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RATIONALE AND TEACHING MATERIALS OF THE
HARVARD SOCIAL STUDIES PROJECT.

The Ohio State University, Ph.D., 1972
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A CRITIQUE OF ETHICAL REASONING IN THE RATIONALE
AND TEACHING MATERIALS OF THE HARVARD
SOCIAL STUDIES PROJECT

DISSERTATION
Presented in Partial Fulfillment of the Requirements for
the Degree Doctor of Philosophy in the Graduate
School of The Ohio State University

By
Deborah Ann Lange, B.A.

The Ohio State University
1972

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The expression of indebtedness is always difficult to articulate simply because the richness and variety of insight which usually accompanies an experience of growth cannot be adequately captured in a sentence or two. It is often the case, however, that numerous words only distort what a simple acknowledgment might best express. My thanks and appreciation go to

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VITA

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Studies in Sociology. Professor John Cuber
Studies in Philosophy. Professor Bernard Rosen
Studies in Curriculum. Professor Paul Klohr
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CHAPTER I

THE HARVARD SOCIAL STUDIES PROJECT--AN INTRODUCTION

The inception of the Harvard Social Studies Project grew out of an attempt to solve some long-standing problems in social studies education. One of these problems was to reconcile the often-noted discrepancy between stated objectives and teaching materials in much of social studies curricula. While many of the objectives delineated by specific social studies projects focused on the importance of preparing for adult citizenship through reflective thinking, evaluators noted that the instructional materials coming out of these projects failed to focus on specific procedures for achieving that objective. One of the purposes of the Harvard Project was to eliminate that discrepancy.¹

The Project and Its Materials

The Harvard Social Studies Project attempts to select and organize materials and methods of instruction that are consonant with the objectives of citizenship education as defined by its authors. According to the Project's designers, Donald Oliver and Fred Newmann, an ideal citizen is one who is involved in the analysis of public

¹The Harvard Social Studies Project is often referred to in the course of this study as the "Harvard Project" and sometimes simply as the "Project."
controversy, particularly as it relates to the critical task of making decisions on public policy. The materials that have come out of the Harvard Project are designed to implement that objective. Consequently, these materials have been tailored to focus primarily on the study of public controversy. The fundamental objective is to encourage students to cultivate more sophisticated intellectual procedures for clarifying and justifying public policy judgments, especially on issues that are of concern to the society.

As of the date of this writing there are thirty units that make up the teaching materials of the Project. Some units are oriented toward crisis-type situations, such as The American Revolution, The Civil War, The New Deal, and Nazi Germany, while other units are more oriented toward current themes and topics, such as The Rights of the Accused, Race and Education, The Limits of War, and Population Control. Each unit consists of a number of case studies that range from highly personal and dramatic stories, such as the living conditions of a Black family in an urban slum or the personal agony of being a Tory during the American Revolution; to historical documents, such as a British officer's account of the battles of Concord and Lexington; to abstract and interpretative essays. Each case study is intended to raise a number of public policy issues. Differences in judgment concerning the resolution of these issues give rise to disputes over public policy. The teaching strategy of this Project, based largely on these case studies, is designed to encourage students to clarify these public policy dis-

2A complete list of the units comprising the Harvard Social Studies Project is provided in Appendix I.
putes and to assess possible approaches for their solution.

Background to the Problem

In the course of their construction, most curriculum projects move through several successive and identifiable stages. Initially, curriculum builders work at specifying and clarifying the multiple objectives that comprise a proposed curriculum effort. It is sometimes, though not always, the case that this task culminates into a fully-developed rationale. These objectives in turn are used to guide the writing of instructional materials which eventually emerge from a project. The final phase of a curriculum development effort is usually marked by the implementation of instructional materials within the teaching process itself.

It is possible to evaluate a curriculum project at any one of these three developmental stages. Not all rationales that accompany a curriculum project are clear and consistent, and it seems that part of the task of an evaluator is to make that fact known. Furthermore, the intellectual strategies in the teaching materials do not always reflect the aims of the curriculum as stated in the rationale. This observation gives added force to the argument that critical evaluations are also required at the second stage of curriculum development. Finally, in the teaching process phase of curriculum development, evaluation is needed to assess the possible disparity between projected and actual learning outcomes and to comment on the problems encountered by teachers and students in using the materials of a project.
Review of the Literature

To date very little evaluation has been done of the Harvard Social Studies Project. Almost all of the studies that have been done, however, focus on the third stage of the evaluation process. The dissertations of Harold Berlak, David Archibald, and Malcolm Levin represent progressively sophisticated statements concerning the empirical outcomes of teaching the intellectual strategies sanctioned by the Project. Of particular concern to all three researchers and evaluators is the development of a methodology for assessing the quality of discussion on controversial issues. Levin's dissertation is more directly related to the Harvard Project than the other two studies, since his specific objective is to focus on measuring selected learning outcomes as a result of a three-year experimental teaching trial with the Project in one of the community high schools. Nevertheless, Levin's evaluation is similar to the basic kind of assessments done by his colleagues; evaluation of the Harvard Social Studies Project and the intellectual strategies associated with the Project are almost exclusively confined to the teaching process phase of curriculum development.

Mark Krug's evaluation of the Harvard Social Studies Project is more difficult to categorize in terms of any of the three developmental stages associated with curriculum construction. His critique of the

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Project is more descriptive than evaluative, and where evaluation is present the assessment usually focuses on possible problems that teacher and student may encounter while using the materials. For example, Krug objects to some of the questions which are raised within the individual units on grounds that they are too academic for the average high school student.¹

There is little in Krug's critique, however, which constitutes an evaluation of the rationale of the Project, nor is there any attempt to assess the teaching materials in terms of the aims of the curriculum as stated in that rationale. Krug does note that "the Harvard Social Studies Project has a coherent, well-worked-out theoretical framework," but except for a superficial descriptive summary of the rationale, no substantial evidence is offered to support the claim that the philosophical framework of this Project is carefully conceived and clearly constructed.⁵

Purpose of This Study

The primary purpose of this study is to evaluate the Harvard Social Studies Project at the first two developmental stages of curriculum construction. To this author's knowledge no such analysis has been undertaken. Consequently, this study represents an incursion into certain areas of evaluation that have, for the most part, been


ignored. One of the objectives of this study is to evaluate the rationale of the Harvard Social Studies Project, both in terms of its cogency and its clarity. Such an evaluation may disclose that Krug's description of the rationale as "coherent" and "well-worked-out" is open to serious question. Another fundamental objective of this study is to examine the extent to which the teaching materials (the thirty individual units of the Project) reflect and/or depart from the theoretical underpinnings of the curriculum as stated in the rationale. In conjunction with the two previous objectives, this author wishes to explore specific ways in which the ethical assumptions of this Project differ from the ethical theories fostered by the reflective school of social studies education.

Overview of This Study

Chapter II of this study is largely an in-depth description of the rationale of the Harvard Social Studies Project. This description is designed to acquaint the reader with the content of the rationale and to demonstrate the extent to which this content is concerned with problems of value and ethical reasoning.

Chapter III consists of two parts. Part I consists of a brief introduction to the field of moral philosophy and its sub-field, normative ethics. The concepts and distinctions introduced in this section provide an analytical framework for evaluating the rationale of the Project. Part II of Chapter III is an evaluation of the rationale in terms of the ethical framework established in Part I.

In Chapter IV the instructional materials of the Harvard Project
are evaluated. Of particular concern in this study are the "Persist­
ing Questions of History" that appear at regular intervals throughout each of the thirty units of the Project. The specific objective of this chapter is to examine the extent to which the ethical questions raised within each unit reflect or depart from the ethical theory ad­vanced by the authors in the rationale.

In Chapter V the ethical system presented in the Harvard Social Studies Project is compared with the ethical theories espoused by the reflectivists in social studies education. The primary focus of this chapter is an examination of the ethical position of the reflectivists. The purpose of this exploration is to relate these observations to a more fundamental question: What kind of moral education is being fostered by the authors of the Harvard Project and by the reflectivists in social studies education?

Chapter VI presents possible implications of the findings con­tained in the previous chapters, and recommendations are offered for those who attempt to construct curricula similar to the Harvard Social Studies Project.
Every curriculum development effort is based upon a certain set of assumptions. It is often the case that these assumptions concern such things as the values of the society, the needs of the learner in relation to these values, and the specification of content that is required to meet the learner's needs. Some curriculum designers make these assumptions explicit by presenting a consciously-developed rationale to underlie their curriculum work. Those who expend the additional effort to develop a rationale are usually guided by the conviction that excellence in curriculum design is characterized in part by the cogency of the theory which undergirds one's teaching materials. We cannot, in fact, understand the reasons for what we teach or how we teach unless we first explore the assumptions which impel us to seek certain learning outcomes. It is with these perceptions in mind that the constructors of the Harvard Social Studies Project have developed an extended rationale to accompany their curriculum materials. The purpose of the present chapter is to present a detailed description of that rationale.  

1The rationale of the Harvard Social Studies Project is presented in Donald W. Oliver and James P. Shaver's *Teaching Public*. 

8
A number of questions can be asked in an attempt to clarify the assumptions that undergird one's curriculum work. In social studies education these questions may include one or any number of the following: What constitutes an adequate definition of the social studies? How is this definition related to the normative commitments of the society where social studies education is introduced? Once these commitments are identified, what implications, if any, do they have for the teaching of social studies? Each one of these questions is implicitly raised in the rationale of the Harvard Project; hence, they are used in this chapter as a basis for organizing the content of the rationale.

Definition of Social Studies

Because there tends to be considerable ambiguity and confusion over the term "social studies," and since the authors of the Harvard Social Studies curriculum place their project under that rubric, it makes sense for them to begin by clarifying their definition of that term. The authors hold that when constructing a social studies curriculum, one should distinguish between the social studies and the social sciences. Past, as well as current, definitions of the term "social studies" have not always made clear the distinction between these two terms. Reasons for this obscuration may be attributed in

Issues in the High School (Boston: Houghton Mifflin Company, 1966); Fred Newmann's Clarifying Public Controversy: An Approach to Teaching Social Studies (Boston: Little, Brown and Company, 1970); and in several articles authored by each of these men. What follows in this chapter is solely a restatement and a reorganization of what is presented in the rationales. An evaluation of the rationale follows in Part II of the next chapter.

part to those who construct social studies curricula, many of whom are
guided by the tacit assumption that high school social studies are
essentially the social sciences adapted and simplified for pedagogical
purposes. The authors of the Harvard Project maintain that such a
definition of social studies is inadequate because it fails to take
cognizance of the fact that a significant number of high school stu-
dents are not interested in the methodology and resultant interpreta-
tions endemic to academic social science. According to the authors,
if the world view of many high school students is to be reckoned with,
social studies education must go beyond the predispositions and con-
cerns of academicians. Criteria for curriculum development cannot
simply be drawn from the social sciences but must come from a wholly
independent view of what the social studies should be trying to ac-
complish.

The directors of the Harvard Project prefer to define social
studies as that part of the general education curriculum centrally
concerned with educating citizens for political participation in a
democratic society. Such a definition suggests that a primary objec-
tive for social studies education is the preparation of students for
rational decision-making on issues that are of concern to the
society. If curriculum builders are to act in accordance with this
definition, they must ask themselves questions concerning the pre-

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3Ibid., p. 596. We will for purposes of this discussion label
history as a social science, although there is still much dispute
about whether it falls under that rubric.

4Ibid., p. 588.

5Oliver and Shaver, Teaching Public Issues in the High School,
p. 6.
11

requisites of intelligent decision-making in a democratic society. The authors hold that answers to these questions are related to, if not influenced by, the goals and commitments of American democratic society. 6

American Democratic Society

Given the authors' emphasis in their definition of social studies on participation in a democratic society, a critical aspect of their rationale involves an explication of their notion of American democracy. Instead of concentrating upon a description of the structure of American democracy and its tangible evidences, such as open elections, the authors choose to focus on identifying the basic commitments of the society. The authors of the Harvard Project hold that the central commitment of American democratic society is an overriding concern for the individual—his dignity and his humanity. 7 Although many other tenets are included in descriptions of American democracy, they ultimately assume a secondary position in relation to this primary commitment. For example, our society values majority rule but not when such rule is gained at the expense of the individual and his dignity. In making this claim the authors do not intend to say that in a democratic society individuals are allowed to do anything they want to do. It is rather to say that our society places legal and moral restraints


7 Ibid. That our society is committed to the notion of human dignity as the primary value is a claim that any competent social scientist would want to question, simply because no empirical evidence is offered by the authors to substantiate the claim. It is not within the scope of this study to conduct such a test, only to point out that empirical claims of this kind need to be verified before they become part of an accepted body of knowledge.
upon the majority by respecting certain claims from the individual conscience. For example, a democratic society respects the petitions of a conscientious objector even though war is often regarded by a good share of the citizenry as necessary for the prosperity, if not the very survival, of a society. Moreover, the assumption that each individual should make a contribution toward the determination of public policy signifies a willingness to adhere to the fundamental principle of individual dignity and worth.

Another way of expressing this tenet is to say that if a man is to have dignity he must have certain rights and freedoms. These rights and freedoms comprise the very fabric of a democratic society and bespeak the quality of interaction between the individuals of the society and the type of relation these individuals share with their government. These rights and freedoms have been collectively described as the American Creed and may be said to constitute a vocabulary of norms to which each citizen gives his allegiance. Freedom of speech and press, the right to assemble, freedom of religion, due process of law, equal protection under the law, the right to public safety and security, the right to be protected from harm to one's person and possessions—these are but a few of the values embodied in the Creed. Each of these rights and freedoms reflects a basic commitment to the individual—his

8Newmann, Clarifying Public Controversy, p. 20.
9Ibid., p. 16
10This term was coined by Gunnar Myrdal in his An American Dilemma (2 Vols.; New York: Harper & Row, 1944), I, Chapter 1. This term is at times simply referred to as the "Creed."
11Oliver and Shaver, Teaching Public Issues in the High School, p. 11.
right to speak his piece, his right to be protected from the whims of government officials, and his right not to be penalized for circumstances of life that fall beyond his power to control. Each of these values helps to insure that the government, responding as an independent agency to the claims of its citizens, will not deny the individual his dignity. Each value is a "defining characteristic" of the notion of human dignity, and each value helps to guarantee that in our society human dignity achieves maximum expression.\(^1\)

According to the authors, not all concepts of the American Creed are of equal value. Some values constitute procedural principles of government, while others are more accurately identified as substantive principles of government. Procedural principles embody rules of action and refer to specific prescriptions such as rule of law, equal protection under the law, consent and representation, due process of law, separation of powers, and federalism. Procedural principles are designed to check any activities, either on the part of the citizenry or elected officials, which violate or endanger the more basic values upheld by the society.\(^2\) Substantive principles, on the other hand, are categories of thought within which the consequences of government policy are evaluated. These latter principles embody such notions as justice, domestic tranquility and common defense, blessings of liberty, general welfare, freedom of expression, private property

\(^{12}\textit{Ibid.}, pp. 25, 28. \\
^{13}\textit{Ibid.}, pp. 70-79, passim.\)
rights, and government regulation of the "Blessings of Liberty." The purpose of the procedural principles is to protect the substantive principles from erosion. Consequently, the substantive principles or values are more basic to the society than the procedural principles. A violation of any one of the procedural principles constitutes a thread to the substantive principles in that one or any number of the basic values may also be devalued through the first violation. For example, if the government were to disregard restraints imposed upon it by the rule of law, the more basic principle of personal liberty might also be endangered. The authors note that both kinds of principles, since they are part of the values incorporated within the American Creed, are designed to insure that each man in the society is guaranteed his human dignity.

