiving stories.”¹⁹ It is a practice that “invites one to be moved by stories of illness” rather than dismissing them as subjective anecdotes or mere distractions.²⁰ It is an approach to doctoring and a response to suffering that draws from what Nyiszli calls the “human side.” It is the practice in which he engages when he stands on the stairwell to the crematorium and remembers, “in the name of their relatives and friends,” the millions who perished there.²¹ At its essence, Narrative Medicine is the practice that Nyiszli’s book describes: a project of relating and rebuilding, of restoring the dismembered artifacts of suffering to form a unified whole.

Just as the ethic of “detached concern” can be inculcated into students and residents, the ethic and the skills of narrative medicine can be taught. Charon names three domains of “narrative competence” – attention, representation, and affiliation – which are the focus of training in this approach. Narrative competence “includes a sensitivity and respect for the ethical complexity that exists between the teller and the listener, and an appreciation of the privileged knowledge that is heard. While the scientific approach focuses on universal truths, the narrative approach focuses on the individual story.”²² Such training emphasizes the value of remembering, connecting, and storytelling as a way of making meaning from illness and suffering.²³

Conclusion

Dr. Miklos Nyiszli’s *Auschwitz, A Doctor’s Eyewitness Account*, is a beautiful and disturbing example of the narrative conflict embodied by the physician-writer. He opens the book by declaring himself as someone who derives meaning from objective facts – “not a writer but a doctor.” Yet he concludes, perhaps despite himself, as one who makes meaning through storytelling, a witness to human suffering who has a “message to the world” to share and the work of relating and rebuilding laid out before him.

The physician-writer has always occupied a unique, sometimes uncomfortable, but critically important role, bridging the world of medicine to the rest of the world – the world in which our patients live. Not all doctors should be asked to take on this role. But all doctors, whether they write or not, can learn and practice the skills of narrative competence: attention, representation, and affiliation.

As a medical student, I have wrestled with my own narrative conflict, deciding whether to inhabit the role of the detached, objective observer or the compassionate, subjective storyteller. I have been taught (if not explicitly, then implicitly) to detach from emotion and suffering; I have

¹⁹ Rita Charon, *Narrative Medicine: Honoring the Stories of Illness* (New York: Oxford University Press, 2006), 4.

²⁰ Patricia Stanley and Marsha Hurst, “Narrative Palliative Care: A Method for Building Empathy,” *Journal of Social Work in End of Life & Palliative Care* 7 (January-March 2011): 46.

²¹ Nyiszli, 185. Nyiszli uses the figure of four million. Historians now estimate the number of people killed at Auschwitz to 1.1 million. See “History,” Auschwitz-Birkenau State Museum website; <http://en.auschwitz.org/m/>.

²² Stanley and Hurst, 46.

²³ Rita Charon, “At the Membranes of Care: Stories in Narrative Medicine,” *Academic Medicine* 87 (2012): 342-7.

felt torn between the ethic of detached concern and the ethic of compassionate solidarity; I have seen and read the evidence of the destruction that can arise from habitual detachment and emotional numbness – including mental illness, self-harming behaviors, and loss of empathy. In light of this evidence, I am convinced of the need for training in Narrative Medicine in our medical schools and residency training programs. Of the lessons we can learn from Dr. Miklos Nyiszli's account of the atrocities committed at Auschwitz in the name of medicine, this one stands out to me: Human beings seem to have the ability to choose how they respond to suffering. We can detach, distance ourselves, forget; or we can draw closer, engage, relate. For doctors, this choice determines whether we merely treat our patients' tangible lesions and physical pain, or whether we can also respond to their suffering on a deeper level. To tell a story – whether it is one's own, or the story of another – is a powerful way to respond to suffering, to draw closer to others, to be a true healer. This is the choice Miklos Nyiszli made in telling his story of Auschwitz.

**Science in the Service of Patients:
A Moral Battle for the Past and Future of Medical Education
By Daniel Weisberg**

“I’m in pain,” the young woman said with an exasperation that revealed not only physical anguish but also frustration and antagonism towards me, even though we had met only moments earlier. With one more clue – “it’s in my belly,” she told me – my mind began to race. One of the most thrilling aspects of being a medical student is building a library, complete with its own unique lexicon, of the ailments of the human body and bringing this specialized knowledge to bear in caring for patients. As soon as I heard “belly,” my thoughts were flooded with the codes and algorithms that would lead to a diagnosis. Hardly pausing to think, I began to filter the patient’s words through a rote set of cues packaged in one of medicine’s less-than-inspired acronyms, OPPQRST: onset, position, palliation, quality, radiation, severity, timing. Somewhere along the way, I remembered I had to slow down and take a breath. This was not a real patient, but an actor, and the purpose of this simulation session was not to test my skills at determining a differential diagnosis, a list of possible causes of this patient’s pain, but to test my ability to communicate in a difficult scenario. I fell back on another acronym: NURSE, the mnemonic that codifies empathy. “It seems like this pain is really upsetting, and I can see why it might be quite troubling. I’m glad you’re here so we can try and figure out what’s going on, could you tell me more?”

NURSE stands for *name, understand, respect, support, and explore*, and it is a centerpiece of a class of patient-centered communication taught over the course of the first two years of medical school. Many people would scoff at the notion of training such a basic element of human relations, not to mention the insincerity of such a generic acronym. Nevertheless, this training is part of a broad, nationwide response to the rift that has developed between patients and an impersonal medical establishment.

The last century saw an explosion in medical research, and with it the rapid development of novel drugs, devices, vaccines, and diagnostic modalities. The modern medical community rightly celebrates these triumphs, but the enthusiasm for technology and innovation often eclipses an appreciation of, and attention to, the individual needs of patients. Medical schools instill this classic moral standoff: the responsibility for the betterment of the patient versus the responsibility for the betterment of society in the form of robust research. This tradeoff lies at the center of academic medicine, and can be traced to Abraham Flexner, the father of American medical education. This paper will follow the consequences of Flexner’s model using examples from Nazi Germany and the modern history of the United States, and will present recent efforts aimed at restructuring medical education to shift the balance back to the patient.

The Origins of US Medical Education

Yale’s Sterling Hall of Medicine bears the peculiar inscription “Institute of Human Relations” on its exterior. It is all that is left of a failed idea born almost a century ago by Milton Winternitz, the dean of Yale’s medical school from 1920-1935. He conceived of the Institute of Human Relations with the aspiration of bringing social and medical scientists together for the holistic

study of humanity.¹ His vision was to assert the primacy of humanism in the study of medicine, and to guard against nurturing “Doctor-Technicians” who were “better at curing than caring, better at understanding pathology than understanding the distressed men and women who come ... to be healed.”² However, the humanistic mission of the Institute began to falter as soon as it was created, succumbing to forces championing research in medical science.

This momentum in the world of medicine was driven by a promise of scientific progress and was embraced by Abraham Flexner who was given the responsibility of raising the standard of medical education and re-orienting American medicine at the beginning of the 20th century. Looking back at Flexner’s work on the 100th anniversary of his final report, Dr. Thomas Duffy described him as “the hatchet man ... sweeping clean the medical system of substandard medical schools that were flooding the nation with poorly trained physicians.”³

Prior to being commissioned by the Carnegie Foundation for the job of evaluating US and Canadian medical schools, Flexner had travelled to Europe to study higher education. His experience in Germany and his careful study of Theodore Billroth’s “Medical Education in German Universities” served as his primary influences in his analysis of American medical schools. According to Duffy, “science, as the animating force in the physician’s life, was the overarching theme, the zeitgeist, in Flexner’s conception of the ideal physician.”⁴ As such, in evaluating medical schools, Flexner valued resources such as laboratories and physician scientists, which would bolster the scientific enterprise of the University. Johns Hopkins, a school modeled after the German system, was his benchmark. The four-year program that typifies medical curricula to this day, consisting of two years of basic science and two years of clinical science, was in place at Hopkins at the time of Flexner’s report.

The Flexner Report permanently and dramatically changed the face of American medicine. A third of all medical schools closed in the wake of the report, and those that remained went about conforming to the new scientific standard.⁵ The report sealed the fate of US medical education to be forever tied to medical research.

The path that Flexner paved was not without dissenters, the most notable of whom was William Osler. Osler voiced his concern that the new system would silo physicians from patients.⁶ Osler’s legacy today exists most prominently in residency training, which he conceived, as well as his pithy aphorisms, which are ubiquitous in the medical community, and often focus on the importance of humanism in medicine: “He who studies medicine without books sails an uncharted sea, but he who studies medicine without patients does not go to sea at all.”⁷ There was reason to believe that such humanism was lacking in the German system. Not all who visited

¹ Today Winternitz is better known as a Jewish dean who restricted the number of Jews admitted to the medical school. See Howard Spiro and Prescilla Waters Norton, “Dean Milton C. Winternitz at Yale,” *Perspectives in Biology and Medicine* 46 (2003): 403-12.