Values and Controversy

The primary value, human dignity, is vague. But so are the social values of the Creed which define and maintain it. Through its policy and judicial decision-making process, the government is continually striving to clarify these social values. Supreme Court decisions on freedom of press, for example, are designed to give current meaning to this concept by establishing standards for the interpretation of this notion in similar court cases throughout the land. By the same token, when Congress passes an open housing law, further specification is given to the notion of equal protection under the law. Despite the

\[11\] Ibid., pp. 78-81.

\[15\] Ibid., p. 82.
responsibilities incumbent on governmental branches to specify and clarify these social values, it remains the subject of much disagreement which policies to enact. According to the authors, the crux of public controversy in American society concerns the dispute over which public policy is a more legitimate interpretation of the social values embodied in the American Creed.\(^\text{16}\)

Debate over public issues in our society often takes place between opposing subgroups, each of which sees its position as contributing to the unqualified goal of American democratic society—human dignity and worth. Some of these groups comprise political and partisan factions and are only temporarily binding, while others lay claim on total life-styles. When a multiplicity of subgroups within the society compete for control over the society's destiny, debate over which public policies are most suited for implementing the society's basic values becomes more than a hollow exercise.\(^\text{17}\) Within the heat of the debate arise alternatives for choice in public decision-making. The right to choose freely among alternative public policies in our society emerges from social conditions that are conducive to its expression. Freedom of choice is a salient characteristic of human dignity, and from the authors' viewpoint, occupies a primary position among the values of the Creed.\(^\text{18}\)

\(^\text{16}\)Ibid., pp. 12-13

\(^\text{17}\)Ibid., pp. 10-11. While this writer recognizes the limited way in which the rationale treats the notion of pluralism, it is not within the purview of this paper to comment on the problem. This writer only wishes to emphasize the relation which the authors draw between group plurality and public controversy.

\(^\text{18}\)Newmann, Clarifying Public Controversy, p. 33.
Most of the public policy positions adhered to by the various subgroups in our society can be supported by one or several of the values in the American Creed. Controversy erupts when these various groups differ in their interpretations of these values. Few sub-groups in our society would deny that freedom of speech is important, but this common viewpoint does not preclude the fact that there is considerable disagreement concerning the extent to which this freedom should be extended. For example, people disagree as to whether the value of free speech may be enlarged to include the right of Communists to teach in public schools or the right of publishers to print erotic literature. By the same token, while there is a general commitment to private property rights, there is vehement disagreement over whether the exercise of this right entails the freedom to sell one's property to whomever one chooses.

Controversy over policy decisions may also be interpreted in terms of conflict among several values in the Creed. It is often the case that one of the social values is being violated in a controversy because another value applicable to the situation is also being endorsed. For example, the drive for urban renewal has been and still is defended in the name of equality of opportunity and the promotion of public welfare, yet the policy has been and still is opposed on grounds that it is a basic violation of private property rights. Disagreement over laws on wiretapping has and still does involve a dis-

19 The primary objective of this study is not to demonstrate how these values may be clarified. A description of the problem of multiple interpretations of important social values is included because it lends to a more comprehensive treatment of the rationale.
pute over the right of a society to protect itself against crime versus the right of the individual to protect his privacy. According to the authors, the primary dilemma inherent to such situations is determining at what point along a value continuum a certain action should be condoned because the social value which that action endorses takes priority over another social value. The dilemma is not resolved by examining where each of the conflicting values falls within a fixed hierarchy of values. Since no one value in the Creed always and in all circumstances takes precedence over another, the salience of any given value depends solely upon the situation to which it is applied.

The following case study is presented by the authors to help clarify the notion of value conflict as it is applied to public controversy:

The Sidewalk Speech

On a raw, windy afternoon in March, a hot-headed, earnest young student named Barry Schwartz was making a speech to a crowd in a small shopping area. The street was in a Negro neighborhood in Poughkeepsie, New York. Schwartz stood on a large wooden box on the sidewalk and shouted at the crowd in a high-pitched voice, through a loudspeaker system attached to an automobile. He waved his arms, stamped his feet, and once in a while smacked a fist in his palm. He wanted to publicize a meeting of the Young Progressives of America that was to be held that evening. Among other things, Schwartz said,

"The mayor of this city is a champagne-sipping bum; he doesn't care if he crushes the Negro people."
"The President of the United States is a bum."

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20Ibid., p. 27.
21Newmann, Clarifying Public Controversy, p. 14; Oliver and Shaver, Teaching Public Issues in the High School, p. 35. The reader will note that this statement is inconsistent with certain other comments in the rationale. The authors make a point of emphasizing that some values in the Creed are more salient than others when they say that substantive principles are more basic than procedural principles.
"The Legion of American Veterans is a Nazi Gestapo."
"The Negroes don't have equal rights; they should rise up in arms and fight for their rights."

The crowd listening to Schwartz numbered 75 or 80 people, both Negro and white. It filled the sidewalk and spread out into the street. The people were restless. There was some pushing, shoving, and milling around. Some men picked up bricks and threatened to throw them at Schwartz. Lincoln Frost, who owned a nearby store, was afraid for his plate glass windows, so he phoned the police.

Lieutenant Collins and Sergeant Davis drove up in a squad car to investigate. For a while they just sat in the car and watched. Then one of the women onlookers who thought Schwartz should get a chance came over and said, "What's the matter? You scared? Can't you cops make people behave right?" A big, muscular man nearby turned around and said, "If you cops don't get that guy off his orange crate in two minutes, I'll shove it down his throat." Then he elbowed his way into the crowd until he was very close to Schwartz.

Lieutenant Collins pushed his way after him through the crowd and asked Schwartz to break up the crowd "to prevent it from resulting in a fight." He repeated the suggestion several times. Each time Schwartz ignored the policeman and went on talking. During all this time the crowd was pressing closer around Lieutenant Collins and Schwartz. The muscular man began urging the men near him to "Get Schwartz." Finally, Collins told Schwartz he'd have to arrest him for his own safety, and ordered him to get down from the box.

Schwartz got off the box, but as Collins took him through the crowd to the squad car, he shouted, "What's happening to free speech in this country? I've got a right to say what I think even if the big-wigs don't like it. I've got a right to talk even if some bigots standing around here want me to shut up."

Schwartz was tried and convicted of disorderly conduct and sentenced to thirty days in the county jail. Schwartz appealed the conviction because he said it took away his rights under the First and Fourteenth Amendments of the American Constitution.22

The value conflicts represented in this case study are illustrated in the rationale by means of the following construct:

22 Oliver and Shaver, Teaching Public Issues in the High School, pp. 89-90.
The authors state that each value in the Creed is a defining characteristic of human dignity. As a defining characteristic of human dignity, freedom of speech is an "unqualified" or "absolute" value. The above diagram attempts to show that when freedom of speech is applied to practical social and political situations, however, the absoluteness of the value is violated both by law and by custom. One cannot libel and slander or knowingly incite violence among large numbers of people and yet plead free speech as a defense. In terms of the dimensional construct, the value of free speech must be compromised in certain situations to protect other values upheld by the society, such as the value of public peace and order. Since we obviously cannot have a society where public and private actions fall solely within areas of common agreement, we must also give careful consideration to those public issues which involve courses of action over which there is disagreement, if not heated dispute. These tension-ridden situations demonstrate that the values to which we give alle-

\[23\text{Ibid.}, p. 29.\]
\[24\text{Ibid.}, p. 27.\]
giance are not on all occasions unqualified, and every controversial situation is essentially one in which a number of values make their claim upon the actions of the individual so that human dignity might achieve maximum expression.25

Implications for Social Studies

One salient characteristic of American society's commitment to human dignity is a belief in man's fundamental intelligence. Our society assumes that because man is an intelligent being, he is capable of influencing his future through rational decision-making and of being educated to improve his thought processes.26 In light of our society's emphasis on man's rationality and his basic educability, our schools have generally assumed the task of teaching each individual to discipline his thinking so as to increase his capacity to reflect intelligently on matters that are of importance to him and to the society. According to the authors, those who educate in the social studies need likewise to assume that a large part of their responsibility is to teach for this objective. A general statement of aims, however, still leaves unspecified those conditions which must be met if social studies education is to approach this objective. The authors hold that one of these conditions is the clear recognition that the social studies curriculum should be built around the study of public controversy where students are encouraged to make rational decisions on public policy

25 Ibid., pp. 27-29

Another condition is the teaching of an intellectual process for arriving at rational decisions on the issues in question. This process should take place within the context of classroom discourse where differing policy judgments and value choices are identified, clarified, and evaluated. A more thorough description of what this intellectual process entails seems to be in order.

**Justifying Policy Decisions**

Within the context of every social or political controversy, a public policy issue may be identified. A public policy issue is a "question involving a choice or decision for action by citizens or officials in affairs that concern a government or a community." Public policy issues may be expressed in terms of broad social policy questions, such as, "Should Capital punishment be abolished?" or they may be phrased as choices for personal action, such as, "Should I petition the governor to commute a criminal's death?" One of the means of clarifying a public policy issue is through rational discourse. Clarification of a public policy issue usually entails identification of three kinds of sub-issues related to the policy in question. These sub-issues involve (1) issues of value, (2) issues of definition, and (3) issues of fact.

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27 Newmann, *Clarifying Public Controversy*, p. 24.


30 ibid., pp. 29-37
The previously cited *Sidewalk Speech* is used in the rationale as a specific controversial case with which to delineate the distinctions that have just been made. In the *Sidewalk Speech* the major policy issue is "Should the police have arrested Barry Schwartz?" Once a particular policy issue is identified, the attending value, definitional, and factual issues may also be examined. The defendant's claim that his right to free speech was violated stands in contrast to the law enforcement agency's equally vigorous claim that one of the community's citizens was threatening the peace and security of the neighborhood. One value issue that can be raised is whether Barry Schwartz's rights to free speech were being violated. A corollary value issue is whether endorsing the defendant's right to speak would at the same time violate the value of public peace and order. Identifying issues of value is often tantamount to identifying disputes over value priorities. A dispute over value priorities, however, often involves differences in interpretation of crucial concepts. Clarifying the different interpretations of crucial concepts constitutes the heart of a definitional issue. For example, while the First Amendment provides for the protection of free speech, it does not provide for the unreasonable use of free speech, such as in the case of inciting to riot. The point at which the reasonable exercise of free speech becomes unreasonable is sometimes difficult to determine. Nor is it clearly understood by all parties in the dispute which definition of order is to prevail and how this order is to be preserved when the government is enjoined to secure public peace and order. Furthermore, many of the preceding disagreements cannot be settled without careful
consideration of the adequacy and reliability of the facts associated with the case. In determining to what extent public peace was being threatened, numerous factual questions become relevant: "How large was the crowd?" "Was the traffic obstructed?" "Was there any pushing and shoving?" "How many policemen were on the scene to keep order?" —and so on. Rational justifications demonstrate an awareness of value, definitional, and factual disagreements relevant to public policy issues and employ specific intellectual strategies for dealing with each type of disagreement.

When a student makes a judgment on a public policy issue, he is making an evaluative commitment that needs to be justified. An example of such a judgment might be the following: "It is wrong for the police to have arrested Barry Schwartz in the Sidewalk Speech case." According to the authors, policy judgments are justified by means of one or several of four identifiable procedures. These procedures include (1) supporting a particular policy judgment by appealing to a

31 Oliver and Shaver, Teaching Public Issues in the High School, pp. 90-91.

32 While one may discuss the analytical and empirical distinctions that are necessary to deal in a sophisticated way with issues of definition and issues of fact, respectively, it is not within the scope of this paper to do so. Guidelines for resolving these kinds of questions are presented within the body of the rationale, both in Teaching Public Issues in the High School and Clarifying Public Controversy, and it is to these sources that the reader may refer if he wishes to evaluate these kinds of problems within the context of the Harvard Social Studies Project. We will, for purposes of this study, basically focus on the justification of public policy judgments as they relate to issues of value.

33 Oliver and Shaver, Teaching Public Issues in the High School, p. 115.
principle of value,\textsuperscript{34} (2) arriving at a more qualified public policy judgment through analogical reasoning,\textsuperscript{35} (3) translating a dispute over value principles into an issue of fact,\textsuperscript{36} and (4) supporting a particular policy judgment and its attending value principle(s) by appealing to the concept of human dignity.\textsuperscript{37} Implementation of these intellectual strategies within the context of classroom discussion constitutes the heart of controversial discourse. The objective of this discourse is to aid the student in formulating more rational decisions on public policy.

The first justification procedure

The first justification procedure states that public policy decisions are justified in terms of the basic social values that support these judgments. According to the authors, when Americans make judgments on policy issues, they, knowingly or unknowingly, justify their public policy decisions on the basis of the general values in the American Creed.\textsuperscript{38} Public policy decisions imply the support of a particular social value judgment, and social value judgments in turn suggest that certain public policy decisions are being made. This point is illustrated in the rationale by means of the following examples:

\textsuperscript{34}Ibid., p. 99.
\textsuperscript{35}Ibid., pp. 118-20, 122-23, 128-29.
\textsuperscript{36}Ibid., pp. 125-26
\textsuperscript{37}Ibid., p. 101. The authors do not cite four separate and distinct justification procedures. These are the four procedures that this writer has identified in the process of reordering some of the descriptive material in the rationale.
\textsuperscript{38}Newmann, Clarifying Public Controversy, p. 43; Oliver and Shaver, Teaching Public Issues in the High School, pp. 98-99
<table>
<thead>
<tr>
<th>Value Judgment</th>
<th>Public Policy Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Equal educational opportunity is good</td>
<td>Suggests that Negroes should be given just as good instruction in the public schools as whites</td>
</tr>
<tr>
<td>A peaceful community is good</td>
<td>Suggests that We should have an adequate police force</td>
</tr>
<tr>
<td>Free speech is good</td>
<td>Suggests that We shouldn't pass laws censoring Communist literature</td>
</tr>
</tbody>
</table>

The specific values in the Creed conflict, however, as do the individual judgments which are supported by these values. For example, if a student endorses the policy decision that the government should not pass laws censoring Communist literature, he will most likely appeal to some basic social value to justify his judgment—in this case, freedom of speech. But another student may oppose this policy decision on grounds that it violates another Creed value—national security or welfare. While each respective judgment is justified in terms of a basic social value, the controversy is not settled, simply because opponents to the dispute disagree about the priority each is willing to give to the value of free speech versus the value of national security or welfare. Although this particular justification strategy does not always settle differences in judgment between discussants, it assists in the identification and clarification of those Creed values which are in con-

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39Oliver and Shaver, Teaching Public Issues in the High School, p. 99.

40Ibid., p. 100.
When there are divergent judgments on a public policy issue.\textsuperscript{41}

The second justification procedure

Another strategy of justification involves the qualification of public policy judgments through analogical reasoning. The purpose of analogical reasoning, as the authors perceive it, is to refine the hypothetical point at which each discussant apprehends a social value as being violated.\textsuperscript{42} When we employ analogies we analyze a particular case by comparing and contrasting it with one or several cases, either hypothetical or real, in which questions concerning the same possible violations of value arise. The following case study and analogy are used by the authors to illustrate this point and to serve as a basis for more extended comments.

Mrs. Webster's Rooming House

Ever since her husband died, Mrs. Webster had struggled to eke out a living from the small rooming house she operated. She was quite disturbed when the state passed a law that, among other things, prohibited discrimination on the basis of race, religion, or nationality in the renting of rooms. She really didn't like members of minority groups, especially Negroes. But more important, Mrs. Webster felt that if she rented rooms to such people her regular boarders might get angry and move out. "It's my property," she told her neighbors, "and no one has the right to tell me whom I must allow to sleep in my house."

One night Mrs. Webster was disturbed at dinner by the ring of her doorbell. "A traveller to occupy my vacant room," she thought happily. When she opened the door, she saw the face of a Negro. "My name is Mr. Jones. I've looked all over town. Do you have a vacant room for me tonight?" he asked. Mrs. Webster hesitated, "No, sorry we're all full."\textsuperscript{43}

\textsuperscript{41} Ibid., pp. 126-128.
\textsuperscript{42} Ibid., pp. 118-19.
As the authors point out, one of the public issues that may be raised about this case is whether the government should tell Mrs. Webster how to run her business. The two values that are in conflict in this situation are Mrs. Webster's right to use her private property as she wishes and Mr. Jones's right to equal protection under the law. At this point, an analogous case may be introduced for purposes of invoking a principle(s) of value similar to the original case. One of the purposes of an analogy, as the authors perceive it, is to suggest that the basic issue which is raised in the original case is resolved differently in a related case. An analogous case to the one just presented is described in the rationale via a student dialogue.

Sam: The government should not tell Mrs. Webster how to run her business. [Sam is stating a preferred value—the right to private property.]

Louie: Suppose Mrs. Webster ran a restaurant. In order to save money, she served left-over food the next day. Occasionally the food spoiled and customers got food poisoning, but since most of the customers were transients, moving through town, they never really complained. Do you think the government should force Mrs. Webster to abide by certain health standards?

Sam: Yes, of course. [In this case, Sam is stating another preferred value—public health and security.]

Louie: Well, that's government control. I thought you were opposed to government interference with a person's business.

Sam: Well, a restaurant is different from a rooming house. It affects a person's health.

Louie: Getting a good night's sleep also affects your health. If Mr. Jones has to sleep out in the cold, Mrs. Webster is hurting him—even more than a person who just has a stomachache from old food.
Sam: But this is in her own home. She shouldn't be forced to open her home to strangers who make her feel uncomfortable.\textsuperscript{1}

The authors proceed to explain the significance of this dialogue. While Sam supports the value of private property in the 
Roaming House case, he supports the alternative value of public health and security in the restaurant analogy. In the original situation, endorsing the value of private property rights is judged as the right policy, but in a highly comparable case, supporting the same value is judged as the wrong policy and an alternative value is chosen. Sam is now faced with the somewhat disturbing observation that he does not consistently support one value and consistently reject another, even in similar circumstances. Hence he tries to explain the difference in his decision. Sam states that unlike a rooming house, a restaurant affects a person's health. Louie finds this distinction to be un persuasive and points out that sleep may be as critical to good health as food. The second distinction, which is also made by Sam, seems to be more persuasive. If the business is carried on within the surroundings of one's home, then the government should not control it. Sam can no longer say he is against all types of government interference and is encouraged, by virtue of the distinction generated from the analogy, to qualify his position. He can now make a general qualified statement consistent with the relevant value of private property rights: "Mrs. Webster is justified in turning away Mr. Jones only if we construe the rooming house as essentially her private home.' and

\textsuperscript{1} Ibid., p. 5.
only incidentally a place of business.\textsuperscript{15} According to the authors, analogies help to clarify the range of situations which one would judge as violations or nonviolations of a particular value by encouraging one to seek criteria that distinguish the original case from similar cases.\textsuperscript{16} For this reason analogical reasoning may be regarded as one of the most effective techniques for clarifying and qualifying a student's public policy decisions.\textsuperscript{17}

The third justification procedure

Justification of one's policy judgments may also proceed via translation of a dispute over value priorities into an issue of fact. This procedure commonly involves asking questions about the consequences of a public policy decision. If opponents in a dispute agree on the consequences of a particular policy, then the projected consequences may be tested as to their veracity. For example, an integrationist and a segregationist may both justify their conflicting value positions (cultural integrity and freedom of association versus equality of educational opportunity) by maintaining that their respective policies lead to greater harmony and peace between the two races.\textsuperscript{18} This situation is illustrated in the rationale in the following manner:

\textsuperscript{15}Ibid., p. 5.

\textsuperscript{16}A more definitive statement of what is meant by the word "criteria" is provided in the critique of the rationale, Chapter III, Part II, p. 60.

\textsuperscript{17}Oliver and Shaver, Teaching Public Issues in the High School, p. 120.

\textsuperscript{18}Ibid., p. 125.
Policy Decision | Projected Consequence | Social Value
---|---|---
Segregationist: We should keep our public school systems segregated | because this policy will lead to greater harmony and peace between the two races. | Supports the values of cultural integrity and freedom of association.

Desegregationist: We should integrate our public school systems, letting black and white races mingle freely with each other | because this policy will lead to greater harmony and peace between the two races. | Supports the value of equality of educational opportunity. 19

The value dilemma in this case may be converted into a factual issue by examining situations in which both policies have been applied and then judging which policy, in fact, leads to greater harmony and peace between the two races. The authors question the feasibility of this approach and are hesitant about recommending it. The reason why they regard this approach as basically unfeasible is because if any policy endorsed by either party is shown not to promote racial peace and harmony, the antagonist on the "wrong" side of the issue will tend to reverse his value priorities. For example, if investigation reveals that segregation does not promote racial peace and harmony, the segregationist may ignore the importance of this consequence and claim that

19 Ibid., pp. 99-100. The general categories of "policy decision," "projected consequence," and "social value" are taken directly from the text. The content of the sentences has been changed, however, for purposes of consistency.
cultural integrity must be preserved at all costs. Racial discord as a consequence would then be justified as a necessary by-product to maintain a higher good—namely, cultural integrity. Another relevant problem related to this particular strategy, as the authors perceive it, is the paucity of accurate data and information that is available to resolve the factual questions relevant to the dispute. 50

The fourth justification procedure

The impasse to the problem of divergent policy judgments generated by conflicting principles of value cannot always be resolved even after all the facts are in. When this situation occurs, a student may endorse that public policy decision which least violates his conception of human dignity. The question that receives central focus at this point is which of the Creed values in conflict more (or most) clearly endorses the notion of human dignity. If discusssants in a dispute can agree on what social value more (or most) clearly maximizes human dignity, the dispute is settled. The authors recognize, however, that the concept of human dignity is elusive and variegated and that each nuance in meaning is a function of individual interpretation. 51 Whichever social value is given higher priority is the one which, in that instance, is interpreted as more (or most) closely approximating a person's (or group's)

50 Ibid., pp. 125-26

51 Earlier it was stated that the concept of human dignity is "unqualified." See above, page 19. The fact that at this juncture the same notion is also referred to as a "function of individual interpretation" suggests that there are problems in the consistent use of this concept. This point is further developed in the critique.
conception of human dignity. In the controversy over school desegregation, for example, both sides to the issue maintain that the value(s) each upholds is (are) more (or most) closely associated with or is (are) more (or most) likely to lead to human dignity. A segregationist upholds the value of local control, states' rights, and the parents' right to protect his child's cultural integrity, while a desegregationist claims that the value of equal educational opportunity is more likely to lead to his notion of human dignity. One of the difficulties attendant to this strategy, as the authors suggest, is the possible tendency of any discussant to hold that the particular Creed value which he supports is "inviolable."52 For example, the segregationist may argue that in spite of the fact that the black race is not given an education commensurate with what is given to his racial counterpart, states' rights and local control over local problems must still be protected and preserved. The federal government, the segregationist may also argue, has not been delegated the constitutional power to settle problems of inequity between the races in terms of public schooling. The authors offer a solution to this impasse by suggesting that the persuasiveness or rationality of any argument involving a value conflict depends upon the extent to which there is no extreme violation of that value which is given second priority. If substantial evidence reveals gross inequities in the quality of schooling between blacks and whites, the value given second priority (in this case, equality of educational opportunity) is then

\[52\text{Ibid., p. 121}\]
shown to be flagrantly violated and the states' rights argument becomes meaningless. Since the application of the value of states' rights in this instance represents a "perverted" use of that concept, the value of equal educational opportunity is more instrumental in maximizing human dignity. According to the authors, one of the purposes of analyzing public policy decisions is to arrive at a decision that represents a minimum violation of important social values; it is "not to pretend that no conflict between these values exists."

The rationale of the Harvard Social Studies Project advocates classroom study of controversial issues for the primary purpose of encouraging students to identify, clarify, and justify individual judgments on public policy issues. From the authors' viewpoint, a study of controversial issues reinforces one salient observation about American democratic society—public dilemmas within our society are existential enactments of conflicts among values in the American Creed. When taking a stand on public issues, the student appeals to specific social values to justify his judgments and is often forced to give situational priorities to certain Creed values that are in conflict. By identifying certain intellectual strategies attendant to the justification of public policy decisions, the authors are implying that problems in justification are essentially

53 Ibid., pp. 121-22.
54 Ibid., p. 59.
problems in ethical reasoning. A more sophisticated study of the various problems associated with justifying ethical judgments is a task that falls within the domain of moral philosophy.

56 Newmann, Clarifying Public Controversy, pp. 6, 85. Oliver and Shaver, Teaching Public Issues in the High School, pp. 83, 84, 115, 131.
Chapter III consists of two parts: Part I presents a sketch of moral philosophy and considers the place of theory of value and theory of obligation within it.¹ The technical discussion in Part I is not to be regarded as an end in itself but a means of analyzing the rationale of the Harvard Social Studies Project. Part II consists of an analysis of the Project's rationale in terms of the framework established in Part I.

Part I: A Sketch of Moral Philosophy²

Moral philosophy is a study of theories about moral phenomena. Moral phenomena consist of actions, persons, situations, events, and

¹The substance of this technical discussion is drawn from the writings of Professor Bernard Rosen of The Ohio State University, both published and unpublished. They include, Richard T. Garner and Bernard Rosen, Moral Philosophy: A Systematic Introduction to Normative Ethics and Meta-ethics (The Macmillan Company: New York, 1967) and lecture notes for a course in moral philosophy, designed by Bernard Rosen.

²The subject matter contained in Part I of this chapter is extremely condensed. Therefore, it will probably read more slowly than other parts of this study where the descriptions are more extended and complete. The reasoning behind this condensation is to place emphasis in the dissertation where emphasis is due. This study constitutes an appraisal of the Harvard Social Studies Project; it is not a systematic study of moral philosophy.
states of affairs to which predicates such as "right," "wrong," or "obligatory"; "good," "bad," or "intrinsically valuable" apply. In moral philosophy these phenomena are what appear to be the facts. They are the content with which an investigation begins. This content is present whenever statements are made concerning the rightness or wrongness of an action or whenever judgments are made about the goodness or badness of situations or states of affairs. Some men claim that abortion is morally wrong, that civil disobedience is right, or that human dignity is the only good. Others would disagree. Some theories about moral phenomena are philosophical and some are not. Philosophical theories usually consist of theories about normative ethics. Sociological and political theories differ from philosophical theories in that the former attempt to classify normative ethical theories and to draw relationships between these theories and other aspects of the culture. The present discussion is limited to a delineation of those theories about moral phenomena which are philosophical.

A. A General Deductive Scheme

The distinction between philosophical and non-philosophical theories about moral phenomena may be given more precision by presenting a general scheme from which normative ethics may be more fully explained. The general scheme reads as follows:

\[
\begin{align*}
\text{If any } x \text{ is } F, \text{ then } x \text{ is } M \\
\text{This } x \text{ is } F \\
\text{Therefore, this } x \text{ is } M
\end{align*}
\]

The first sentence in the general scheme is a conditional statement and constitutes the first premise of the argument. The "if"
condition is called the antecedent; the remainder of the statement is called the consequent. The second sentence constitutes the second premise of the argument, and since it affirms the antecedent of the first premise, the argument is judged as valid. This particular form of argument is called "affirming the antecedent" and is a common form of deductive reasoning. X is a variable which may be replaced by actions, kinds of actions, persons, states of persons, character traits, situations, institutions, and so on. F and M refer to property variables. F usually refers to non-moral and non-value predicates, although instances of F may be represented by moral and value traits. Instances of M invariably refer to moral or value predicates. The following examples illustrate how the variables may be instantiated:

(1) If any thing (x) enhances the notion of human dignity (F), then that thing is beneficially valuable (M).
(2) This specific thing (x) enhances the notion of human dignity (F).
(3) Therefore, this specific thing (x) is beneficially valuable (M).

(1) If any action (x) is one of endangering public peace and order (F), then that action is wrong (M).
(2) This action (x) is one of endangering public peace and order (F).
(3) Therefore, this action (x) is wrong (M).

Statement (1) in each of the preceding examples functions as the first premise and is a general moral or value judgment. The primary task of normative ethics is to explain how statement (3) is justified. Theorists who justify statement (3) by appealing to an

3Value traits may be either moral or non-moral. If non-moral, these traits are simply called value traits.
instance or instances of statement (1) are rule theorists. Those theorists who justify statement (3) by appealing to instances of statements (2) and (3) are act theorists. Act theorists claim that statement (1) is derived from instances of (2) and (3). One of the primary objectives of this sketch of moral philosophy is to demonstrate in what respects a rule theorist differs from an act theorist. Background to that discussion, however, requires a brief overview of the field of normative ethics.

B. Normative Ethics

Moral philosophy consists of two broad areas of study, normative ethics and meta-ethics. Normative ethics is a study of different theories about what is right (or wrong) and what is good (or bad). Meta-ethics is a study about these normative theories. When one studies meta-ethics, one asks what good (or bad) and right (or wrong) mean. In this discussion primary focus is given to the area of normative ethics because it is more germane to the Harvard Social Studies Project. Normative ethics may be divided into theory of value and theory of obligation. Both theories may be explained in terms of the previously-mentioned general deductive scheme.

An example of the application of the general deductive scheme within theory of value would be the following:

1. If any thing (x) enhances the notion of human dignity (F), then that thing is beneficially valuable (M).
2. This specific thing (x) enhances the notion of human dignity (F).
3. Therefore, this specific thing (x) is beneficially valuable (M).
In theory of value, the instances of $x$ are things in a broad sense and kinds of things. They may include persons (historical or contemporary), states of persons (such as freedom or equality), relations between persons (such as friendship), character traits (such as thrift or perseverance), situations (such as racial or sexual discrimination) and institutions (such as public schools or democratic constitutional government). In the example above, $x$ refers to a broad state of things, such as freedom. Instances of $M$ in theory of value are multiple and are generally cognates of the terms "good" and "bad." These words may include terms such as "better," "best," "worse," "intrinsically valuable," "beneficially valuable," "intrinsically disvaluable," and so on. In the example above, $M$ is replaced by the specific value term "beneficially valuable." Instances of $F$ in theory of value are generally replaced by non-value or non-moral predicates although this replacement is not binding. In the specific example given under theory of value, $F$ is replaced by the phrase "enhances the notion of human dignity."

Theory of obligation may also be explained in terms of this general deductive scheme. The following example demonstrates how this may be done:

1. If any action ($x$) is one of endangering public peace and order ($F$), then that action is wrong ($M$).
2. This action ($x$) is one of endangering public peace and order ($F$).
3. Therefore, this action ($x$) is wrong ($M$).

In theory of obligation, $x$ stands for instances of actions and kinds of actions as the previous example illustrates. Instances of $M$ in theory
of obligation are numerous and represent an extended list of obligation
terms such as "right," "wrong," "permissible," "forbidden," "morally
preferable," "not obligatory," and so on. In the example above a nega­
tive obligation term is used. In theory of obligation, as in theory
of value, instances of $F$ are generally replaced by non-value or non-
moral predicates, but again this replacement is not binding. In the
example given, $F$ is replaced by the phrase "endangering public peace
and order." A more comprehensive treatment of theory of value and
theory of obligation should disclose the usefulness of the general de­
ductive scheme in explaining the distinctions that are found within
each theory.