² Sherwin B. Nuland, “The Medical School and The University,” in *The Uncertain Art: Thoughts on a Life in Medicine* (New York: Random House, 2008), 198.

³ Thomas P. Duffy, “The Flexner Report--100 years later,” *Yale Journal of Biology and Medicine* 84 (2011): 271.

⁴ Duffy, “The Flexner Report -- 100 years later,” 271.

⁵ Duffy, “The Flexner Report -- 100 years later,” 272.

⁶ Duffy, “The Flexner Report -- 100 years later,” 273.

⁷ William Osler, *Aequanimitas* (Philadelphia: Blakiston's Son & Co., 1914).

Germany were as enamored as Flexner and William Welch, the founding dean of Johns Hopkins. One American visiting physician commented that in German Clinics “the patient was something to work on, interesting experimental material, but little more.”⁸ Billroth’s text “Medical Education in German Universities” also contained ominous messages, claiming that eastern Jews were unfit for medical education as they were “lacking the talent for the natural sciences, and [were] absolutely unsuitable to become physicians.”⁹ Nevertheless, the glimmering promise of progress in medical science obscured any such warning signs.

The Nazi Era

As a medical school applicant, it is not surprising that I had never heard of Abraham Flexner, nor considered that anti-Semitism or the Holocaust had anything to do with my future career. However, I have come to believe that the history of medicine in all its triumphs and tragedies is plainly reflected today. This point of view was powerfully informed by my experience as a FASPE fellow. The FASPE fellowship invites medical students to study ethics at the gates of hell, the desolate expanse of Auschwitz-Birkenau.

Bioethicist Arthur Caplan maintains that an ethical discussion of the abuses of Nazi scientists “must be approached with great caution.” He argues that, “using the same analytical tools to look at mass murder and [contemporary ethical issues] may lead some to conclude that the offenses of the past were no worse than the problems that arise today in the practice of medicine.”¹⁰ But, as Caplan goes on to suggest, perhaps more danger lies in writing off the Holocaust as anomaly of severely perverse values instead of confronting it as part of the history of biomedicine.

Physicians working in concentration camps and in the ivory towers of German universities forcibly subjected Jewish, Gypsy, and other prisoners to suffocation, hypothermia, radiation, starvation while coolly recording their findings for the sake of scientific inquiry. “One’s worse nightmare is mild by comparison to what I had to endure in Mengele’s labs,” wrote one survivor of the Josef Mengele’s notorious twin experiments.¹¹

What is so troubling to the modern-day ethicist, according to Caplan, is that these physicians “carried out mass murder, sterilization, and cruel experiments ... for reasons they believed were moral.”¹² Doctors at the Nuremberg Trials not only defended themselves by claiming that they had been following orders, but also that they had been contributing valuable data to help the State in Total War and creating value out of prisoners condemned to death. Of the many justifications offered at the trials, one is striking for its salience in the discussion of the German

⁸ Daniel Callahan, *What Price Better Health? Hazards of the Research Imperative* (Berkeley: University of California Press, 2003), 138.

⁹ Quoted in John M. Efron, *Medicine and the German Jews: A History* (New Haven: Yale University Press, 2001), 240.

¹⁰ Arthur L. Caplan, *When Medicine Went Mad: Bioethics and the Holocaust* (Totowa, N.J.: Humana Press, 1992), 54.

¹¹ Eva Mozes Kor, “Nazi Experiments as Viewed by a Survivor of Mengele's Experiments,” in Caplan, ed., *When Medicine Went Mad: Bioethics and the Holocaust* (Totowa, N.J.: Humana Press, 1992), 3.

¹² Caplan, *When Medicine Went Mad: Bioethics and the Holocaust*, 55.

model of scientific research and progress that Flexner championed years earlier: “without human experimentation, there would be no way to advance the progress of science and medicine.”¹³

“The Research Imperative” and the Doctor-Patient Relationship

“I’m not a guinea pig!” a young woman with sickle cell disease said emphatically to me. It was the summer after my first year of medical school and I was conducting a qualitative research project about hospitalization in sickle cell disease. Her outburst was thankfully not directed towards my research project, but expressed her refusal to try hydroxyurea, a relatively new and promising therapy for patients with sickle cell disease. The drug does have serious side-effects, but for the right patients, it has been shown to decrease pain and increase lifespan. I was shocked by her skepticism. At the root of my incredulity was the apparent fact that she did not trust modern science and physicians as I did. Countless encounters with the medical system from a young age and keen knowledge of the history of research abuses in the United States had depleted her trust in her doctors.

On the 100-year anniversary of the Flexner Report, Dr. Thomas Duffy looked back on the century that had passed, writing, “the profession appears to be losing its soul at the same time its body is clothed in a luminous garment of scientific knowledge.... It is the tale of Faust and the irresistible allure of knowledge in exchange for one’s soul.”¹⁴

During a century that saw exponential scientific growth – vaccines, drug development, organ transplantation, recombinant DNA technology, gene sequencing – the medical community lost sight of those whom it was meant to serve. One need not look further than the prohibitively high cost of healthcare in the US and the millions of Americans who lack access to healthcare to see that patients are suffering under the current system. Harold Varmus, former director of the National Institutes of Health remarked before leaving office in 2000, “troubling is the idea that we’re going to cut a very significant portion of our population out of the benefits of certain kinds of approaches to health that were paid for by public money and ought to be publicly accessible.”¹⁵ How did we arrive here? Bioethicist Daniel Callahan suggests that the moral foundation of the research imperative is to blame:

Medical research tempts us to invest too much hope in it as a way of relieving the human condition or leads us to excessively commercialize it, to cut moral corners in pursuit of therapies and cures, or with human research subjects, or to divert attention from the social and economic sources of sickness.¹⁶

In the two decades following WWII, the American medical system would complete the transformation, began by Flexner fifty years earlier, to the German medical model by establishing a robust state-sponsored system of medical research. Medical school faculty salaries and promotions would increasingly rely on activities in investigation, and operating budget of

¹³ Callahan, *What Price Better Health? Hazards of the Research Imperative*, 138.

¹⁴ Duffy, “The Flexner Report -- 100 years later,” 274.

¹⁵ Quoted in Callahan, *What Price Better Health? Hazards of the Research Imperative*, 270.

¹⁶ Callahan, *What Price Better Health? Hazards of the Research Imperative*, 2.

medical schools ballooned. The National Institutes of Health (NIH) funds supporting research activities grew from \$701,800 in 1945 to \$436,600,000 in 1965.¹⁷

The explosion of research activity, however, brought controversy. In 1966, two years after the Declaration of Helsinki, which built upon the Nuremberg Code to lay out a more rigid legal framework for protection in human subject research, Dr. Henry Beecher published a now infamous article in the *New England Journal of Medicine* exposing abuse of research subjects, not under a fascist regime, but here in the United States. He conducted a review of the literature and found numerous examples of ethical lapses including withholding potentially lifesaving treatment for rheumatic fever and typhoid fever, ethically flawed study protocols including exposing children with congenital heart disease to thymectomy and skin allografts, and outright harmful treatment such as deliberately infecting developmentally handicapped children with hepatitis virus.¹⁸

Not included in Beecher's article was an experiment still taking place at the time of publication: the Tuskegee Syphilis Study. From 1932 until the 1970s, 400 black men were observed to record the natural course of untreated syphilis, a painful and horrifically debilitating disease in its advanced stages. When penicillin became available, a definitive and curative treatment, the researchers withheld it from the participants in order to continue the experiment. In his article, Beecher argued that far from outliers, abuses in research represented a systemic flaw. "Medical schools and University Hospitals are increasingly dominated by investigators," he observed. Quoting Pope Pius XII, he warned "'Science is not the highest value to which all other orders of values... should be subordinated'"¹⁹

Daniel Callahan recognizes the abuses suffered by research subjects as a recurring historical theme:

...time and again during the twentieth century there have been scandals about abuse and or harmed subjects. But it is striking how we still seek a center, and at that center is a great resistance to pragmatic arguments about the needs and benefits of research as moral excuses to set aside moral principles.²⁰

The Nuremberg Code (1947), the Declaration of Helsinki (1964 and amended in 1975, 1983, 1989, 1996, and 2000), the Belmont Report (1978), and the Report of the Advisory Committee on Human Radiation Experiments (1995) together bear out the truth that stated values and rigid laws are not sufficient for ensuring the morality of the research enterprise.

However, human subject research only tells part of the story of the "research imperative." Jay Katz believes that the history of the "treatment of research subjects, so often recruited from the patient population, has its antecedents in the treatment of patients."²¹ Clinical medicine, like medical research, became seduced by the notion of scientific progress.

¹⁷ Henry K. Beecher, "Ethics and Clinical Research," *New England Journal of Medicine* 274 (1966):1354.

¹⁸ Beecher, "Ethics and Clinical Research," 1354-1360.

¹⁹ Beecher, "Ethics and Clinical Research," 1354.

²⁰ Callahan, *What Price Better Health? Hazards of the Research Imperative*, 134.

²¹ Jay Katz, "Abuse for the Sake of Science," in Caplan, ed., *When Medicine Went Mad: Bioethics and the Holocaust*, 237.

Atul Gawande, a surgeon and writer, profiled the legendary doctor Francis Moore in a 2003 article in the *New Yorker* entitled “Desperate Measures.” Moore, Chief of Surgery for almost 30 years at Peter Bent Brigham Hospital, a Harvard Medical School teaching hospital, is depicted as ruthless in his pursuit of progress in medicine and surgery, aggressively treating gravely ill patients with little evidence that his efforts might bring positive outcomes. Ultimately, he was vastly successful, and this success had a permanent impact on the field of medicine. Although too numerous to name in their entirety, his contributions include pioneering the fields of transplant surgery and intensive care. In achieving these ends, however, he took risks with patients that would thankfully never be tolerated today. Of the first 100 heart transplants patients, 98 died within the first 6 months following surgery, and similarly grim statistics attend the other daring acts performed in Moore’s operating rooms.²² Nevertheless, Moore famously stated “by protecting the individual patient, [the physician] is subjecting society to the hazard of a static rather than dynamic medicine.”²³

The question remains whether or not we are willing to bear the costs of a “dynamic medicine.” One surgeon who worked under Moore questioned whether:

...at the end of the day, or the end of the decade or the end of the third of the century... what you were striving for was actually going to be anything resembling what you’d hoped it would be...whether what was being pawned off as treatment might, in a very real sense, be a disease in and of itself.²⁴

Due in part to this “disease” – the infectious and insatiable appetite for knowledge and progress – a rift has developed between the doctor and patient, true to Osler’s premonition many decades earlier. The “research imperative” contributed to a “poverty of ideals” in the medical profession according to Dr. Thomas Duffy.²⁵

During the latter half of the 20th century, the doctor-patient relationship took a sharp turn away from the paternalism that once governed medical encounters, and patients began to insert their voice into medical decisions. Burgeoning medical technology fueled by the “research imperative” was the backdrop for other systemic changes in healthcare delivery. One notable result was that specialized teams of physicians rather than solo practitioners increasingly took responsibility for patients. In addition, third-party payers became an important voice in medical decision-making. Treatment decisions might be subject to pre-approval, or might not be covered at all by insurance companies. Social movements also played a role in fostering distrust of the medical establishment. The civil rights movement and the Vietnam war bred skepticism towards authority and a sense of personal agency and responsibility.²⁶ And in recent decades, the availability of health information on the internet, as well as advertising campaigns for

²² Atul Gawande, “Desperate Measures,” *New Yorker*, May 5, 2003, 70.

²³ Quoted in Callahan, *What Price Better Health? Hazards of the Research Imperative*, 149.

²⁴ Quoted in Gawande, “Desperate Measures,” 70.

²⁵ Duffy, “The Flexner Report -- 100 years later,” 275.

²⁶ President’s Commission for the Study of Ethical Problems in Medicine and Biomedical Behavioral Research: *Making Health Care Decisions* (Government Printing Office, Washington, D.C.: 1982), 32-35.

pharmaceutical products has led to a new form of empowered consumerism in medicine. Patients don't trust physicians anymore, and perhaps for good reason.

The medical profession swallowed this difficult pill when the results of the SUPPORT study were published in 1995. The study revealed that at the end of life, some 40% of patients were dying in serious pain, and while hooked up to machines against their wishes.²⁷ Dr. Donald Berwick, former administrator for the Centers for Medicare and Medicaid Services, recognizes patients as the primary stake-holders in the medical enterprise. Explicating the sweeping 2001 Institute of Medicine Report *The Quality Chasm* about improving the state of health care delivery in the US, Dr. Donald Berwick proclaimed patient satisfaction and the patient experience to be "True North."²⁸ However, we still have a long way to go towards shared-decision making between doctors and patients. A study in 1999 looked at 3,552 medical decisions, and found that less than 10 percent of the decisions met even minimal standards for informed decision-making.²⁹ Perhaps more systemic change is necessary.

Transforming Medical Education:

For many years, Anne Fadiman – author of a book about missteps in the care of a Hmong child with severe epilepsy – has addressed the incoming class of Yale Medical School with an intentionally shocking warning.³⁰ While her exact words elude me, in my first year they were something to the effect of, "today, the first day of medical school, is the peak of your capacity for empathy. It's downhill from here." My classmates and I were silent, waiting for the "but." It never came.

Numerous studies have demonstrated that a deterioration of empathy occurs over the course of a student's years in medical school. Ironically, the steepest decline is seen in the third year, when students become involved in patient care.³¹ This peculiar hardening is attributed to a process of socialization termed the "hidden curriculum."³² The up-shot of long hours in the hospital, it appears, is an emotional capitulation to the dominant culture, where respect for the patient is a chore rather than a calling.

²⁷ See Arthur Kleinman, Renee C. Fox, and Allan Brandt, "Introduction: Bioethics and Beyond," *Daedalus* 128 (1999): vii; The SUPPORT Principal Investigators, "A Controlled Trial to Improve Care for Seriously Ill Hospitalized Patients. The Study to Understand Prognoses and Preferences for Outcomes and Risks of Treatments (SUPPORT)," *Journal of the American Medical Association* 274 (1995): 1591-8; Steven Schroeder, "The Legacy of SUPPORT: Study to Understand Prognoses and Preferences for Outcomes and Risks of Treatments," *Annals of Internal Medicine* 131 (1999):780-2.

²⁸ Donald M. Berwick, "A User's Manual for the IOM's 'Quality Chasm' Report," *Health Affairs* 21 (2002):83.

²⁹ Clarence H. Braddock III, et al., "Informed Decision Making in Outpatient Practice: Time to Get Back to Basics," *Journal of the American Medical Association* 282 (1999): 2313-20.

³⁰ Anne Fadiman, *The Spirit Catches and You Fall Down: A Hmong Child, Her American Doctors, and the Collision of Two Cultures* (New York: Farrar, Straus & Giroux, 2012).

³¹ See Mohammadreza Hojat, et al., "The Devil Is in the Third Year: A Longitudinal Study of Erosion of Empathy in Medical School," *Academic Medicine* 84 (2009): 1182-91; Chris Feudtner, Dimitri A. Christakis, and Nicholas A. Christakis, "Do Clinical Clerks Suffer Ethical Erosion? Students' Perceptions of Their Ethical Environment and Personal Development," *Academic Medicine* 69 (1994): 670-9.

³² Frederic W. Hafferty and Ronald Franks, "The Hidden Curriculum, Ethics Teaching, and the Structure of Medical Education," *Academic Medicine* 85 (1994): 861-71.

Anne Fadiman's warning has been sounded many times, in different forms, by different authorities, and in different eras. Medical schools have responded in many ways to redirect future physicians towards Berwick's "true north" of the patient experience. Sociologist Samuel W. Bloom has despairingly called these efforts "reform without change ... repeated modification of the ... curriculum that alter only very slightly or not at all the experience of the critical participants, the students and the teachers."³³ Sociologist Renee Fox believes that the emphasis on science crowds out other more humanistic aspects of medical education:

Despite the pious affirmation of medical educators and other medical spokespersons about the indispensability of these [non-medical] issues to the compassionately competent practice of medicine and to the profession's social covenant, these components of medicine are implicitly viewed as more peripheral and less important to the training and work of physicians than those that are deemed scientific.³⁴

What is to be done? Sherwin Nuland, surgeon and novelist, worries that "Milton Winternitz's scornful term "doctor-technician" seems to have become the ideal of medical training. He believes "radical action is required" and he calls for the creation of "a fully staffed and well-funded department of humanities in medicine....Only when the Department of Medical Humanities ... is as powerful and highly regarded as [the] Department of Pathology" will we have succeeded."³⁵

Although perhaps not as drastic as Nuland or Fox might hope, many successful inroads have been made toward emphasizing ethics, professionalism, and the humanities. Nearly every US medical school now requires a class covering these themes in the first two years. Patient-centered communication has also been introduced into the medical school curriculum. There is a growing recognition that "learning how to converse with patients is as difficult a task as learning about diseases, their patho-physiology, diagnosis, and treatment," as Katz maintains.³⁶ Successful communication has been shown to improve outcomes in diabetes care, and decrease the occurrence of malpractice lawsuits.³⁷ As contrived as it may sound, teaching empathy actually *works*.³⁸ Attention has also been directed to the medical school admission process. In 2015, the medical school entrance exam, the MCAT, will take a new form. Dr. Darrell G. Kirch, president of the American Association of Medical Colleges (AAMC), states that "we're

³³ Renee C. Fox, "Is Medical Education Asking Too Much of Bioethics? Teaching the 'Nonbiomedical' Aspects of Medicine: The Perennial Pattern," *Daedalus* 128 (1999): 1-25.