1. Theory of value

In theory of value, one tries to deal with such questions as
"what things are good (or bad)?" or "what is the morally good man?"
For every moral use of the term "good" there is a non-moral use. The
non-moral senses of the terms replacing $M$ are of as much importance
in theory of value as the moral senses. When stating that human dig­
nity is good and that Mohandas Gandhi was a good man, we are using
the term "good" in two different senses. Human dignity is not good
in the same way that Gandhi was a good man. To say that human dig­
nity is good is to use the term "good" in a non-moral sense. To say
that Gandhi was a good man, however, is to use that same term in a
moral sense. It is possible, however, to discuss these two senses of
good within a common framework. We may say that Gandhi was a good
man because he had certain character traits such as perseverance,
loyalty to a worthy cause, courage, and so on. These character traits may be considered good in the same sense that human dignity is interpreted as good. Things said to have non-moral value as well as moral value may be regarded as having equal claims upon the notion of intrinsic value, to which reference will now be made.

a. Intrinsic value

In this study no attempt will be made to define the term "value." The word will be taken as a basic term within theory of value. In terms of the general scheme, x has intrinsic value when (1) x has value and (2) the value of x is not depleted by the value of what x leads to. When someone asserts that human dignity, for example, has intrinsic value, he is basically saying two things. He holds that (1) the notion of human dignity has value and (2) that its value is not exhausted by whatever value or set of values it may lead to.

b. Extrinsic value

Intrinsic value should be contrasted with extrinsic value. X has extrinsic value when its value is exhausted by the value of what it leads to. There usually are said to be two main types of extrinsic value: beneficial value and contributive value. X is beneficially valuable when it leads to an intrinsically valuable y. For example, someone might claim that freedom is intrinsically valuable and that democracy produces it. By that claim one maintains that democracy is a beneficial good. On the other hand, x has contributive value when x is a necessary part of an intrinsically valuable y or a beneficially
valuable \( y \). For example, someone might claim that democracy is intrinsically valuable and that justice is a necessary part of democracy. The person adhering to such a claim holds justice to be a contributive good. If democracy is identified as a beneficial value instead of an intrinsic value, justice would still be regarded as a contributive good.

Even though \( x \) (for example, freedom) is intrinsically valuable, it can produce some \( y \) (such as, democracy) which is also intrinsically valuable or some \( z \) (such as, happiness) that is extrinsically valuable. The only requirement for \( x \)'s (such as, freedom) being intrinsically valuable is that the value of \( x \) (freedom) cannot be entirely the result of what it produces. The beneficial value of \( x \) (such as, happiness) may be regarded as more valuable than its intrinsic value (freedom), yet the intrinsic value of \( x \) (freedom) is not derived from whatever extrinsic value \( x \) might have (in this case, happiness).\(^4\)

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\(^4\)The examples which are provided here are arbitrary stipulations. They should not be interpreted to suggest that in all instances freedom is intrinsically valuable or that in all instances happiness is extrinsically valuable.
c. Value rule theory

Theories of value are not all of the same kind. Those who hold to a value act theory may be differentiated from those who hold to a value rule theory (see diagram). The act theorist's position is more fully described at the end of this section; the value rule theorist's position receives more extended comment at this point in the discussion. Value rule theorists maintain that constitutive rules are needed to justify any singular moral or non-moral judgment of value and that no other requirement is sufficient for justification. The general scheme may again be utilized to explain the significance of the previous statement within theory of value.

(1) If any thing (x) is F, then that thing (x) is good (H).
(2) This thing (x) is F.
(3) Therefore, this thing (x) is good (H).

According to value rule theorists, the third statement in the general scheme cannot be justified except by appealing to the general principle contained in the first statement. Rule theorists claim that this first statement is a constitutive rule. By this they mean that the act of justification cannot take place without there being a rule which covers the singular judgment in question. Because a constitutive rule is logically prior to particular judgments subsumed under the rule, no singular moral or non-moral judgments of value can be inconsistent with it. If the singular judgment is justified and yet is inconsistent with the rule, then the rule is not constitutive in that area. The value rule theorist in effect claims that there can be no instances subsumed under the rule which are also contrary to the rule.
d. Categorical value rule theory

Not all value rule theorists hold to the same notion of rules. Categorical value rule theorists may be distinguished from prima facie value rule theorists (see diagram). The categorical value rule theorist holds that once the antecedent in the first statement of the general scheme is fulfilled, no matter what other characteristics x has, the consequent is always fulfilled and x is good (or not good). In terms of the general scheme, the categorical rule theorist is saying that when x is F, then no matter what other characteristics x has, it is also M. A categorical instance of the third statement results when it is derived from the first two statements being true and the antecedent of the first statement being true categorically. One may adhere to a single categorical rule of intrinsic value or to multiple categorical rules of intrinsic value (see diagram). One who adheres to the claim that happiness is the only good would be an example of the former; one who maintains that obedience to the Ten Commandments is a necessary and sufficient condition for being a good person would be an example of the latter.

(1) The addition test.—The positions held by single and multiple categorical rule theorists are often weakened through counter-examples. One who holds to a single (and thus categorical) constitutive rule of intrinsic value is often made vulnerable through application of the addition test (a form of counter-example). The addition test is one of the most important tools in theory of value and may be used with great effectiveness on someone who claims that only one
thing \((x)\) has intrinsic value, yet attempts to establish that the intrinsic value of a whole consisting of \(x\) and some other value \((y)\) has greater intrinsic value than \(x\) alone. This claim implies that there is some other unit of value \((y)\) which, in addition to \(x\), produces a whole of greater intrinsic value than \(x\) alone. If one accepts that the intrinsic value of the total situation consisting of \(x\) plus \(y\) is greater than the intrinsic value of \(x\) alone, one must also assign some intrinsic value to \(y\), unless \(y\) is only beneficially valuable for more \(x\) or is only a necessary part of \(x\) (has contributive value). If evidence shows that either of the last two conditions holds, \(y\) would not have intrinsic value.

(2) Counter examples.—Whenever one adheres to a number of categorical rules of intrinsic value, it is usually possible to find a situation in which two of these rules conflict (another form of counter-example). In such cases it would not be possible to endorse one of the categorical rules of intrinsic value without violating the other rule. For example, when a child follows his parent's instructions to pilfer, he is breaking the categorical rule not to steal while concurrently abiding by the injunction that one should honor and obey his parents. Counter-examples such as these pose a moral impasse for those who maintain that obedience to the Ten Commandments is a necessary and sufficient condition for being a good person. Some theorists circumvent this difficulty by transcribing categorical rules into prima facie rules.
e. Prima facie value rule theory

The notion of prima facie value rule theory is more difficult to capture. Basically, a rule may be labeled as prima facie when it is one of a number of rules each of which would be categorical if it were not for the fact that it can be "overridden" by another prima facie rule. This observation can perhaps be illustrated with the following conditional claims, all of which are representative of the first premise of the general scheme:

If any \( x \) is \( F \), then \( x \) is (prima facie) \( M \).
If any \( x \) is \( G \), then \( x \) is (prima facie) not-\( M \).
If any \( x \) is \( F \) and \( G \), then \( x \) is (prima facie) not-\( M \).

\( X \) being \( M \) is a result of \( x \) being \( F \), just as \( x \) being not-\( M \) is a result of \( x \) being \( G \). Yet \( x \) being \( F \) and \( G \) together results in \( x \) not being \( M \). The characteristics of \( F \) and \( G \) are each categorically sufficient for \( M \) and not-\( M \) respectively when only one of them is present, but when both are present it is possible that \( F \) is not sufficient for \( M \) because \( x \) is also \( G \) and may override \( x \) being \( F \). In this case, the principle containing \( G \) would be regarded as the more stringent principle and the principle "\( x \) is \( F \)" would not be sufficient for \( x \) being \( M \).

Two points are worth noting from these characterizations. To claim that there is only one prima facie constitutive rule of morality is necessarily false. There will always be at least two prima facie rules, one connecting \( F \) and \( M \) (or not-\( M \)) and another connecting \( G \) and \( M \) (or not-\( M \)). In other words, one prima facie rule may always be overridden by another prima facie rule. Furthermore, prima facie rule
theory is designed to account for the claim that moral rules can conflict and yet remain constitutive rules. When a prima facie rule is overridden, it does not cease being a moral rule.

(1) Problem of justification.—The proposition that there are a number of prima facie rules which as a unit comprise what are known as constitutive moral or non-moral rules of intrinsic value may be an untenable position. The notion of prima facie allows for the possibility that if there were a situation in which only two prima facie rules (PF-1 and PF-2) apply to x, the predicate M may apply in one case and the predicate not-M may apply in the other. The conflict between the two rules can be resolved by reference to another rule which would determine which of the two prima facie rules is more stringent. This new rule may be either a categorical rule or another prima facie rule (PF-3). If it is a categorical rule, as was previously explained, there will almost always be an effective counter-example to the rule. If it is a prima facie rule, then the same conflict in values can arise between PF-3 and PF-1, PF-3 and PF-2 or between PF-3 and any number of rules to be found in the list of intrinsic values. The impasse to the problem of justification generated by prima facie rule theory suggests that prima facie rules may not be constitutive rules of morality. The qualifier in the previous sentence indicates that evidence for this suggestion hinges on always being able to find a conflict situation for those prima facie values which comprise a given set of prima facie rules.
Amendments and exceptions. -- Prima facie rules of value are always amendable and to that extent present a further difficulty. It is possible for one to discover a situation to which he would tend to apply the predicate M or not-M (good or not good), yet for which he could find no prima facie rule of intrinsic value which covered the situation. If this situation seems by that person to comprise part of what is intrinsically valuable, then he could add the corresponding principle to the list. Because the list of intrinsic values is always amendable, specification as to what is intrinsically valuable may become unending and thereby unworkable. The same problem presents itself when one tries to incorporate exception clauses into every rule of intrinsic value. Even if all the exceptions to every rule of intrinsic value could be stated, the basic purpose of the rule would still be undermined; for what is important about rules is that they be learnable. Any set of rules complete with exception clauses would be too complex to learn, much less master.

Despite the differences between categorical and prima facie value rule theorists, on one point there is shared agreement between the two theorists. Both groups hold that there is some rule that will be the final point of disagreement. Since the value act theorist cannot accept this position, he provides a genuine alternative for justifying singular judgments of value and for adjudicating disputes that arise from these differences in judgment. Some of the basic distinctions found within theory of value may likewise be found within theory of obligation, to which we now turn.
2. Theory of obligation

While theory of value focuses on such questions as "What things are good (or bad)?" or "What is a morally good man?", theory of obligation attends to the question, "What actions are right (or wrong)?"

In terms of the general scheme, this distinction may be demonstrated as follows:

1. If any action (x) is F, then that action (x) is right (M).
2. This action (x) is F.
3. Therefore, this action (x) is right (M).

a. Teleologists versus deontologists

Teleological theories of obligation state that the rightness or wrongness of any given action is a sole function of the consequences of that particular act. A teleologist would assign consequences to all the characteristics of F in the general scheme. An example of a teleo-
logical statement of obligation might be the following: If any action \( (x) \) leads to pleasure \( (F) \), that action is right \( (M) \). The singular characteristic of \( F \) is a consequence and the rightness of an action is a sole function of whether or not it leads to pleasure. Of special consideration in this study are the deontological theories of obligation (see diagram on previous page). All deontologists maintain that the rightness (or wrongness) of an action or the correctness (or incorrectness of a rule is not a sole function of the consequences of that action or rule. That is to say, all deontologists hold that instances of \( F \) in the first premise of the general scheme are not limited to consequences. An example of a deontological statement of obligation might read as follows: If any action \( (x) \) is an instance of abiding by one or several of the Ten Commandments \( (F) \), that action \( (x) \) is right \( (M) \). In this example, the characteristics of \( F \) are not consequences; the action does not lead to or produce the characteristics associated with \( F \). Rather, the action is an instance of the principle(s) relevant to \( F \).

b. Act versus rule deontologists

One can separate act deontologists from rule deontologists (see diagram). Act deontologists claim that there are no constitutive rules of morality. In so claiming they hold that the first statement of the general scheme is not needed to justify singular normative judgments concerning what is right (or wrong).\(^5\) On the other hand, rule deontologists hold that

\[\text{We speak about a judgment being normative when it is either a judgment of value or a judgment of obligation.}\]
deontologists hold that singular normative judgments and the disputes arising from those judgments can only be settled by reference to one or a number of constitutive principles each of which may be represented in terms of statement (1) of the general scheme. A rule deontologist, like a value rule theorist, holds that rules are needed to justify singular normative judgments falling under them. While the act deontologist's position is summarized at the end of this section, the rule deontologist's position is treated more fully at this point in the discussion.

c. Categorical rule of obligation

In theory of obligation, as in theory of value, there are categorical and prima facie rule theorists (see diagram). Categorical obligation rule theorists maintain that none of the characteristics of F in the general scheme is a consequence; prima facie obligation rule theorists hold that at least one of the characteristics of F may be a consequence. In theory of obligation the single categorical rule theorist claims that there is only one constitutive rule from which to determine the rightness of an action. Kant's categorical imperative would be an example of this type. In terms of statement (1) of the general scheme, the categorical imperative reads as follows: If any action (x) is done from a motive which says that such action should become a universal law (F), then that action (x) is right (M). Single categorical rule theorists are vulnerable to counter-examples in theory of obligation just as they are in theory of value. A single rule cannot possibly indicate all one's obligations, nor can it
account for the obligation to break the single rule under certain circumstances.

d. Multiple rules of obligation

Multiple theorists claim that there are at least two constitutive rules of obligation represented in the first premise of the general scheme. Multiple rule theorists may be divided into the same general categories in theory of obligation as they are in theory of value, categorical and prima facie. Those who adhere to multiple categorical rules of obligation are vulnerable on the same counts in theory of obligation as they are in theory of value. One can find counterexamples to multiple categorical rules of obligation by illustrating conflicts between the rules of obligation. That is to say, by fulfilling one of the rules of obligation, another rule will in certain circumstances also be violated. A prima facie rule interpretation is likewise subject to the same difficulties in theory of obligation as in theory of value. One can almost always find conflicts between the rules which are said to comprise one's duties. Although prima facie rule theory is designed to account for these conflicts, finding a reliable stringency test to adjudicate a conflict between two prima facie rules is as much a problem in theory of obligation as it is in theory of value.

Up until this point in the discussion primary focus has been given to rule theory, both within theory of value and theory of obligation. A more comprehensive treatment of act theory will help to clarify some of the distinctions between act and rule theorists.
3. Act theory

Generally, the act theorist is differentiated from the rule theorist because the former does not accept the claim that moral and value judgments are justified by reference to statement (1) in the general scheme. The act theorist, both in theory of value and theory of obligation (see both diagrams), justifies statement (3) in the general scheme by appealing to instances of statements (2) and (3). The reasoning behind this particular approach to justification is somewhat difficult to capture. The task is facilitated, however, by introducing the notion of basic predicates.

a. The basic unit of justification

Basic predicates are those units which are used to define, describe, and analyze other predicates within an area but are not themselves defined, described, or analyzed. In every area, some set of predicates is taken as basic. For example, point is a basic unit of description in Euclidean geometry as is red in visual discrimination. The act theorist claims that the basic unit of justification in normative ethics is an instance or instances of statement (3) as connected to statement (2) in the general scheme. Statement (2) tells one what he needs to know about an instance of x in order to arrive at the judgment that this instance of x is also M (right or good). One comes to know about an instance of x by examining the characteristics of F. The act theorist claims that once he has examined statements (2) and (3) no further evidence is available or necessary for the justification of singular normative judgments.
b. Hypothetical agreement

The claim that there is no further evidence beyond instances of statements (2) and (3) to justify singular normative judgments influences the manner in which an act theorist proposes to settle normative disputes. According to act theorists, almost all normative disagreements are traceable to some disagreement about the characteristics of F in statement (2). The act theorist also holds that all disagreement about the characteristics of F can be analyzed by achieving hypothetical agreement (or disagreement) on the characteristics of F vis-à-vis the moral or value predicate M in statement (3). Hypothetical agreement is essentially a procedure that transforms disagreement over a moral or value matter to hypothetical agreement on a non-moral or non-value question. The following dialogue illustrates how hypothetical agreement on a singular judgment of obligation can be reached:

Student 1: Racial segregation in public schools is wrong because it leads to greater distrust and disruption between blacks and whites.