³⁴ Fox, "Is Medical Education Asking Too Much of Bioethics?" 4.

³⁵ Sherwin B. Nuland, *The True Healers, in the Uncertain Art: Thoughts on a Life in Medicine* (New York: Random House, 2008), 33.

³⁶ Quoted in Katz, "Abuse of Human Beings for the Sake of Science," 262.

³⁷ Mohammadreza Hojat, et al., "Physicians' Empathy and Clinical Outcomes for Diabetic Patients," *Academic Medicine* 86 (2011): 359-64; Wendy Levinson, et al., "Physician-Patient Communication: The Relationship with Malpractice Claims among Primary Care Physicians and Surgeons," *Journal of the American Medical Association*, 277 (1997): 553-9.

³⁸ Michael J. Yedidia, et al., "Effect of Communications Training on Medical Student Performance," *Journal of the American Medical Association* 290 (2003): 1157-65; Helen Riess, et al., "Empathy Training for Resident Physicians: A Randomized Controlled Trial of a Neuroscience-Informed Curriculum," *Journal of General Internal Medicine* 27 (2012): 1280-6.

recognizing in this test that being a good doctor is not just about understanding science.” He believes that there is a need for a different kind of physician:

Together with a solid foundation in the natural sciences, an understanding of behavior, perception, culture, poverty, and other concepts from psychology and sociology all contribute to the well-rounded physician.³⁹

The new MCAT will reflect these values by adding new sections covering “social and behavioral sciences” as well as “critical analysis and reasoning skills” to the old staple, “natural sciences.” Even if it may not be possible to design an entrance exam to select for empathy, the new MCAT sends the strong message that “natural sciences” is going to have to share the limelight, ready or not.

Conclusion

In a short time I will be reciting the Hippocratic Oath, the traditional ritual upon embarking on a career in medicine. Recited at medical school graduations across the world, it usually takes an adapted form that emphasizes contemporary values. However, the words that have survived centuries of adaptation point to the fact that the dangers inherent in the practice of medicine are intrinsic to human nature. I will take the oath seeking to move forward responsibly, which is only possible by taking ownership of the dark chapters in the history of medicine.

Having lost his mother at Auschwitz, Hans Jonas, a German Born Jewish Philosopher, offers a framework for moving science forward safely:

Let us not forget that progress is an optional goal, not an unconditional commitment. . . . Let us also remember that a slower progress in the conquest of disease would not threaten society. . . . but that society would indeed be threatened by the erosion of those moral values whose loss, possibly caused by too ruthless a pursuit of scientific progress, would make its most dazzling triumphs not worth having.⁴⁰

With health care costs – driven by new medical technologies – consuming 18% of GDP and projected to double over the next 30 years, it is easy to recognize the “compulsive” tempo of biomedicine that Jonas saw. It is also clear that the enterprise of medical science has failed patients. For me, this failure is manifest in the admonition of the young woman with sickle cell disease: “I’m not a guinea pig!” The threat of modern medicine is not only that it may bankrupt you, it may also rob you of your dignity.⁴¹ This is the tragedy at the crux of Jay Katz’s argument: “the ideology of science, if given primacy, inexorably leads to disregard of respect for personhood.”⁴²

³⁹ Michael Monette and Chris Hemond, “MCAT Revisions Finalized,” *Canadian Medical Association Journal* 184 (2012): E473.

⁴⁰ Hans Jonas, “Philosophical Reflections on Experimenting with Human Subjects,” in *Philosophical Essays: From Ancient Creed to Technological Man* (Chicago: University of Chicago Press, 1980), 135.

⁴¹ See David U. Himmelstein, et al., “Illness and Injury as Contributors to Bankruptcy,” *Health Affairs* Suppl. Web Exclusives (2005):W5-63-W5-73.

⁴² Katz, “Abuse for the Sake of Science,” 258.

Medicine is a field that traditionally stakes itself on providing answers – to disease, prognosis, etiology. In the thrilling quest to conquer illness, it may seem contradictory to embrace uncertainty as a virtue. However, as we have seen, the capacity of medicine to do good is just as fragile as the individual psyche in the face of illness. Perhaps Henry James should be included in our adaptation to the Hippocratic Oath: “We work in the dark – we do what we can – we give what we have. Our doubt is our passion and passion is our task.”⁴³

⁴³ Henry James, *The Middle Years* (New York: C. Scribner's Sons, 1917), 119.

F A S P E

FELLOWSHIPS AT
AUSCHWITZ
FOR THE STUDY OF
PROFESSIONAL ETHICS

2012
JOURNAL

SEMINARY
PROJECTS

INTRODUCTION TO THE SEMINARY PROJECTS

The 2012 FASPE Seminary faculty, Michael Goldman, Kevin Spicer, and I, knew from the application stage that our students, with their diverse range of faith traditions, would be gifted. What we could not anticipate was how diligently the group members would study and how closely we would bond

Our group's interactions with medical school students and faculty members proved to be an invaluable part of our trip. We talked intensively with our colleagues in joint sessions, on bus trips, during tours, and in shared hotel rooms. The relationships formed during these discussions will undoubtedly carry forward into the two groups' future professional careers as physicians and religious leaders.

Each of us has special memories associated with our June 2012 study trip. At a distance of six months the following moments stand out as I think back to our time together:

- Hearing the testimony of Holocaust survivor Bronia Brandman
- Interacting with guest faculty members Doris Bergen and Mychal Springer
- Walking along Track 17 in the beautiful Berlin district called Grunewald
- Standing in the room, at the Haus am Grossen Wannsee, where Nazi leaders are likely to have finalized the bureaucratic planning for the Jewish Holocaust
- Admiring the courage of people like Elisabeth Schmitz, Bernhard Lichtenberg, Dietrich Bonhoeffer, and Ephraim Oshry as each tried to decide how to confront the Hitler regime
- Sitting together – singing, praying, reading Scripture, and being silent – in the old synagogue of Oświęcim, where there is no longer an active Jewish community
- And eating s'mores and singing folk songs (including U.S. Air Force classics) around a bonfire in Oświęcim.

As we faculty members anticipated, the final projects of the seminarians were both imaginative and excellent. The following papers represent just some of the ways in which insights derived from our study of past religious leaders were applied to current ethical issues – for example, the imprisonment of minority group members, discrimination against members of the deaf and LGBT communities, and hateful speech directed against Muslims or Jews.

The members of the 2012 seminarians' group are now scattered to various parts of the U.S., to Canada, and to Israel. Yet we remain closely bonded to each other. Kevin Spicer, Michael Goldman, and I are deeply grateful for our time with these students and for the generosity of FASPE.

LEROY WALTERS
FASPE FACULTY
PROFESSOR EMERITUS
GEORGETOWN UNIVERSITY

Sermon: “Forgiveness is Not the End” (Luke 23:34)
By Jacob Buchholz¹

In the first half of his book *The Sunflower*, Simon Wiesenthal, a Holocaust survivor, shares his story of one day being taken from his work detail in a labor camp to the bedside of a young dying SS soldier named Karl. As Wiesenthal sits in complete silence, Karl recounts the events leading to his participation in Hitler’s regime and the atrocities he committed against the Jewish people including rounding up two hundred men, women, and children into a house before setting it on fire. After confessing the horrors of his past, Karl informs Wiesenthal that he is genuinely remorseful for his actions and is seeking absolution for his sins from Wiesenthal, whom Karl wants to function as a stand-in for the Jewish people. Wiesenthal responds by standing up in silence and leaving the room, having never uttered a word to the SS soldier. After the war, Wiesenthal is consumed with the memory of what took place inside that hospital and writes *The Sunflower* to ask the world, “What would you have done? Would you have offered the soldier forgiveness?”

This past summer I participated in a two week fellowship with an organization called Fellowships at Auschwitz for the Study of Professional Ethics with a group of professional students from medical and theological schools to delve deep into the history of the Holocaust through readings, group discussion, and on-site explorations of important Holocaust locations. The goal of the trip was to specifically investigate the responses to the Nazi genocide, often non-existent or failed responses, of professionals during the war in order to better understand how to react as professional leaders when confronted with atrocities today. During my time abroad I read Wiesenthal’s book and was plagued the entire time by his question, “What would I have done?” What would I have done in the midst of my suffering, in the midst of my resignation from life and humanity, in the midst of the slow, cold march to death? Would I have offered the soldier forgiveness? Would I have been able to say anything at all? I simply couldn’t answer the question with any confidence at all about what I would have done. I know that Christians often speak of the need for unconditional forgiveness and I cannot help but marvel at stories of the power of radical forgiveness. I thought of the 2006 shooting by Charles Carl Roberts who held ten little girls hostage in an Amish schoolhouse before shooting all of them in the head, killing five. The response of the Amish community was immediate forgiveness including comforting the killer’s family, setting up a charitable fund for the killer’s family, and attending the killer’s funeral. In the face of such horrendous, senseless violence, the victims’ families were still able to extend forgiveness. I thought of Jesus on the cross in this passage from Luke, enduring immense suffering and pain, feeling the weight of betrayal by his disciple, being scorned for preaching words of love, and yet being able to look out over the very people who had crucified him and proclaiming, “Father, forgive them, for they know not what they do.” Wouldn’t such uncompromising forgiveness in the face of incredible tragedy be the ideal? Wouldn’t Christ’s example serve to create a world full of hope and peace rather than bitterness and hate?

Answering that question in the positive seemed logical, but still, I couldn’t bring myself to accept that forgiveness in the context of the Holocaust was that easy. I would think about children being ruthlessly torn from the arms of their mothers before both were sent to their

¹ This sermon was written to be delivered at Deaf International Community Church in Olathe, Kansas.

deaths, I would think about strong, young fathers wanting to provide for their families but being reduced to shells of men unable even to protect themselves, I would think about Mengele's experiments on children, mass graves of innocent people shot execution style, starving throngs of confused people being ushered naked into the gas chambers before their bodies were unceremoniously cremated, I would think about all of these unspeakable horrors and freeze in grief unable to assent to the possibility of forgiveness. How do you forgive such monstrosity? I wanted an answer, though, so when members of the group had an opportunity to return to Auschwitz, I took Wiesenthal's book with me, walked through the infamous gate of the camp, and sat among the barracks where thousands of Jews and other "undesirables" had been held captive.

As I sat and imagined the prisoners walking bewildered among the rocky paths, not knowing when death would come, most likely ready to welcome death when it did come, I once again poured over the second half of Wiesenthal's book for answers about whether forgiveness was possible. In the second half of the book, a collection of religious leaders, philosophers, and educators provide their response to the question of whether they would have forgiven the soldier. Some said yes, some said no, some fretted over the impossibility of the question. As I read, I remembered a sermon I had heard on forgiveness that cited the responses from *The Sunflower* as proof for the uniqueness and praiseworthiness of Christianity: almost every single respondent who stated that absolute forgiveness was a necessity was a Christian. The pastor went on to read Jesus' words from the cross, "Father, forgive them, for they know not what they do," and told the congregation that we were to forgive as Christ forgave, forgiving even the Nazi soldier. But in that moment, on the steps of barrack 12, I couldn't. And to tell you the truth, even now, I still don't know what it means to unconditionally forgive. I still can't answer Wiesenthal's question. But I think what I have learned since my time at Auschwitz, is that no matter what, forgiveness was never meant to be the end. I learned that if Christians really want to claim unconditional forgiveness through Christ, then they cheapen that forgiveness unless it is accompanied by a concerted effort to change the world in ways that will prevent something like the Holocaust, anything even close to something like the Holocaust, from ever happening again.

Christ, of course, offers guidance on forgiveness not only in his words from the cross. In Matthew 6:14-16 Jesus links the forgiveness of others to one's own forgiveness, saying "For if you forgive men when they sin against you, your heavenly Father will also forgive you. But if you do not forgive men their sins, your Father will not forgive your sins." Yet in Luke 17:3-4 Jesus adds the idea of repentance to his calls for forgiveness, saying "If your brother or sister sins against you, rebuke them; and if they repent, forgive them." He continued with an emphasis on the need for the sinner to repent before forgiveness should be granted: "Even if they sin against you seven times in a day and seven times come back to you saying, 'I repent,' you must forgive them." While Jesus' words deserve greater study and an exploration of context, even a cursory reading of the Scripture suggests forgiveness is more complex, and that Jesus saw the necessity of the perpetrator possessing a forgiving heart and being genuinely repentant. These conditions are not far from Jewish perspectives on forgiveness.

The Talmud in tractate Rosh Hashanah states, "one who overcomes his [or her] natural tendencies and instead forgives, all his [or her] sins are forgiven." As in the Matthew passage above, Judaism sees receiving forgiveness for oneself as a motivation for forgiving others. Some

Rabbis have also offered guidance on when forgiveness is required, when it is optional, and when it is forbidden. Rabbi Joseph Telushkin in his work *A Code of Jewish Ethics*, for example, writes that one must always forgive when asked, it is optional to forgive when one is not asked, and it is forbidden to forgive a crime committed against someone else.

As these few quotes show, any claim that Christianity stands alone in its complete capacity to forgive, overlooks the fact that Scripture actually presents a more nuanced view of forgiveness more akin to the conditions outlined by Rabbi Telushkin. And perhaps more importantly anyone making such claims enters the dangerous territory of self-righteously forgiving atrocities that they themselves did not experience. To forgive the Nazi perpetrators is to steal the voice of the victims and ignore their cries of pain. We can never speak for another. It is not our place to forgive horrors we did not suffer. That is God's role. While we can trust in God's infinite mercy, we cannot ourselves extend forgiveness on behalf of others.

What has the self-righteous demand that the Jewish people forgive the horrors of the Holocaust actually accomplished? Did it prevent Pol Pot from orchestrating the deaths of over two million Cambodians during the reign of the Khmer Rouge in the 1970s? Did it avert the deaths of over 800,000 people during the 1994 Rwandan genocide? Did it stop the systematic slaughter of Bosnian Muslims at Srebrenica in 1995? Is it currently checking Syrian president Bashar al-Assad's reign of terror against innocent civilians in his own country? Sadly the answer to all of these questions is "no," because while we can marvel at the power of forgiveness – and I do realize just how powerful forgiveness can be – we can never stop there. If we actually want to proclaim, "Never again," we must move beyond the words of forgiveness to tangible acts that bring the hope and love into the world that forgiveness is supposed to make possible.

In a sermon entitled "Strength to Love," Martin Luther King wrote that "one of the great tragedies of life is that men seldom bridge the gulf between practice and profession, between doing and saying." It would have been one thing for MLK and other African Americans to forgive the senseless, violent acts of bigoted white supremacists, it was quite another when they kept fighting, kept loving, and kept speaking out as they were imprisoned, tortured, and lynched. It would have been one thing for society to demand that black people forgive their murderers, it was another thing for white and black to march on Washington arm and arm in solidarity. The work of King and his followers was the true work of loving ones enemies, but continuing the fight against injustice. It was this combination that made it possible to topple the walls of segregation and stifle the pummeling fists of oppression.

The goal of forgiveness is to provide peace and hope to the victim. While this is a noble and virtuous goal, since hatred only breeds more hatred, peace and hope must be lived in ways that transform the conditions of the world to prevent atrocities from happening again. Again, I think King provides the model for what that looks like: preaching on the passage from Luke describing Jesus' words of forgiveness from the cross, King claimed that Jesus' declaration indicates an awareness of humanity's intellectual and spiritual blindness: "blindness was their trouble; enlightenment was their need." Seeing the very same blindness in the white community, King's remedy was education – to do everything in his power to educate white people about the need for equality. And in light of the repeated occurrences of genocide in world history, education must continue to be our ethical response to the Holocaust. Educating our youth to understand that

divisions of race or religion are never acceptable. Educating those who continue to believe in the bigoted tenets of anti-Semitism about their misunderstandings and confusion. And educating our professionals of the need to sometimes take a stand, even at the risk of their jobs or lives. If we continue to do this work of education – using the Holocaust as a lens for understanding what humanity is capable of doing – then I believe that we can make a difference to prevent future atrocities.

This call to educate, which is at the root of Jesus' proclamation on the cross, applies to our response in this Deaf church to the discrimination that we have experienced and continue to experience at the hands of the hearing community. We have undergone our own horrors: our parents and grandparents who were physically beaten at the Deaf schools because they were unable to speak; or being told to our faces that we are dumb and incapable of thinking; or the degrading feeling of isolation in families that refuse to learn how to communicate with us. My own grandmother died in the name of Deafness. We can't simply forgive the hearing community for all that they have done to us, for there are victims whose experiences we have no right to forgive, but we also cannot live in anger and hatred. If we really want to allow Christ's words to transform us, we need to reach out to the world – to educate it about our culture, and community, and language. But we can only educate when we see the value in the people we are educating, understanding the world's potential to become a better and more informed place. Despite the lessons humanity has learned from the Holocaust, there are still people who live and act unethically. Only once we make an ethical commitment to educate such people will we be living out the call for forgiveness.