Student 2: Racial segregation is not wrong because by keeping the two races apart you cultivate mutual respect for racial differences and greater harmony between the two groups.

Student 1: Can we agree that if segregation leads to greater disruption and distrust between the races that segregation is wrong?

Student 2: I’ll go along with that. You put your finger on why I think segregation is wrong. By the same token, if segregation does not produce greater discord and friction between the races and produces pride and accomplishment, you’ll have to agree that it’s right.

Student 1: The basic question now is whether segregation leads to the negative and positive consequences just cited.
The fundamental question under consideration, as student one correctly stated, is not a moral question (per se). The question may be tested by implementing established methods from the behavioral and social sciences. Within the context of this discourse the discussants have reached hypothetical moral agreement, if only tentatively.

c. Summary rules

The difference in procedure by which act and rule theorists justify normative judgments is reflected in the way each type of theorist interprets statement (1) of the general scheme. Act theorists claim that constitutive principles are not needed to justify singular moral or value judgments and that principles representative of statement (1) in the general scheme are more accurately labeled as summary rules. Statement (1) is so titled because it is a summary of past singular justified judgments of that type. Since the summary rule is arrived at from an induction of past instances of statements (2) and (3), the method which is used for arriving at singular justified judgments is independent of the rule and epistemologically prior to the rule.

The notion of summary rule may be given more clarity by presenting the following induction:

6This writer is aware of the fact that hypothetical agreement is not, in fact, fully achieved until there is conceptual clarification on basic terms, such as, "harmony," "distrust," "discord," "friction," "pride," and "accomplishment." The procedures whereby this objective might be effectuated is the subject-matter of another dissertation.
If this a is F (statement 2) then this a is M (statement 3) or $F_a \rightarrow M_a$.

If this b is F (statement 2) then this b is M (statement 3) or $F_b \rightarrow M_b$.

If this c is F (statement 2) then this c is M (statement 3) or $F_c \rightarrow M_c$.

If this d is F (statement 2) then this d is M (statement 3) or $F_d \rightarrow M_d$.

...and so on. 7

On the basis of this induction one may arrive at the general rule that if any action (or thing) has the characteristics of F, then probably that action (or thing) is M. Each of the preceding judgments is an instantiation of the general rule arrived at through induction or by reference to instances relating certain characteristics of F to M. The way this rule is arrived at, in effect, tells us what kind of rule it is.

The rule theorist adheres to the notion of constitutive rules because, among other things, he believes that singular moral or value judgments are implicitly general. He arrives at this conclusion via the conditional claim that if any action or thing is like another action or thing in having certain characteristics of F, then it will also be judged in the same way. The act theorist disagrees with this argument and can establish what the rule theorist presupposes—namely, a general rule. Rather than endorsing the notion that rules are a source of ultimate agreement (or disagreement) in moral matters, the

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7 The reader is not to interpret each of these individual statements as representative of statement (1) in the general scheme. Statement (1) reads, "If any x is F, then x is M" and as such constitutes a general statement, not a specific statement. Statement (2) and statement (3) in the general scheme are specific statements.
act theorist maintains that the final point of agreement (or disagree­ment) is a non-rule hypothetical or, more simply, hypothetical agreement (or disagreement). The act theorist also argues that every situation is so specific that general rules, being summaries of past instances, are only useful as suggestions for the right and the good.

b. Functional relations

The juxtaposition of theory of value and theory of obligation is instructive not only because statements representative of both theories can be illustrated and explained within a common scheme, but also because explanations about functional relations between the two theories can be made more intelligible through the comparison. For example, one might hold that action $x$ is obligatory because it is a function of the value which $x$ brings into existence. Thus theory of obligation becomes a function of theory of value. Another might claim that $x$ is valuable because it is a function of the obligation to bring $x$ into existence. Theory of value then becomes a function of theory of obligation. On the other hand, it may not be necessary to hold that the two theories share any functional relation. One might claim that theory of value and theory of obligation are independent of each other. These general observations will become more meaningful when discussed within the context of the Harvard Social Studies Project.
Part II: An Analysis of the Harvard Social Studies Project Rationale

One of the purposes of the Harvard Social Studies Project is to present a general social theory by means of which the goals and commitments of American society can be more clearly identified. To state the basic commitments of a society is, in effect, to comment on the values of a society. For this reason, it is possible to link a statement of goals and commitments as portrayed in the Project's rationale to the authors' theory of value. It is part of the purpose of this section to explore that theory of value. The technical discussion in the previous section provides an analytical framework whereby crucial distinctions within theory of value can be related to the theory of value presented in the rationale of the Harvard Project.

A. Theory of Value

Although it is never explicitly stated, the authors of the Harvard Project try to arrive at a satisfactory answer to the question, "What do the citizens of American society hold to be intrinsically valuable?" In responding to this question, they implicitly construct a particular theory of value which may be analyzed within the framework of normative ethics. Not all the statements which form a part of that theory of value are consistent with each other. Therefore, this author has found it necessary to use three different models to reorder and clarify some of the most significant content
within the rationale. As a unit, these models provide a comprehensive description of the theory of value which is advanced by the authors. In model one, there is a single categorical rule of intrinsic value and numerous prima facie rules of intrinsic value. In model two, there is a single categorical rule of intrinsic value and numerous beneficial values. In the last model there is the same categorical rule of intrinsic value but numerous contributive values. Each of these models is considered separately in this section, and descriptions of each construct are accompanied by an analysis of the cogency of each model in theory of value.

1. **Model one: Prima facie values**

   In this sub-section, model one is discussed in its entirety. Two salient descriptions characterize the pattern of valuation in model one. We may initially observe that one categorical rule of intrinsic value concerns human dignity. This intrinsic value is accompanied by numerous prima facie rules of intrinsic value; these rules are the social values embodied in the American Creed. Each of these observations is considered separately in this sub-section, and explanations of these statements are accompanied by criticisms applicable to specific positions held by the authors within theory of value.

a. **Human dignity as an intrinsic value**

   The rationale of the Harvard Project is replete with explicit statements that the concept of human dignity is a value. For example,
at one point in the rationale the authors state: "We frankly accept
the value of human dignity as a societal goal in a society in which
that commitment is central." Again, they note: "In considering
criteria for curriculum development based on commitment as a society
to this central value [human dignity], we must be concerned with the
perpetuation of the value." One observes that what is not clearly
stated in the rationale is that the value [human dignity] is intrinsic. On the basis of the definition offered in the previous section,
we note that for a value to be intrinsic (1) it must have value and
(2) its value cannot be exhausted by the value of whatever it pro­
duces. The credibility of the second condition is confirmed when
one observes that the rationale provides no evidence that the value
of human dignity is exhausted by whatever it produces. In fact, there
seems to be no mention in the rationale that this value leads to other
things, either valuable or nonvaluable. Finally, there is positive
evidence embodied in the claim made by the authors that other values
are derived from and give meaning to this fundamental value.

b. Human dignity as a rule of value

The rationale of the Harvard Project never explicitly states

\[\text{8Oliver and Shaver, Teaching Public Issues in the High School, p. 10.}\]

\[\text{9Ibid., p. 10.}\]

\[\text{10See Part I of this chapter, p. 41.}\]

\[\text{11Oliver and Shaver, Teaching Public Issues in the High School, p. 10.}\]
that human dignity is a rule of value. Nevertheless, one can draw this conclusion on the basis of several statements found within the rationale. It was noted in the technical discussion of moral philosophy that rule value theorists adhere to a constitutive notion of rules. By so doing, these theorists maintain that a singular value judgment cannot be justified except by appealing to a general principle or rule which covers the judgment in question.\textsuperscript{12} It appears that this strategy of justification is what the authors are suggesting in one of the justification procedures contained within the rationale. This particular procedure indicates that public policy decisions and their attending social values are often justified by appealing to the concept of human dignity.\textsuperscript{13} The authors express it this way:

In dealing with public controversy probably the most important type of issue revolves around a value conflict or political dilemma. A political dilemma occurs when we are faced with a choice in which any of the available alternatives will enhance one value at the expense or violation of another. Dilemmas are commonly handled in two ways: We either deny, distort, or repress the negative consequences which attend our actions so that the value violation remains below the level of consciousness, or we maintain that the value we are preserving is more important than the value we are violating—we assign static priorities to values. The latter strategy deserves more extensive comment.

The usual static value priority approach . . . asserts that the [social] value given the higher priority is more important because it more closely approximates our conception of human . . . dignity or the conditions necessary to preserve dignity. The school desegregation situation, for example, has

\textsuperscript{12}See Part I of this chapter, p. 43.

\textsuperscript{13}This is the fourth justification procedure as delineated in the description of the rationale in Chapter II.
been characterized by assertions from both sides that the [social] values each upholds are more closely associated with "human freedom" dignity.\footnote{14}{Oliver and Shaver, Teaching Public Issues in the High School, p. 121.}

The appeal to human dignity as a rule of value is suggested at another point in the rationale:

\ldots in \ldots situations [where] there is a genuine value conflict \ldots one cannot resolve the conflict by saying that the answer is only a matter of opinion \ldots In confronting this issue \ldots we must create or accept that [public] policy which least violates our concept of human dignity.\footnote{15}{Ibid., p. 101.}

Further refinement is given to the notion of a rule when the authors refer to human dignity as a "general" and "basic principle \ldots of behavior."\footnote{16}{Ibid., p. 59.}

On the basis of these descriptions, we may observe that, when there are divergent public policy decisions generated by conflicting social values, one justifies his public policy decision by appealing to the concept of human dignity. According to the authors, this appeal is made by advancing the claim that the specific social value which each person endorses enhances the notion of human dignity.

At this point the general deductive scheme, introduced in Part I of this chapter, may be used to illustrate the logic of this kind of appeal. It should be noted that the authors do not use this scheme in the rationale. The scheme is being used in this study to
illustrate the reasoning behind the authors' explanation above. The following example illustrates the way in which the concept of human dignity can be translated into a constitutive rule of value that is used to justify singular judgments of value. Let us suppose that a student opposes censoring Communist literature on grounds that free speech must be protected and he attempts to justify his preferred social value by appealing to the concept of human dignity. In terms of the previous explanation given by the authors, the student implicitly does so in this manner:

(1) If freedom of speech (x) enhances the notion of human dignity (F), then free speech (x) is good (M).
(2) This instance of free speech (x) enhances the notion of human dignity (F).
(3) Therefore, this instance of free speech (x) is good (M).

By the same token, another student may endorse the censorship of Communist literature on grounds that national security must be protected. In terms of the previous explanation given by the authors, this student is implicitly justifying his preferred social value by incorporating the concept of human dignity into a principle which he uses to justify his judgment.

(1) If protecting national security (x) enhances the notion of human dignity (F), then protecting national security (x) is good (M).
(2) This instance of protecting national security (x) enhances the notion of human dignity (F).
(3) Therefore, this instance of protecting national security (x) is good (M).

The first student justified his singular judgment of value, statement (3), by appealing to the general principle represented in statement (1) where his preferred value of free speech and the con-
cept of human dignity are incorporated. On the other hand, the second student justifies his singular value judgment, statement (3), by appealing to the general rule represented in statement (1) where his preferred value of protecting national security and the concept of human dignity are incorporated. In each instance, statement (1) is a constitutive rule of value which justifies the singular judgment of value falling under it. For the rule theorist, this particular procedure is what constitutes the logic of a valid appeal.

It was noted in Part I of this chapter that one of the essential defining characteristics of a constitutive rule is that no singular judgment of its type can be inconsistent with the rule. When one adheres to the claim that the notion of human dignity can be translated into a constitutive rule of value, one necessarily has difficulty ascertaining whether there may be specific instances in which statement (3), coupled with the corresponding statement (2), is inconsistent with statement (1). This difficulty may be attributed to the fact that the constitutive rule that contains the concept human dignity is not sufficiently precise to discriminate between singular judgments which are consistent, inconsistent, or fall short of the general rule. Because the concept of human dignity is unclear, it is difficult to determine when free speech or the protection of national security is an instance of enhancing human dignity. This observation constitutes one of the most significant criticisms of the Project's rationale, and this specific perception adumbrates some general observations that are developed at a later point in the critique.
c. Human dignity as a categorical rule

There also seems to be sufficient evidence in the rationale to suggest that human dignity is a *categorical* rule of value. We may recall from the technical discussion in Part I of this chapter that if a rule is categorical, no other rule can override it. We therefore need to substantiate the claim that incorporating the concept of human dignity within a rule of value makes that rule categorical. The authors unknowingly confirm this claim when they note that human dignity is "final" and "permanent" and that the higher plane of valuation is denoted by this "single ultimate value."¹⁷

d. Other categorical rules

The assertion that there is one categorical rule of intrinsic value needs some qualification. There are several statements in the rationale which suggest that human dignity is one of several categorical rules of value. High accord is also given to the values of *rational consent* and *freedom of choice*. At several points in the rationale, one or the other value is put on the same level as human dignity. For example, at one point in the rationale, the authors make the following observation: "We have presented two values which we think are at the heart of a liberal democratic society: human dignity and rational consent."¹⁸ The authors reinforce this statement at another point in the rationale:

We have now talked about the basic values which should, in our society, govern man's relationship to his neighbor, his community, and his nation. We have called these values human dignity and rational consent.  

Human dignity and rational consent do not seem to be the only basic values. The authors also consider freedom of choice to be of fundamental importance, as the following statement indicates:

The appropriateness of our political principles...depends on their ability to support a pluralistic society in which the basic values of dignity and freedom of choice can survive..."  

The previous statements, however, do not seem to specify whether the values of rational consent and freedom of choice represent two additional categorical rules of intrinsic value or whether these two values are prima facie rules, but of a higher order than the other prima facie values in the American Creed. The problem of consistency in the identification of categories is also present at another point in the rationale where the authors refer to the values of the Creed as being, on occasion, ethical absolutes whose values are unqualified. On the basis of this statement, the Creed values are not only prima facie rules of value, they are also categorical rules of value. Comments on the weaknesses inherent in describing Creed values as both prima facie and categorical rules of value are offered at a later point in the discussion.

19Ibid., p. 79.

20Ibid., p. 87.

21See Chapter II, p. 19.
e. Human dignity and the addition test

Let us assume that the authors do, in fact, adhere to the notion that there is one categorical rule of intrinsic value. Those who hold to such a stricture are often made vulnerable through application of the addition test. The addition test is one of the most effective forms of counter-example in theory of value and is used as a counterclaim to the assertion that there is only one categorical rule of intrinsic value. Through this test one should be able to show that there is another unit of value which, in addition to human dignity, produces a whole of greater intrinsic value than human dignity alone. Our problem becomes one of finding such a unit of value.