Without Survivors: The Holocaust and Future Generations
By Kerry Chaplin¹

I walked into Pomeranz Bookstore for a *mahzor*, the prayerbook for Yom Kippur, and I walked out with an invitation to hear Michael Pomeranz's family's story of survival from the Shoah. It's common in Jerusalem to receive invitations – to Shabbat meals, to matchmaking, to prayer. This invitation was uncommon.

“I'm looking for the new Koren *mahzor* for Yom Kippur,” I said.

While he was on the phone, Michael Pomeranz pointed me towards the table stacked high with shrink-wrapped *mahzorim*. When I went to pay, I figured I might as well ask if he carried a set of *sefarim*, holy books, that I had been searching for since the FASPE program – a set of *teshuvot*, Jewish law *responsa*, written by Rabbi Ephraim Oshrey while he was in the Kovno Ghetto.

“I know it,” he said with eyes betraying both skepticism and curiosity. “Let me make a call.” Holding the phone between his ear and his shoulder, he asked me, “What is your interest in that book?” Which I understood as, why is a young American woman delving into this darkness?

More customers walked in – all of them looking for *mahzorim* – and I didn't answer his question. At the same time, Michael's other line rang with a return call from tech support.

“Can you wait?” He asked.

“I can wait.” It was easy to entertain myself in a bookstore.

Twenty minutes later, with a lull in customer traffic and tech support talking to his employee, Michael said he didn't have the book, and he was not sure he could get it. “It's out of print. But I do have another book by Rabbi Oshrey.” When he handed it to me, he said: “I tried to read it. It was too painful.”

I read the introduction: “Nazism is like the python, which swallows its victim whole, then digests it over days, even weeks of lethargy, when the snake appears to be dead but is actually dormant. After its lengthy digestive rest, the snake awakens hungry, seeking fresh prey. So it is with anti-Semites the world over.” This experience, this understanding of the Jewish narrative – this is exactly what I wanted to read about.

“I'd like to buy this book,” I said. “How much?”

“I have to look it up.”

He called me into his office in the back of the store. On Amazon, new copies of the book were going for over \$600.

My face must have contorted to disappointment.

¹ This paper was written with a Jewish audience in mind.

“It’s out of print.” He said. “I can do 180 shekel.” That was about \$60.

While I was considering the purchase, he asked again, “What is your interest in Rabbi Oshrey?”

Standing at the corner of his desk, I considered how much to reveal – should I open such a heavy topic? Should I refer to myself, a woman, as a future rabbi?

I was honest: “We Jews hold a lot of anxiety about our future without survivors, especially the stories of survivors told by survivors, in-person. God willing, when I return to the US, I will be a rabbi in the next few years, and I want to help to guide Jews through this question.”

He paused, considering I think, also how much to share. And he started telling me about his father, a death camp survivor.

As I paid for the pricey Rabbi Oshrey book and my Yom Kippur *mahzor*, Michael wrote down his cell phone number and email address. “Call me,” he said. “I’d like to share my family story with you. Not everyone is interested in these things. I think you might like to hear it.”

“I would be honored,” I said. He was offering his family’s Shoah story to me.

As I was opening the shop door, almost an hour after I’d entered to make a simple purchase, he told me to wait a minute, and he put a journal in my bag. “Return this when you can. There’s an article I want you to read.”

Michael Pomeranz offered me, a stranger, a powerful gift – clearly, not in the price of the book, but in the invitation to hear his family’s story of survival.

There is something remarkable in hearing person-to-person a story of survival told by a survivor or by his or her family. Without the intermediaries of museum displays, screens, sound bites or books, the experience is an interpersonal connection through which the story is told not only by words, but by body language, tone of voice, the energy in the room, the possibility for questions and answers – and what the storyteller does not say. Sharing a personal story of the Shoah is a gift to the listener.

How will we tell and hear these stories without survivors themselves? Are we even worthy of giving and receiving such stories? And whom will we tell? And to whom will we listen?

What will the Jewish future look like without survivors?

During the FASPE program, we learned about the church at Birkenau, whose crosses are clearly visible from inside the camp. It was founded to honor the Poles, a largely Catholic population, who died in the camp. The church and its crosses caused a controversy, and the article Michael Pomeranz slipped into my bag as I was leaving his store addressed that very conflict. The article by Rabbi Avi Weiss described a Jewish sit-in of the church just before the 50th commemoration of Birkenau – an action in which Michael participated. Michael advocated for the removal of the

church because of UN regulations about the presence of worship centers at Auschwitz-Birkenau and the sentiment Rabbi Weiss expresses in the article: “The Birkenau church violates memory. Of course we respect the right of churches to exist, but a church does not belong at Birkenau, the largest Jewish cemetery in the world.” Ultimately, Michael, Rabbi Weiss and others were dragged from the church by police and arrested. The later Polish commemoration ceremony did not mention murdered Jews until the second day, and only after international pressure.

This story of the church and its crosses, of the 50th commemoration ceremony, highlights the point at which contemporary Holocaust narratives converge and conflict. At the end of his article, Weiss summarizes this conflict: “They [the Poles] believe Auschwitz-Birkenau is theirs. We know that, tragically, in the most unwanted of ways, it is ours.” Who owns the memory of Auschwitz-Birkenau? Whose tragedy is it? Weiss assumes it cannot be both Jewish and Polish. It is simply either/or. And he has a point: how can Jews and Poles memorialize something we remember so differently?

During the FASPE program, I met for the first time Poles who shared their cultural and national memory of the Holocaust. Learning this narrative, however, was not easy for me. Even as our plane taxied to the terminal in Krakow, and my colleagues were so excited to visit Poland, I was heavy-hearted. I turned to the person sitting on the plane with me: “Excitement is anathema to this place. It’s a large and beautiful graveyard.” The heaviness weighted my legs, and I took small steps, as we walked through Krakow to the empty synagogues.

The absence of my people was a kind of presence. I sat in the front row of an unused synagogue and I cried. While we were walking to the Rema synagogue, my heaviness turned to the energy of anger. Witnessing the Judeo-tourism industry across the street, the “Kosher style” cafes and the golf carts touting “Schindler’s Factory, Ghetto, Old Town,” I felt hate – perhaps for the first time in my life. Through the framework of my Jewish narrative, I saw Poles making a buck, without any acknowledgement of the Shoah itself or Polish complicity.

Lighting Shabbat candles that night, I allowed Shabbat to peel away some of my anger and I felt relief. With a few FASPE colleagues, I walked to Shabbat evening services at the only functioning Jewish congregation in Krakow. We were invited to Shabbat dinner at the Jewish Community Center, where we met Polish Jews who survived the Shoah and remained in Poland, Poles discovering hidden Jewish ancestry, and Israelis and Americans and Canadians living in Krakow. Unlike our daytime tour of unused synagogues, there was no absence of Jews and Judaism in this synagogue or in this community center. The director of the center wanted to make sure I took this message with me: there is growing Jewish life in Krakow. His message gave me the freedom to appreciate Krakow as a living city, rather than a graveyard.

Why was my immediate reaction so angry and so visceral? Because the Polish narrative of the Holocaust directly conflicts with my own. Kasia, a graduate student in Krakow, told me that while growing up in Soviet Poland and in its wake, she did not learn about the mass murder of Jews on Polish ground until university. She grew up in Soviet Russia, where all narratives, even the Holocaust, served the purposes of the state: Russia and communism saved Poles from the fascists, who had killed millions of Poles. There was no room for Jews in this story, especially in the shadow of Soviet anti-religion and anti-Semitism. This was the narrative she and millions of

Polish children learned in grade school until only a few years ago. Now she studies the Shoah, and she knows more than most Jews. She wanted me to understand that Poland is only now breaking out of the Soviet mentality. “It will take time,” she says, “but the Jewish story in the Holocaust is finally being told in Poland.” This reality, and the Kosher cafes and touristy golf carts still anger me, but now I understand that this anger is a result of a conflict in narrative because Kasia shared the uncommon gift of her growing-up story.

The German narrative, too, complicates the American Jewish narrative. After all, the German narrative is the story of the perpetrators of the Holocaust. It would be easy to dismiss any story shared by the descendants of perpetrators. It would be easy to say that their voices should be drowned out among those of their victims. But they, too, have Holocaust stories that shape German culture and German families.

A few years ago in Berlin, I met a young German who had grown up in the former GDR, that is, under Soviet rule. I was one among a group of Jews – the first Jews he had ever met.

“What did you think?” I asked him with a smile.

He said, “Well, it’s strange.” He paused. “My grandfather was S.S. He worked in the death camps.”

I suppose I should have been more stunned, shocked, speechless, uncomfortable, but I was instead curious. “Did your grandfather tell you that?”

“No.”

“Did your parents tell you?”

“No.”

“How did you find out?”

“I opened a drawer and there was a picture of my grandfather – in uniform.”

“How did you feel?”