None of the values of the American Creed would seem to serve as good counter-examples to the claim that human dignity is the sole categorical rule of intrinsic value. One could argue that no Creed value produces a whole of greater intrinsic value than human dignity alone because the concepts which are incorporated in the Creed acquire their value by virtue of the fact that they either lead to human dignity or are a necessary part of that concept. That is to say, one could claim that the Creed values possess no intrinsic value because their values are solely beneficial or contributive. If such a condition holds, none of the values of the Creed would add greater increments of value to the single categorical rule of value, human dignity. This argument is not altogether tenable, however,

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22See Part I of this chapter, pp. 44-45.
because it can be shown, on the basis of the rationale, that the Creed values do have intrinsic value and are not simply contributive or beneficial goods. Nevertheless, the basic point remains unaltered. Unless we beg the question, the Creed values are not good counterexamples in this instance, because when conceived as beneficially or contributively valuable for human dignity, they cannot add increments of value to the categorical rule in question.

A more apropos challenge to the claim that human dignity is the sole entity that has intrinsic value is the counterclaim that physical health also has intrinsic value. Most persons would agree that the loss of one's health constitutes a genuine misfortune and in some cases signifies a deep personal tragedy. It also seems clear that the value of health when added to the value of human dignity would produce a situation of greater intrinsic value than human dignity alone. If one accepts the claim that the total situation of human dignity plus health is greater than the intrinsic value of human dignity alone, one must also assign some intrinsic value to health. It cannot be argued as convincingly in this instance that health is only beneficially valuable for more human dignity or that it is only a defining characteristic of that concept; for it is not unreasonable for one to maintain that one may still lose his health and yet hold on to his dignity. It is also possible for one to lose his human dignity, as in slavery, yet remain a physically healthy human being.

f. Human dignity as a vague concept

Much of the difficulty that attends the search for adequate
counter-examples to the claim that human dignity is the only categorical rule of intrinsic value hinges on the vagueness of the concept which is incorporated within the rule in question. We can, in many instances, make human dignity mean what we want it to mean. Its elusive quality precludes the establishment of certain criteria that enable one to discriminate between instances which are representative and/or non-representative of that concept. This observation is perhaps one of the most convincing arguments against the claim that human dignity is a singular and unqualified rule of intrinsic value.

Furthermore, there is the additional danger that by constantly expanding the concept of human dignity to include within it whatever values we want to include, we make human dignity identical to intrinsic value itself. If this move is made, it would be impossible to show that there are other things of intrinsic value besides human dignity which, if added to this concept, produce a whole of greater value than human dignity alone. If the authors are making such a claim, they are saved from counter-examples, but only at the cost of giving up the concept of human dignity as originally described and as we understand it in ordinary English.

g. Rational consent as a counter-example

If, on the other hand, we accept the position that there are several categorical rules of intrinsic value, only one of which is human dignity, then there will most likely be situations in which two of these rules of intrinsic value conflict. If these rules are categorical and conflict, then it would not be possible to endorse one of
the categorical rules of intrinsic value without violating the other value. One needs not dip too far into the past to find situations, for example, in which two categorical rules, such as rational consent and human dignity, conflict. History fairly shrieks its proof that whole communities and nations are willing, through the consent of the populous, to rob certain of its citizens of their human dignity, yet oftentimes these policies are implemented through procedures deemed rational by those who endorse them. If the right not to be robbed of one's life may be considered an essential aspect of human dignity, the recent history of Nazi Germany stands as a stark reminder that human dignity may be taken away through consent procedures that have all the appearances of rationality.

h. The intrinsic values of the American Creed

We have noted that within model one the intrinsic value human dignity is accompanied by numerous other values and that these are the concepts embodied in the American Creed. The authors make repeated reference to these concepts, often labeling them as "specific values," "social and political values," and sometimes as "legal values." The following excerpt, drawn from the rationale, explains the origin and purpose of these values from the authors' point of view:

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21 Oliver and Shaver, Teaching Public Issues in the High School, pp. 25, 29.
Broad general concepts, such as the concept of human dignity, moreover, are too vague to be very useful as normative criteria for debating community problems. They must be translated into ideals with more concrete meaning. These more specific ideals are not difficult to discover in the political and legal documents which describe the ethical basis of our own society and government. The Declaration of Independence, for example, states that all men are created equal—that each is entitled to life, liberty, and the pursuit of happiness. The keynote is clearly political equality guaranteed by constitutional government. The Preamble of the Constitution enumerates the ideals of justice, domestic tranquility, common defense, general welfare, and the blessings of liberty. Liberty is further defined in the Bill of Rights to include freedom of speech, freedom of religion, freedom of assembly, the right to privacy within one's own home, and the right to the protection of personal property. Justice is defined in the Bill of Rights in terms of an explicit system of due process, as well as equal protection under the law (in the Fourteenth Amendment).

Myrdal calls these normative concepts or ideals the "American Creed." They provide the national community with standards by which common problems facing the community can be described, debated, and evaluated.25

What is not immediately evident from a superficial reading of the rationale is that, like human dignity, these specific values are intrinsic. The first justification procedure in the rationale's description provides us with the evidence needed to verify this observation. The first justification procedure states that public policy judgments are sometimes justified by appealing to the social values in the Creed.26 This specific procedure allows for the possibility that one need not appeal to the higher value of human dignity to make valid the claim that a particular normative judgment is justified. Creed values are intrinsic because their value does not in all cases

25Ibid., pp. 11-12.
26See Chapter II, pp. 24-25.
lead to human dignity. The fact that each Creed value can be incorporated into a constitutive rule of value which may be used to justify singular judgments of that type is sufficient evidence to support the claim that the values of the Creed are intrinsic.

1. Creed concepts as prima facie rules of value

Of equal importance to the conclusion just cited is the observation that each social value can be expressed in terms of a principle or rule of value. The authors state it this way:

What, then, is the purpose and function of social value concepts in public dispute? One answer to this question may be stated as follows: When we are faced with a public dispute in which it is difficult to determine who is right and who is wrong, or when it is difficult to say whether the community or individual parties in the dispute should make this decision, we often seek to resolve the conflict by searching for general principles of ethical and moral conduct. We attempt to discover rules of behavior by which our lives can be guided. Moreover, we want to anticipate stable and predictable ways of resolving future conflicts with others. From these stable approaches to conflict more or less general rules of conduct are generated which allow us to evaluate or judge many different kinds of situations (behavior).²⁷

Moreover, there seems to be ample evidence, drawn from the rationale, that the concepts in the American Creed are prima facie rules of value. We learned from Part I of this chapter that a rule may be labeled as prima facie when it is one of a number of rules, each of which would be categorical if it were not for the fact that it can be overridden by another prima facie rule. Prima facie rule theory is designed to account for the fact that in some situations

²⁷Oliver and Shaver, Teaching Public Issues in the High School, pp. 58-59.
certain rules of value will conflict. The observation that Creed values fall under the rubric of prima facie seems to be confirmed by the authors when they note that the most "fundamental and enduring values of the American Creed . . . conflict with one another when applied to practical political situations." In such circumstances, the Creed values "take on concrete meaning and are often inconsistent; e.g., personal freedom sometimes . . . conflicts with the general welfare of the majority."29

Prima facie rule theory also includes the notion that while certain rules of value may conflict, the preference of one rule over another does not discredit the overridden value as a legitimate moral rule. An overridden prima facie value still remains a rule of value. This particular aspect of prima facie value rule theory helps to explain the reasoning behind the authors' attempt to portray social values as "dimensional constructs." The authors prefer that social values not be construed on "an all-or-nothing basis"; for this view would encourage us to think that when one value overrides another value in a conflict situation, the less preferable value is thereby discredited as a rule of value. On the other hand, thinking of the value[s] as . . . dimensional construct[s] allows us to apply the value[s] more flexibly in a broad range of situations and to deal more realistically with problems of value conflict. Rather than simply saying that

28Ibid., p. 24.
29Ibid., p. 25.
30Ibid., p. 27.
a value is or is not violated in a particular situation, we can describe degrees of violation and weigh the violations against other "goods" protected in the same situations.\textsuperscript{31}

We learned from the discussion in Part I of this chapter that prima facie rules of value may be expressed as principles representative of statement (1) in the general deductive scheme. Since the values in the American Creed are also rules of value, we can translate these values in terms of statement (1) in the general scheme. This translation may be illustrated as follows:

If any \( x \) is an instance of free speech (\( F \)), then \( x \) is (prima facie) good (\( M \)).

If any \( x \) is an instance of public peace and order (\( G \)), then \( x \) is (prima facie) good (\( M \)).

If any \( x \) is an instance of freedom of press (\( H \)), then \( x \) is (prima facie) good (\( M \)).

If any \( x \) is an instance of due process of law (\( I \)), then \( x \) is (prima facie) good (\( M \)).

If any \( x \) is an instance of equal protection under the law (\( J \)), then \( x \) is (prima facie) good (\( M \)) ... and so on.

It is possible to express the notion of prima facie through complementary negative statements. Each of the following statements is simply a complementary negative application of what is stated in the previous list of prima facie principles.

If any \( x \) is an instance of denial of free speech (\( F \)), then \( x \) is (prima facie) not good (not-\( M \)).

If any \( x \) is an instance of leading to civil turmoil (\( G \)), then \( x \) is (prima facie) not good (not-\( M \)).

If any \( x \) is an instance of suppressing freedom of press (\( H \)), then \( x \) is (prima facie) not good (not-\( M \)).

If any \( x \) is an instance of denying due process of law (\( I \)), then \( x \) is (prima facie) not good (not-\( M \)).

\textsuperscript{31}ibid., p. 27.
If any \( x \) is an instance of inequitable treatment under the law (\( j \)), then \( x \) is (prima facie) not good (not-M) ... and so on.

The Harvard Project rationale states that every public controversy involves an issue in which there is a conflict between two (or more) Creed values.\(^{32}\) Using the notion of prima facie and translating these Creed values into principles represented by statement (1) of the general scheme, we can say that in a public controversy one prima facie principle containing a Creed value conflicts with another prima facie principle containing a different Creed value. The notion of prima facie also tells us that each of the principles containing a Creed value is categorically sufficient for M (or not-M) when only one value is present. However, when two principles apply to a situation, it is possible that one of the principles (which was sufficient for M) is no longer sufficient for M because it is overridden by another principle which contains a different Creed value and a different value (M) predicate. This observation can be illustrated by means of the following conditional claims, all of which are representative of statement (1) in the general scheme:

If any \( x \) consists of speaking freely (F), then \( x \) is (prima facie) good (M).

If any \( x \) consists of leading to civil turmoil (G), then \( x \) is (prima facie) not good (not-M).

If any \( x \) consists of speaking freely (F) and leading to civil turmoil (G), then \( x \) is (prima facie) not good (not-M).

This set of conditions is essentially an explanation of what happened in the Sidewalk Speech case, one of the controversial cases.

\(^{32}\)Ibid., p. 88.
presented in the rationale. Barry Schwartz, a hot-headed young radical, was arrested for speaking out against public officials and for coming dangerously close to inciting disorder within a crowd that had gathered together to listen to him. Those who arrested Schwartz claimed that his right to speak in this case had to be abridged because community peace and order were being threatened. The court ruled against Schwartz, overriding his right to free speech for the sake of other values, community peace and order. In terms of prima facie rule theory, we can say that in this case F (free speech) was not M because the situation was also one of leading to civil turmoil (G). Recognizing this conflict, the court decided that in this situation G overrode F and "x is F" was judged not to be M (good).

In light of the foregoing comments, it is clear that the authors of the Harvard Project hold to a prima facie value rule theory and that the values of the American Creed represent an extended list of prima facie rules. Because prima facie value rules are constitutive rules, these rules are needed to justify singular judgments of value falling under them. The logic of this justification procedure can be illustrated by means of the general deductive scheme where a prima facie principle is represented in terms of statement (1).

(1) If any situation (x) is an instance of due process of law (H), then x is (prima facie) intrinsically valuable (M).
(2) This situation (x) is an instance of due process of law (H).
(3) Therefore, this situation (x) is (prima facie) intrinsically valuable (M).

33 Ibid., pp. 89-90
In terms of prima facie value rule theory, statement (3) is a singular prima facie judgment of value that cannot be justified except by appealing to the general prima facie principle contained in statement (1). The above example demonstrates the logic of a valid appeal in terms of prima facie rule theory. It may be recalled that the logic of this appeal is similar to the procedure of appeal used in categorical rule theory, where human dignity is incorporated within the categorical rule of value.\(^3\) In both cases, judgments are justified by reference to a rule of value.

j. Stringency tests for prima facie conflict

It has already been demonstrated that the notion of prima facie allows for the possibility that if there were a situation in which only two prima facie rules of value (PF-1 and PF-2) apply to situation x, the predicate M would apply in the one case and the predicate not-M would apply in the other. In such a situation the resolution of the conflict between the rules may be settled by means of a rule or without such aid. We may clarify this observation as follows:

If PF-1 and PF-2 both apply to x (where x is a controversial situation) and conflict, then

(a) some rule is used to determine whether PF-1 or PF-2 is more stringent,

or (b) there is no such rule.

The latter alternative is not open to those who adhere to a set of prima facie rules. Prima facie rules are constitutive rules, and the

\(^3\)See Part II of this chapter, p. 65.
notion of a rule as constitutive does not allow for the possibility of adjudicating a dispute without reference to some standard. Therefore, the first alternative is the only viable procedure for settling a conflict between prima facie rules.

If it is the case that some rule is required for determining whether PF-1 or PF-2 is more stringent, in theory of value the rule that is required is either

(c) a rule of value

or (d) a meta-rule of value.

If the rule that is required is a rule of value (c), then the rule is either

(e) a prima facie rule of value (PF-3)

or (f) a categorical rule of value.

The remainder of this sub-section essentially demonstrates how the authors of the Harvard Project make use of alternatives (d), (e), and (f) as rules for determining which of the prima facie rules in conflict is (are) more stringent.

k. Stringency test one: A third prima facie rule of value

When two prima facie rules conflict, the conflict is sometimes settled by reference to another prima facie rule (this is alternative [e] as described above). It is this kind of strategy that the authors are suggesting, although unknowingly, when they introduce the notion of analogical reasoning. Essentially, an analogous case introduces a third prima facie value for purposes of settling the stringency of
two conflicting prima facie rules. Mrs. Webster's Rooming House case and the restaurant analogy may be used to illustrate this point. In the Rooming House case, each of the two prima facie rules of value in conflict may be stated in terms of the first premise of the general scheme.

PF-1: If any situation \( x \) consists of violating private property rights \( (F) \), then \( x \) is (prima facie) not good \( (\text{not-M}) \).

PF-2: If any situation \( x \) consists of guaranteeing equal protection under the law \( (G) \), then \( x \) is (prima facie) good \( (M) \).

PF-1 is used to support Sam's public policy judgment that it is wrong to tell Mrs. Webster how to run her business. Expressed in terms of a broad social policy, Sam might say that government interference in one's personal business is wrong. Sam's policy judgment stands in contrast to the opposing policy decision that government control of private business is right. This second policy judgment is supported by the social value incorporated in PF-2, which is equal protection under the law. That is to say, the government has a right to control private business for purposes of guaranteeing equal legal protection to all, particularly to members of the black race. When the restaurant case (an analogy) is presented by Louie, a third prima facie rule is introduced. Louie suggests that the government's interference in one's private business is also warranted when public health and security are at stake. This third rule may also be expressed in terms of the first premise of the general scheme.

\footnote{See Chapter II, pp. 26-29.}
PF-3: If any situation \((x)\) consists of protecting public health and security \((H)\), then \(x\) is (prima facie) good \((M)\).

\(X\) in all three instances represents any situation which may be characterized as one of government control over a person's business.