“I was shocked.”

We reached the last shared street corner on our walk out of the restaurant, and we stopped. Clearly, we needed more conversation, each of us from the other, if only to know what it was that we sought from one another. I suggested we get coffee later in the week. He must have liked the idea because before I could email him to set up a meeting, he emailed me.

And so Friday morning, Olli and I met at a train station and walked to a nearby café. Neither of us had intended to talk for more than an hour and a half at most, so when he checked his watch four hours later, each of us was surprised. No wonder I was so hungry! We talked about

American politics, German politics, and finally about his family. “Do you think,” he asked, “that we are responsible for the actions of our ancestors?” He looked at his third coffee as he asked.

The grandchild of an S.S. man, Oliver carries the pain of his family’s history, the duplicity of his grandfather, loving to his grandson and brutal to the Jews. He might have kept his family’s story to himself, clung to the positive memories of his grandfather and avoided the embarrassment of sharing his family’s shame, but he honored me by sharing it. He gave me a gift.

These are the narratives of the third and fourth generations after the Holocaust. Jewish, Polish and German. Their tragedies are not either/or. They are all Holocaust stories, and they are all tragedies – and to deny any one of them is to deny the Holocaust.

What will the Jewish future look like without survivors? How will we tell and hear the stories without survivors themselves?

We will tell our family stories, person-to-person, face-to-face. We will give the gift of story.

Are we even worthy of receiving or giving these stories?

As time passes and fewer and fewer survivors remain to tell their stories, the mantle of storytelling passes to the next generations. Michael, Kasia, and Oliver were not there, and yet each took an uncommon risk and invited me to hear their stories. I’m sure they tell the stories of their parents and grandparents differently than their parents and grandparents told them, but stories change, as stories do when the following generations tell them. And that change is okay. The older generation must trust the younger generation to honor them, and the younger generation must promise the older generation that it will honor their stories.

Whom will we tell?

We will tell not only the next generations of Jews, but the next generations of Poles and Germans, and those of other victim and perpetrator groups.

And to whom will we listen?

Not all of us will experience the opportunity presented by FASPE or other organized programs to hear the stories of Poles and Germans, descendants of survivors and perpetrators, but we can be receptive, or at least aspire to be receptive, to their stories. As American Jews, we know the Jewish survival narrative well. From books, museums, films, family, youth groups, Holocaust Remembrance Day, and especially from the brave survivors who have shared, we know the Holocaust was a Jewish experience. And it is time to know more.

It is time for American Jews to understand the Holocaust beyond the Jewish experience, to listen to other stories, and to allow the Jewish narrative to be complicated by the complexities of modern Polish history and the family dynamics of a grandson of an S.S. man.

If we refuse to hear, and we cling to our own narrative, to our singular ownership of Auschwitz-Birkenau, then we not only deny the full horror of the place, but we become consumed with maintaining ownership of what we claim is ours. We become so busy maintaining the Jewish narrative of the past that we can lose sight of the Jewish future. And then, who will tell our stories?

What Will You Do? By Mary Rawlinson

I walked along the sidewalks of Oświęcim, a busy small town where people shopped, drove around, walked their dogs, talked on their cell phones. When I saw someone who seemed to be a certain age, I felt an urge to ask them what it was like in 1942. What did they see, what did they know? Didn't you know that the "prison" kilometers away held no criminals, but was full of people – innocent adults and children? And didn't you know there were gas chambers and crematoriums and mass executions? What did you do? Even as they arose in my heart, I felt these impulses were angry and unloving, naive to the complexities of what life would have been like in Poland in 1942. As I continued walking I turned the question to myself: what will my grandchildren demand of me when I am old? Didn't you know that in 2012 the United States had more people in prison than any other country on earth? Didn't you know that more than 50,000 Americans every day are subject to solitary confinement, "the hole?"¹ Didn't you know that African-Americans are incarcerated on drug charges at a rate 10 times greater than that of white people – even though they are no more likely to use or sell drugs than whites?² What did you do?

In my hopeful way, I picture my grandchildren questioning me from a future where the excessive prosecution and incarceration of individuals in neighborhoods where poor people and people of color live, had already been dismantled, where it was an incomprehensible demon from years gone by. I picture young people of 2052 looking back and wondering how on earth we could have gone about our daily business while innocent people suffered so desperately right next door to us. Yes, innocent: if possession of illegal drugs for personal use makes one a criminal eligible for a mandatory prison sentence, then many of us should be in prison. But "we," my cohorts of educated, mostly white, mostly middle and upper middle class folk, don't go to prison for the possession of drugs for personal use. Black people and poor people do, and they are as innocent as I am.³

It's impossible to correlate current day human rights violations to the Shoah. One glimpse at the numbers, one moment with a survivor who has seen her beloved sister thrown on a truck full of corpses and taken to be cremated, one look at the photographs in the Galicia Museum of the silent groves where children from local orphanages were shot and left to rot in mass graves – one moment of awareness of this immense horror will turn your mind from any comparisons. And yet, there are things we can and should learn from our shared human history and experience of systemic evil. The evil of the Shoah is utterly more evil in breadth and depth than anything else; a unicum in Primo Levi's words.⁴ And yet, it was perpetrated by people very much like me who did not consider themselves to be evil at all. So, we must look closely wherever we find

¹ See Adam Gopnik, "The Caging of America," *New Yorker*, Jan. 30, 2012. For description of what it's like to be in "the hole," see Ahmariah Jackson and Iatomic Seven, *Locked Up But Not Locked Down: A Guide to Surviving the American Prison System* (Supreme Design Publishing, 2011). See also Lisa Guenther, "The Living Death of Solitary Confinement," *New York Times*, August 26, 2012.

² See American Civil Liberties Union. <http://www.aclu.org/criminal-law-reform/drug-sentencing-and-penalties>.

³ In 2005, 4 out of 5 drug arrests were for possession, and only 1 of 5 for sales. Most people in state prison for drug offenses have no history of violence or significant selling. See Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Color Blindness* (New York: New Press, 2012), 59. Alexander goes on to note that in the 1990's 80% of drug arrests were for possession of marijuana, a drug no more harmful than alcohol or tobacco.

⁴ Primo Levi, *The Drowned and the Saved* (New York: Vintage, 1989), 21.

circumstances that resemble the specifically hateful, racist, and culturally pervasive systems of the Third Reich. It is there we find an awful plumb line which points to the consequences of the ethical decisions we make as professionals, and as neighbors, within the systems of oppression at work in our neighborhoods.⁵ Where we find our relationships and communities broken by hatred and indifference to the stranger, we must bring the wounds that fear and prejudice inflict into the light where they may be healed. As a white woman, Christian, steeped in privilege, called by God as a seeker, I pray to go gently and boldly – meekly, with power under control of reason, compassion and faith, hand and hand with my fellow FASPE seekers, my faith community, and my political community, into this search.

If we agree that "the scale and the brutality of our prisons are the moral scandal of American life," then what will we do?⁶ Community organizers teach us that you can't motivate people to action by simply convincing them it is the right thing to do, because "the world as it should be" is not worth taking risks to achieve. Rather, people and communities need to be convinced that it is in their material interest to take action. This is an effective strategic approach, but it falls short where the experience of privilege fosters indifference to the plight of those experiencing injustice in the same social system. However, faith in a God who calls us to companionship with those who suffer can lead people to subversive action based on the conviction that it is in our spiritual interest to turn towards God and towards love of neighbor even when doing so puts our privilege and our lives at risk. Therefore, our faith communities are the places where God empowers us to work out liberating responses to injustice in the world. Our faith communities are the places where we can support one another in relinquishing the privilege which leads to indifference. Our faith communities are the places where we can discern together what God is asking us to do, where we can experience authentic relational community (in the Christian formulation, *koinonia*),⁷ pastoral care, and subversive prayer. In this paper, I hope to briefly illustrate three models of community, pastoral care, and subversive prayer drawn from the FASPE experience and reflect on how we may use them in our struggle for justice today and specifically in response to mass incarceration in America.

A model for authentic *koinonia* comes from Phillip Hallie's *Lest Innocent Blood Be Shed*, which richly describes the community that rescued about 6,000 Jewish people during WWII in the village of Le Chambon in France. Led by a philosophical, practical and passionate pastor, Andre Trocme, a village of farmers, workers and homemakers provided hospitality to thousands of Jewish refugees. These every-day people risked their own lives to save the lives of strangers by providing the kind of radical hospitality that God knows we are capable of, where the answer to

⁵ Primo Levi writes: "Many people - many nations - can find themselves holding, more or less wittingly, that 'every stranger is an enemy.' For the most part this conviction lies deep down like some latent infection; it betrays itself only in random, disconnected acts, and does not lie at the base of a system of reason. But when this does come about, when the unspoken dogma becomes the major premise in a syllogism, then, at the end of the chain, there is the Lager. Here is the product of a conception of the world carried rigorously to its logical conclusion; so long as the conception subsists, the conclusion remains to threaten us. The story of the death camps should be understood by everyone as a sinister alarm-signal." Primo Levi, *Survival in Auschwitz* (New York: Touchstone, 1996), 9.