The introduction of PF-3 by Louie is designed to resolve the conflict in favor of government control. PF-3, like PF-2, supports the policy statement that government interference in private business is good, while PF-1 supports the policy statement that government interference in private business is wrong. If Louie wishes to argue that the introduction of PF-3 (protecting public health and security is good) into the discussion overrides PF-1 (violating private property rights is not good), he needs to argue for a meta-rule (or a second level rule), which states that PF-3 (protecting public health and security is good) overrides PF-1 (violating private property rights is not good).

The dialogue seems to indicate that Sam accepts this meta-rule but that he still wants to support PF-1. If Sam wants to endorse PF-1 and thus adhere to his original policy judgment that government interference in one's personal business is wrong, he must take PF-3 into account. This accommodation is made by incorporating PF-3 into PF-1 as an exception clause. PF-1 becomes a qualified rule of value and reads as follows:

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\(36\) This is alternative \((d)\) as described on p. 78.
PF-1: If any situation \( (x) \) consists of violating private property rights \( (F) \), then \( x \) is (prima facie) not good \( (\text{not-M}) \), except where public health and security are at stake \( (H) \); in such cases, \( x \) would be (prima facie) good.

Although the interjection of PF-3 (and its corresponding meta-rule) into the discussion may appear to resolve the justification problem generated by conflicting prima facie rules of value, the introduction of this prima facie rule (and its corresponding meta-rule) does not accomplish the intended objective. Because this third rule (and its corresponding meta-rule) is a prima facie rule, PF-3 (and its corresponding meta-rule) can also conflict with any number of rules (or meta-rules) to be found in the list of prima facie values. While the conflict between PF-1 and PF-2 is resolved by introducing PF-3, the problem of justification is only temporarily settled, for the same problem can be reproduced between PF-3 and any one of the other prima facie values embodied in the American Creed. The claim that the same justification problem can be generated for any new prima facie rule is justified by finding such a problem with any set of prima facie rules presented in the past.

The previous "analogy" illustrates how exception clauses can be incorporated into prima facie rules of value. What is instructive about this example is that even when a general rule of value, such as, "Government interference in one's personal business is not good," is accepted, exceptional circumstances can arise where one may be compelled to concede, as did Sam, that government interference in private business is justified. The existence of extenuating circumstances im-
poses the requirement of exception clauses on any given set of rules that might be learnable were they not encumbered by exigency clauses. The fact that there are multiple exceptions to any rule of value makes it possible to claim that one never really knows whether or not a rule of value applies on a given occasion. Garner and Rosen state the problem in the following way:

Suppose, for example, there is a rule [of value] \( R \), with exceptions \( E_1, E_2, E_3, \ldots \). If the exceptions could be fully stated, there would be no difficulty with knowing whether or not the rule applied in a particular case. But if we agree that the exceptions cannot ever be fully stated, no one has any way of knowing whether a particular case falls under one of the un-stated exception clauses of \( R \).²⁷

The analogous case cited above not only introduces a third prima facie value, it generates a fourth prima facie rule of value that is used to support a qualified policy judgment. We may label this additional rule, PF-4. This fourth rule is suggested by Sam in the last statement of the dialogue, and it is added because PF-1 does not accurately cover a description of the situation in question. In terms of the first premise of the general scheme, the additional rule reads as follows:

\[
PF-4: \text{ If any situation } (x) \text{ takes place within a setting which is essentially a private home and only incidentally a place of business (I), then the situation } (x) \text{ is (prima facie) not good (not-M).}
\]

Again \( x \) represents any situation which may be characterized as one of government control over a person's business. It should also be noted

²⁷Garner and Rosen, Moral Philosophy, p. 77.
that PF-4 needs a meta-rule which states that PF-4 overrides PF-2 and PF-3.

Although the authors never make the previous observation clear, this fourth prima facie rule of value is used to support the qualified policy judgment which Sam finally reaches: Mrs. Webster is justified in turning away Mr. Jones only if we construe the rooming house as essentially her private home and only incidentally a place of business. As a broad policy judgment the previous obligation judgment may be translated to read, "It is wrong for the government to interfere in one's business when the setting is essentially a private home and only incidentally a place of business."

The creation of another prima facie rule to be added to the already extensive list of prima facie rules of value introduces another problem to the already complicated notion of prima facie rule theory. Prima facie rule theory, by virtue of its definition, is a multiple-rule theory. One of the purposes of rules is that they be learnable to those who are instructed to apply them. If the number of prima facie rules is very large, the extent to which they can be learned grows less possible with each addition. This difficulty seems to be one of the problems posed by the particular set of prima facie rules endorsed by the authors. Since these prima facie rules of value find their origin in the values of the American Creed, the number of rules required for mastery is truly extensive. With each amendment the number of prima facie rules which one must learn likewise increases,
and economy—a large part of the rule theorist's advantage—also suf-
fers.

1. Another stringency test: Human dignity

We have noted that adherence to a set of prima facie rules of
value usually raises the concomitant problem of finding a reliable
stringency test to adjudicate the conflict between the rules of value.
Interjecting a third prima facie rule of value or a prima facie meta-
rule of value for purposes of settling the stringency of the rules in
conflict constitutes one justification procedure. Another justifica-
tion strategy, also countenanced by the authors, requires the use of
the categorical rule human dignity to settle conflicts between two
prima facie rules of value (this is alternative [f] as described above).
However, adjudicating conflicting prima facie values via this procedure
is fraught with a number of difficulties.

It is clear that the concept of human dignity is vague. The
authors concede as much when they say, "To assert that our society is
dedicated to the value of human dignity obviously is to say very
little. The key term is vague..." 38 What the authors fail to expli-
cate, however, are the logical implications of this observation.
Recognition of this concept's vagueness raises the concurrent question
of how it is logically possible for the vague concept human dignity,
as part of a constitutive categorical rule, to settle a conflict of
lower values. Everything is consistent with it. Since each value is

38 Oliver and Shaver, Teaching Public Issues in the High School, p. 10.
an "essential defining characteristic" of the concept, all the Creed values are comprehended in the notion of human dignity. Furthermore, each person can claim that securing his choice of Creed values in any controversial situation would lead to his notion of dignity, for one of the characteristics attributed to prima facie Creed values is their capacity to maximize the concept of human dignity.

Sensing these problems, yet never articulating them, the authors acknowledge that one of the difficulties in using human dignity as a principle for adjudicating conflicts between values is the possible tendency of each discussant to label the social value which each supports as "inviolable." This move is tantamount to saying that in certain situations the principle of human dignity is ignored as a categorical rule for settling the conflict in question. We have established that when two prima facie rules are in conflict, there is some rule that determines which of the two principles is more stringent. It seems nothing short of inconsistent to say that the stringency test is itself one of the conflicting prima facie rules. It is perhaps more plausible to suggest that whenever a discussant labels a prima facie value as inviolable, he is thereby saying that the prima facie rule which he endorses is also a categorical rule. The term "inviolable" seems to indicate that this latter interpretation is the one which is intended. Acceptance of the more plausible interpretation, however, creates a new kind of inconsistency. By virtue of the definitions of

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39 Ibid., p. 25.
40 See Chapter II, p. 33.
categorical and prima facie, established in the technical discussion on moral philosophy, it is logically contradictory to maintain that a rule of value is both categorical and prima facie. If a rule is categorical, it cannot be overridden by another rule, yet the phenomenon of one rule overriding another is in essence what prima facie rule theory makes provision for. That is to say, if one holds that a rule of value is both categorical and prima facie, one is holding to a rule that can and cannot be overridden by another rule of value.

The use of the categorical rule human dignity to settle conflicts between two prima facie rules poses additional problems. According to the rationale, settlement of the conflict between Creed values is a function of whatever value is more conducive to maximizing human dignity.\(^1\) When expressed in terms of the first premise of the general scheme, this claim reads as follows: If any Creed value \((x)\) maximizes human dignity \((F)\), then that value \((x)\) is beneficially good \((M)\). The characteristics of \(F\) are those of maximizing human dignity, where human dignity is conceived in terms of the greatest good. This last observation requires more extended comments.

There are times when it is important to consider not just the amount of human dignity that comes into existence, but also the way in which the amount of human dignity is distributed. Is it better to have large amounts of human dignity for the few or small amounts for the many? The vagueness of the concept human dignity almost prohibits the use of clear examples to illustrate the import of the question;

\(^1\) See Chapter II, p.44.
nevertheless, it is possible to give this inquiry some force by comparing a so-called free society with a slave society. What is distinctive about a slave society, and what in fact differentiates it from a free society, is that things which are regarded as desirable by a slave society (such as leisure, material comfort, education, etc.) are distributed among the relatively few at the expense of the many. Surely it would not be too much of an exaggeration to claim that putting a man in chains and denying him many of the benefits of his labors is, in fact, to rob him of some of his human dignity. Yet such actions have been justified on grounds that the betterment of the few is thereby enhanced and human dignity, at least for the few, is maximized. So-called free societies demonstrate, however, that human dignity need not be maximized in this manner. It is possible that human dignity can be enhanced by distributing fewer increments of the "good" to larger numbers of people. Because the authors do not make clear in what manner human dignity is to be distributed, one is asked to accept an adjudicating principle which is not only vague but also ambiguous.\(^2\)

m. Summary of model one

The descriptions and comments that have been presented in this sub-section suggest that as a theory of value, model one has a number

\(^2\)When a concept is *vague*, we say that the boundaries of the application of the term are unclear. On the other hand, when a concept is *ambiguous*, it has more than one possible meaning. The two notions of distribution as applied to the concept of human dignity are what make the latter concept ambiguous.
of shortcomings. Because of the length of this sub-section, a brief summary of model one is provided below to bring the major problems associated with this model into sharper relief.

One of the tenets contained in model one is that there is a single categorical rule of intrinsic value—human dignity. Whenever one adheres to a single categorical rule of value, the singular rule which is espoused is vulnerable to counter-examples. That is to say, there will always be instances where a single categorical rule is not sufficient to cover all rules of value which one considers to be important.

Another tenet contained in model one is that there are numerous prima facie rules of value. Whenever one adheres to a set of prima facie values, one necessarily encounters situations of conflict between the rules, and problems of justification are generated. The rationale plainly states that public controversy is a manifestation of conflicts among the values of the American Creed. The authors suggest that these conflicts are settled either by introducing another prima facie rule or by interjecting the categorical rule, human dignity.

The first procedure proves to be an inadequate stringency test because a third prima facie rule of value can also conflict with other prima facie rules of value. The categorical rule, human dignity, is also an inadequate stringency test because one can always find counter-examples to the single categorical rule in question. Furthermore, the vagueness of the concept human dignity makes it virtually impossible to discern which of two or more conflicting prima
facie rules of value more (or most) clearly instantiates or enhances the notion of human dignity. As an adjudicating principle the concept of human dignity is at best problematic and at worst ineffectual. The impasse to the problem of justification generated by conflicting facie rules of value is not resolved in model one.

Finally, the authors maintain that the notion of human dignity is the totality of the values incorporated within the American Creed. This tenet is substantiated by the claim within the rationale that the Creed values are "essential defining characteristics" of human dignity and by the additional claim that human dignity is a composite of the values in the American Creed. If human dignity is a categorical rule of value and the values in the Creed are prima facie rules of value, then this tenet is theoretically unsound. Categorical rules and prima facie rules are by definition mutually exclusive; the rule of value in one category (human dignity) cannot represent the totality of the rules of value in another.

2. Model two: Beneficial values

Two salient descriptions characterize the pattern of valuation in model two. We initially note that a single categorical rule of intrinsic value concerns human dignity. In this model, however, the values embodied in the American Creed are not prima facie values. They are more accurately described as beneficial values. Since a complete explanation is provided in model one of human dignity as a categorical

\[\text{footnote reference}\] Oliver and Shaver, Teaching Public Issues in the High School, pp. 25, 28.
rule of value, no further explanations are offered about that rule in this model. One may simply assume that the descriptions and criticisms relevant to human dignity as a categorical rule of value are as applicable in model two as they are in model one.

In the present model we may describe the values embodied in the American Creed as solely of beneficial value. Beneficial values are extrinsic, and as such, one can by definition claim that their value is exhausted by the value of what they produce. When one characterizes the values of the Creed in this manner, one essentially claims that the Creed concepts are valuable only because they lead to the value of human dignity. Newmann substantiates this claim by noting that the values in the American Creed do not "possess intrinsic goodness" in themselves but that their "implementation relates to the fulfillment of a more basic value: individual human dignity."\(^1\) That is to say, the values in the Creed are only beneficial because they lead to the fulfillment of the single categorical rule of value, which is about human dignity. At other places in the rationale the authors note that the Creed values are instrumental to the final value and that their main purpose is to bring human dignity to maximum expression.\(^2\)

The claim that there are a number of Creed values, each of which has beneficial value whenever it leads to human dignity, raises

\(^1\)Newmann, Clarifying Public Controversy, p. 15.

\(^2\)Oliver and Shaver, Teaching Public Issues in the High School, pp. 25, 28.
speculation as to whether there can be circumstances in which it is possible for a particular Creed value not to be beneficially valuable to human dignity. Interestingly enough, some examples of instances where a Creed value is not a beneficial good can be found within the rationale itself.

In the fourth justification procedure the authors discuss a situation where both segregationist and integrationist assert that the particular value which each supports is more beneficial for maximizing the value of human dignity than the particular social value to which each gives second priority. The authors assert that there may, in fact, be circumstances in which one of the concepts (for example, states' rights) is not a beneficial good. Whether or not states' rights is a beneficial good seems to be a function of whether the application of states' rights in a particular situation creates or leads to a nonbeneficial valuation in another Creed value, such as equality of educational opportunity. If such a circumstance arises, and the nonbeneficial value of equal educational opportunity is greater than the beneficial value of states' rights, then according to the authors, one can claim that in such an instance the application of states' rights is not a beneficial good. This example illustrates why the authors cannot claim that all instances of a social value must lead to human dignity. They may still claim, however, that a social value has value only when it leads to human dignity.

\[\text{\textsuperscript{6}}\text{See Chapter II, p. 45.}\]
It should also be noted that model two cannot be made an adjunct of model one. In model two the Creed values are not intrinsic; they are solely beneficial. The fact that the prima facie values in model one can be both intrinsic and beneficial may lead one to think that model two is a subset of model one. But the solely extrinsic nature of the Creed values in model two eliminates that possibility.

3. Model three: Contributive values

Model three contains two main tenets. As in models one and two, there is the same categorical rule of intrinsic value—human dignity. However, in this model the concepts in the Creed are described as contributive values. A value may be characterized as contributive when it is a necessary part of an intrinsically (or beneficially) valuable whole. In this model, the whole is that unit of value which is described as human dignity, and the values incarnate in the American Creed are necessary elements which contribute to that whole. In this model the values in the Creed are not intrinsic. Their value is solely a function of their being a necessary part of an intrinsically valuable unit—human dignity. The authors seem to confirm the observation that Creed values are essentially contributive when they explicitly state that the values of the Creed are "essential defining characteristics" of human dignity.\footnote{Oliver and Shaver, Teaching Public Issues in the High School, p. 25.}
three is instructive for several reasons. When characterized in terms of this framework, the values of the Creed cannot be said to conflict. They are "not contradictory" but "are all criteria of a single concept and collectively describe how men should behave toward one another in an ideal society." It may also be noted that when the values of the Creed are characterized as contributive, they cannot concurrently be labeled as prima facie; for the notion of prima facie is designed to account for the fact that values conflict. Therefore, the second tenet in model three—that the Creed values are contributive—cannot be included in model one. This is the primary reason why a third model is necessary.

Furthermore, this particular model helps to eliminate one of the major criticisms voiced against model one. We noted in model one that when prima facie rules of value (the Creed values) are said to represent the totality of one categorical rule, human dignity, an error in the application of definitions of categories is being made. When characterized solely as contributive values, however, the values of the Creed can correctly (by virtue of the definition of contributive) be said to represent the totality of a single categorical rule of value, human dignity.