⁶ Gopnik, *The Caging of America*."

⁷ Justo L. Gonzalez, *Faith and Wealth: A History of Early Christian Ideas on the Origins, Significance, and Use of Money* (San Francisco: Harper & Row, 1990), 83. Gonzalez writes, "koinonia is a total sharing that includes the material as well as the spiritual."

the stranger at the door is “naturally, come in and come in.”⁸ In his essay, “From Cruelty to Kindness,” Hallie elaborates that “the opposite of cruelty is not simply freedom from the cruel relationship; it is hospitality.”⁹ Hallie reminds us that institutional cruelty “lives not with people in the concrete, but with abstractions that blind people to individuals.”¹⁰ Models for authentic community response to mass incarceration in the U.S. must be grounded in hospitality and relationships in which we interact as individuals, not as abstractions. Michelle Alexander suggests an “underground railroad” of hospitality in communities for people returning from prisons, and calls us to create safe spaces for people to be heard as they process the experience of incarceration and return.¹¹ To do this we must be willing to take the risk of interacting with people who may well have committed violent crimes, and certainly have spent time in our systemically violent prisons. Access to the courage required to overcome the fear and prejudices we have against the abstract category of “ex-cons,” and against people who live in neighborhoods which seem to be pipelines to prison, must be fostered by our faith leaders in our faith communities. Here is what we can do; not because there is something in it for us, but because God speaks through people who know what it’s like to be on the wrong side of the world’s law. Consider the life stories of Moses, David, and Jesus. We are called to seek out those on the wrong side of the law because they might tell us something about God.

The model for pastoral care comes from the first day of the FASPE Seminary program, when Rabbi Mychal Springer spoke to us about pastoral care within the crisis and the suffering that systems of injustice cause in our neighborhoods. She shared the origins of the Jewish tradition of visiting the sick, the silent presence of God visiting Abraham after his circumcision: God's presence is mercy communicated. We are called to join God alongside those who are suffering. God calls us to relinquish our privileges and experience the pain of the other, to experience the suffering together because in that experience we are sustained in God's presence, we bear witness to truth and also to the hope that healing is possible. Rabbi Springer exhorted us to always remember that "wherever we are, the most disempowered people are the people we have the most responsibility for." In our American communities today, the most disempowered people are those who are in the prison system, or who have experienced incarceration either in their own past or a family member's. The other day I met a man who told me the outlines of his life story; he had spent 28 of his 50-something years in prison. Now, he works day labor jobs when he can find them and supports himself by asking for money from passers-by on the street. He told me about his times in solitary confinement, about the prevalence of drugs and gangs in prison itself, about trying to find community with other men who wanted to do their time studying, praying, and meditating. At the end of our conversation I asked him, as a person of faith concerned about this system and its effect on others, what can we do? I expected a political answer: petition to get rid of mandatory sentencing, work to reverse the Supreme Court ruling which allows us to threaten someone with life imprisonment for a minor crime in order to induce him to forfeit a jury trial, or the one where the Court ruled that life imprisonment for a first-time drug offense did

⁸ Philip Hallie, *Lest Innocent Blood Be Shed: The Story of the Village of Le Chambon and How Goodness Happened There* (New York: Harper & Row, 1979), 120.

⁹ Philip Hallie, “From Cruelty to Goodness,” *The Hastings Center Report*, Vol. 11, No. 3 (June 1981): 26.

¹⁰ Hallie, “From Cruelty to Goodness,” 28.

¹¹ Michelle Alexander. Notes from her lecture sponsored by the Center for the Church and the Black Experience at Garrett-Evangelical and the Department of African American Studies at Northwestern University in Evanston, IL, February 1, 2012.

not violate the Eighth Amendment's ban on cruel and unusual punishment.¹² But, he surprised me by saying "just listening helps." I thought of Primo Levi and other Auschwitz prisoner's nightmares of leaving the camps but having no one listen to or believe their stories.

Here is what we can do: offer the pastoral presence of listening compassionately to people in prison or released from prison, experiencing the very difficult process of re-entry into a society which deems them irreversibly damaged non-citizens. We don't have to be prison chaplains to do so; visit and listen to people in your local soup kitchen or homeless shelter and you will hear countless stories like this, especially from African American men, because our society has created a system of incarceration that entraps poor people of color and then makes it nearly impossible – after serving a sentence – to obtain work or housing. Offering pastoral care through compassionate listening is a subversive tactic against a system that uses the shame and stigma of incarceration to keep us separated from one another, and thereby prevent collective political action against excessive prosecution and incarceration of individuals in neighborhoods where poor people and people of color live.¹³

In Berlin my FASPE colleagues and I discovered a model for prayer as a subversive tactic against oppressive systems. Bernhard Lichtenberg was Cathedral Provost in Berlin from 1938 until his death in 1943. He prayed publicly in St. Hedwig's Cathedral against the anti-Jewish pogrom which took place throughout Germany on November 9, 1938 – Kristallnacht. From that day on "Lichtenberg publicly prayed for the Jews and 'non-Arian' Christians every day, as he did for all others in need or in danger of persecution."¹⁴ The SS described him as "a fanatical fighter for the Catholic cause, and an equally fanatical opponent of National Socialism which, to him, is both heresy and godlessness."¹⁵ Such fanaticism expressed through prayer caused Lichtenberg's arrest in 1941, for "misuse of the pulpit," and he died whilst under Nazi incarceration in 1943. Rabbi Abraham Joshua Heschel wrote, "Prayer is meaningless unless it is subversive, unless it seeks to overthrow and to ruin the pyramids of callousness, hatred, opportunism, falsehood. The liturgical movement must become a revolutionary movement, seeking to overthrow the forces that continue to destroy the promise, the hope, and the vision."¹⁶ And prayer is meaningful when, like Lichtenberg's public prayers for those who were most oppressed, it seeks to overthrow the hatred and separation of the world because it brings us closer to God's vision of a world of mercy and justice. Lichtenberg's very life illustrates how prayer leads to action on behalf of God's vision for the world, in the world: while serving his prison sentence, Lichtenberg repeatedly requested to be sent as a chaplain to the Lodz prison camp, saying "I recognize my neighbor also in the Jew, who has an eternal soul fashioned in the image and likeness of God. Since I could not stop [the deportation of the Jews] I was determined to accompany deported Jews and Christian Jews into their banishment in order to provide them with pastoral care there."¹⁷ The FASPE Seminary group that studied and presented Lichtenberg's

¹² *Bordenkircher v. Hayes*, 434 U.S. 357 (1978); *Harmelin v. Michigan* (89-7272), 501 U.S. 957 (1991).

¹³ "Shame and stigma" are Michelle Alexander's words. Michelle Alexander, lecture, February 1, 2012.

¹⁴ Gotthard Klein, "Bernhard Lichtenberg, Blessed Priest and Martyr: A Biographical Outline." Accessed September 2012, <http://www.dioezesanarchiv-berlin.de/lichtenberg-engl2.html>.

¹⁵ Klein, "Bernard Lichtenberg."

¹⁶ Quoted in Robin Podolsky (2012 FASPE Seminary Fellow) in blog, accessed September 2012, http://www.jewishjournal.com/erevra/whos_a_good_pussy_20120820.

¹⁷ Quoted in Annemarie S. Kidder, ed., *Ultimate Price: Testimonies of Christians Who Resisted the Third Reich* (Maryknoll, NY: Orbis Books, 2012), 146.

story to us came to the conclusion that the only source of such determination, such courage, is God. And the sure way to stay close to the Source is through prayer.

So what we can do, what we must do, is “mis-use” our pulpits as Father Lichtenberg did, for public prayer for those most oppressed in our neighborhoods and in opposition to the system which unjustly applies our criminal and sentencing guidelines against poor people and people of color; an unprecedented penal system which has contributed to the creation of a parallel social universe – an other America: “a lonely island of poverty in a sea of material wealth.”¹⁸ And, we must stay close to God in our private prayer for the courage to take the risks to do what we can and must do.

May it be so; that we who are searching for the truth, who have lived to see justice and liberty, will act to form and foster diverse communities of compassion, will offer pastoral care side by side with those who suffer most in our communities, will pray daily to God for our neighbors, and for the courage to act on faith of God’s promise, God’s hope, and God’s vision.

¹⁸ Michelle Alexander, lecture, February 1, 2012.

FASPE OPERATES
UNDER THE AUSPICES OF



A LIVING
MEMORIAL
TO THE
HOLOCAUST

WWW.FASPE.INFO