1. A note on the use of models

It should perhaps be restated that the authors of the Harvard Project rationales do not knowingly present three models by which to

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18 Ibid., p. 25.
delineate their theory of value. The notion of a model is simply an analytical device used in this study for purposes of reordering and clarifying some of the most significant content to be found in the rationale. This content is classified according to principles included in theory of value in moral philosophy. None of the models by itself adequately accounts for all the descriptions in the rationale. As a unit, however, these models provide a comprehensive description of the particular theory of value which is advanced by the authors. It appears as if all three models must be presented if all the explanations of value within the rationale are to be accounted for.

Even though these models are mutually incompatible, this does not mean that they cannot adequately capture what the authors have in mind. The authors of the Harvard Project have an inconsistent theory of value, but it is difficult to discover that fact because of the framework in which their theory is set. The framework provided here (the three separate models) is intended to reveal the structure of the authors' position. It does this well if it provides an explanation of the various parts of their theory. It can also reveal, as disclosed by the previous delineation, what is wrong with the theory being examined.

Of all three valuation patterns, the third model is perhaps the weakest. In this model the Creed values are contributive, and as a unit they define the single categorical rule, human dignity. Con-

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49 The notion of a model as an analytical device for evaluating the rationale did not originate with this author. The idea was first suggested to me by Professor Rosen.
sequently, numerous, if not all, Creed values must be present if human
dignity as used by the authors is to be adequately defined and de­
scribed. Taken together, models two and three still do not account
for the notion of value conflict in public controversy. This notion
is best explicated by model one where the idea of prima facie receives
extended treatment and where problems of adjudication associated with
prima facie rule theory manifest themselves most clearly. It is model
one that seems to account for more descriptions of value in the
rationale than any of the other models.

The construction of three models to account for descriptions
within a theory of value detracts from the cogency, simplicity, and
elegance of the theory. That theory is best which utilizes one frame
of reference and from that frame incorporates the relevant range of
phenomena within it. That the authors fall short of this objective
is evidenced by the fact that three models are needed to explain the
range of descriptions that characterize their theory of value.

B. Theory of Obligation

In the Harvard Social Studies Project rationale the theory of
obligation advanced by the authors is a function of their theory of
value. The primary purpose of this sub-section is to demonstrate why
this assertion may be made. Within the rationale itself judgments of
obligation are not labeled by that title; they are more simply called
"public policy decisions."50 A public policy decision (i.e., a judg­

50See Chapter II, p. 24.
ment of obligation) is made in response to a public policy issue which is essentially a question concerning the rightness or wrongness of a particular policy or a particular course of action. Hence a public policy decision is a judgment concerning the rightness or wrongness of a particular policy or action.

The close relation between a judgment of obligation and a judgment of value is suggested in the first justification procedure contained in the rationale. In this procedure it is clearly stated that public policy decisions are justified by specific social values. For every public policy decision that is made, a specific value judgment is needed to justify the decision in question, and within every value judgment a specific social value is incorporated. The following examples are used in the rationale to illustrate this point:

<table>
<thead>
<tr>
<th>Value Judgment</th>
<th>Public Policy Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Equal educational opportunity is good</td>
<td>Negroses should be given just as good instruction in public schools as whites</td>
</tr>
<tr>
<td>A peaceful community is good</td>
<td>We should have an adequate police force</td>
</tr>
<tr>
<td>Free speech is good</td>
<td>We shouldn't pass laws censoring Communist literature</td>
</tr>
</tbody>
</table>

Each of the public policy decisions above is a general judgment of obligation, although this fact is not made clear by the heading. The term "should(n't)" is best understood as a term of moral

51 Ibid., p. 25.
obligation. This observation is made clearer through simple sentence transformation, such as the following: "We are morally obliged not to pass laws censoring Communist literature"; or more simply, "Passing laws censoring Communist literature is wrong."\(^{52}\) The public policy decisions above are general judgments and, as such, are constitutive rules or principles that can be used to justify singular obligation judgments falling under them. The policy judgment given in the third example above may be incorporated into statement (1) of the general scheme within theory of obligation.

(1) If passing laws censoring Communist literature \((x)\) violates the right of free speech \((F)\), then such action \((x)\) is not right \((\text{not-}M)\).

(2) This specific act of passing a law to censor Communist literature \((x)\) violates the right of free speech \((F)\).

(3) Therefore, this specific act of passing a law to censor Communist literature \((x)\) is not right \((\text{not-}M)\).

What is instructive about the preceding scheme is that the particular policy judgment, "Passing laws censoring Communist literature is wrong," is only part of what is incorporated within statement (1). To complete statement (1) we must also have some notion of what is valuable, because in this particular instance the \(F\) characteristic is essentially connected to a value predicate. The \(F\) characteristic, violating the right of free speech, is a complementary negative application of the term "free speech." Furthermore, this value term is incorporated in a constitutive rule of value. We know this on the basis of the value judgment that supports the policy decision in

\(^{52}\)The term "should(n't)" is clearly not a legal or prudential term.
question. This value judgment, "Free speech is good," is a general rule of value and may be represented in its entirety in terms of statement (1) of the general scheme within theory of value.

(1) If any situation \( x \) is an instance of free speech \( F \), then that thing \( x \) is good \( M \).
(2) This specific situation \( x \) is an instance of free speech \( F \).
(3) Therefore, this specific situation \( x \) is good \( M \).

In theory of value above, free speech is judged as good. Since the characteristic of \( F \) in the example under theory of obligation violates that value, any action representative of \( F \) is thereby judged wrong. This observation demonstrates that whatever action is right (or wrong) is a function of whatever thing is judged as good (or bad). Hence the theory of obligation advanced by the authors is a function of their theory of value.

The same relation between theory of obligation and theory of value manifests itself in the fourth justification procedure of the rationale. The segregationist maintains that the act of separating the races is right, and his obligation judgment appears to be a function of what he regards as valuable—in this instance, states' rights. The integrationist also appears to be operating according to the same conception of how the right relates to the good. He believes that mixing the black and white races is right because this obligation is a function of what he regards as most valuable in this situation, namely, equality of educational opportunity. The rationale, in effect, is tacitly asserting that one's obligations are formulated in

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53 See Chapter III, p. 96.
accordance with and are justified by what one deems to be valuable.

C. Act Theory

It was demonstrated in the technical discussion in Part I of this chapter that although act theory is included in both theory of value and theory of obligation, it presents a genuine alternative to rule theory for adjudicating moral and value dilemmas. The one feature which seems to differentiate the act theorist from his theoretical counterpart, the rule theorist, is a fundamental disparity over what constitutes the ultimate source of disagreement in moral matters. This disagreement is a consequence of the rule theorist's claim that rules are required to justify singular moral or value judgments and the act theorist's denial of that claim. The rule theorist maintains that singular judgments of both value and obligation, and the disputes associated with those judgments, have to be justified by reference to a general rule or principle often represented in the form of statement (1) in the general scheme. In the sub-sections of Part I of this chapter, entitled "Theory of value" and "Theory of obligation," the authors of the Harvard Project rationale are described as rule theorists.

1. Summary rules

To claim that singular judgments of value and obligation—and the disputes that ensue from those judgments—are not justified by reference to a rule is to depart fundamentally from the previously espoused theory. The act theorist separates himself from the rule
theorist when he claims that the basic unit of justification is not a constitutive rule as represented in statement (1) but is an instance or instances of statement (3) as connected to statement (2) in the general scheme. The act theorist claims that because statement (1) is arrived at from an induction of past instances of statement (2) and (3), statement (1) is more accurately described as a summary rule. For this reason, the act theorist claims that ultimately only statements (2) and (3) can justify singular normative judgments or settle normative disputes arising from differences between such judgments.54

It would be misleading, however, to think that the act theorist does not use rules. Rules simply have a different function for the act theorist than they have for the rule theorist. We have already observed that a rule theorist adheres to a constitutive notion of rules. Constitutive rules define a practice and, as such, bring an activity into existence by their existence. The game of chess offers a good example of the way in which constitutive rules function. There was no such thing as a "chess move" before the rules of chess.55 The rules of chess were necessary to bring a chess move into existence. If someone asks us to justify a particular chess move, we must cite the rules of chess to do so. Any one decision or move in chess must be justified by appealing to the rules of the game.

54 The reader will recall that normative judgments include judgments of value and obligation.

55 This statement is compatible with the claim that the game evolved, as long as we suppose that the evolution of the rules and the evolution of the game were the same event.
Unlike constitutive rules, summary rules do not define a practice, for these rules are not established prior to a practice. According to act theorists, "particular cases are prior to there being a rule which covers them" and it is only when "we meet with a number of cases of a certain sort that we [can] formulate a rule." In other words, decisions made on particular cases are logically prior to the rule which is established to confirm these decisions. The rule which is established in such cases is called a summary rule. A summary rule is perhaps best conceived as a strategy rule. One such rule might go as follows: "Always look to the right and the left before crossing the street." Experience has shown that one is well-advised to follow the rule because the likelihood of being involved in an accident is significantly reduced if one adheres to the rule. The rule is established by observing what works more often than what does not work in achieving a given end. However, one need not always follow a summary rule to achieve the end intended. For example, one can get to the other side of the street without following the rule to look both ways. Likewise, one can follow the rule and still get hurt.

Act theorists believe that summary rules function much the same way in moral matters. The summary rule is not needed to justify any given moral judgment nor is it required to settle disputes arising from differences in moral judgments. If the rule is used, it functions primarily as a well-advised guideline for what is good (or bad)

or what is right (or wrong) on a given occasion. The guideline is derived from a number of decisions of a similar sort that were formulated from past experience. One can fail to follow a summary rule and still do what is right on a particular occasion. By the same token, one can follow the rule in a particular circumstance and learn that he has done the wrong thing.

2. **Hypothetical agreement**

Because the act theorist claims that he can only legitimately examine instances of statements (2) and (3) when settling normative disputes, he attempts to resolve these disputes in a way that is fundamentally different from the rule theorist. The act theorist holds that normative disputes are settled by means of hypothetical agreement. By this procedure the disputants reach agreement, if only tentatively, on the characteristics of F in statement (2) vis-à-vis the moral or value predicate M in statement (3). Essentially hypothetical agreement is designed to translate a moral disagreement into hypothetical agreement on a factual question. Additional comments are required to make this point clear.

A hypothetical agreement between two individuals, a and b, occurs when they agree to two statements of the form, "If this x is F, then this x is M," and "If this x is G, then this x is not-M." F and G are usually incompatible properties of x. An example will help to clarify the point.

Suppose that two persons disagree on the moral permissibility
of integrating public school systems in a community by means of bussing and that the following agreement is reached:

a (the integrationist): If integrating the public schools in this community through bussing (x) leads to improved relations between the races, and does not hinder the academic progress of white children while it improves the academic performance of black children (F), then integrating public schools in this community (x) is morally justified (M).

b (the segregationist): If integrating public schools in this community through bussing (x) leads to greater friction between the races, and hinders the academic progress of white children while not significantly improving the academic performance of black children (G), then integrating public schools in this community is not morally justified (not-M).

The agreement above does not guarantee that there will be agreement on a moral judgment simpliciter, but it does guarantee that the disagreement is not directly related to something involving a moral predicate. It is about matters which are settled by using the techniques of the social scientist.\(^5\) We now know what it would take to have moral agreement and it seems to have nothing to do with constitutive rules. The main question which confronts these discussants is, "What are the non-moral facts required to arrive at a singular moral judgment?" The facts that are needed are the facts of a particular situation and not those represented in some general rule. We may illustrate this last observation by again using the general deductive scheme.

\(^5\) Depending on the problem, the expertise of other trained persons may be used, such as the historian, chemist, engineer, etc.
Integrationist:
(1) If this x is F, then this x is M
(2) This x is F
(3) Therefore, x is M

Segregationist:
(1) If this x is G, then x is not-M
(2) This x is G
(3) Therefore, x is not-M

Statement (1) in both examples above is not a general rule; it is not even a summary rule. It is a conditional statement connecting statement (2) to statement (3) and says that certain non-moral facts in a particular situation are sufficient to arrive at a singular judgment. The disagreement is over statements (2) and (3). Essentially, the disagreement over statement (3) results from a disagreement over statement (2).

Does a rule apply in this particular case? It may; but a rule is not needed to justify either of the two singular judgments above, "x is M" or "x is not-M." If either disputant wants to invoke the aid of a summary rule, it would look as follows: "If any x is F, then x is probably M" or "If any x is G, then x is probably not-M." However, these two rules must be arrived at through induction of past instances of statement (1) where F is connected to M or where G is connected to not-M, as the two following inductions show:

58 The "a" in Fa, Ma, Ga, and not-Ma is an instantiation of the term "this x," where x refers to integrating public schools in this community.
If a is F, then a is M
If b is F, then b is M
If c is F, then c is M
If d is F, then d is M

... and so on.

Summary Rule: If any x is F, then x is probably M.

If a is G, then a is not-M
If b is G, then b is not-M
If c is G, then c is not-M
If d is G, then d is not-M

... and so on.

Summary Rule: If any x is G, then x is probably no-M.

D. Rule Theory

Rule theorists justify judgments in a distinctively different manner; however, the difference in procedure is sometimes difficult to capture. It may be apprehended best by taking an example that closely parallels the one just offered. The following example is drawn from the rationale and duplicates the third justification strategy as presented in a description of the rationale in Chapter II. In this strategy the authors suggest that sometimes one can justify his policy judgments (obligation judgments) by translating a dispute over value priorities into an issue of fact. According to the authors, this procedure commonly involves asking questions about the consequences of a public policy decision. If opponents in a dispute agree on the consequences of a particular policy, then the projected consequences may be tested for their veracity. For example, an integrationist and a segregationist may both justify their conflicting value positions by maintaining that their respective policies lead to
greater peace and harmony between the two races. This situation is illustrated in the rationale in the following manner:

<table>
<thead>
<tr>
<th>Policy Decision</th>
<th>Projected Consequence</th>
<th>Social Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Integrationist: We should integrate the public school systems of this country</td>
<td>because this policy will lead to greater peace and harmony between the two races.</td>
<td>Supports the value of equality of educational opportunity.</td>
</tr>
<tr>
<td>Segregationist: We should keep the public school systems of this country racially segregated</td>
<td>because this policy will lead to greater peace and harmony between the two races.</td>
<td>Supports the value of cultural integrity and freedom of association.</td>
</tr>
</tbody>
</table>

At first blush this procedure looks much like the procedure invoked under act theory. A moral or value dispute is turned into a factual issue, where the facts are portrayed in terms of consequences. However, this assumption is incorrect, and for that reason the above diagram conceals almost as much as it reveals.

What is, in fact, being said here is that disputants can sometimes work toward settling their disputes and justifying their policy decisions by reaching agreement on a third value. This third value is the projected and mutually desired consequence: "Leads to greater peace and harmony between the two races." Let us clarify what has been done until now by using the general deductive scheme.

Integrationist's Position:

(1) If any action \((x)\) increases equality of educational opportunity \((F)\), then action \((x)\) is right [or obligatory] \((M)\).
(2) This action \((x)\) increases equality of educational opportunity \((F)\).
(3) Therefore, this action \((x)\) is right \((M)\).

\(X\) in this case stands for the act of integrating public schools in this country.

Segregationist's Position:

(1) If any action \((x)\) increases cultural integrity and freedom of association \((G)\), then action \((x)\) is right \((M)\).
(2) This action \((x)\) increases cultural integrity and freedom of association \((G)\).
(3) Therefore, this action \((x)\) is right \((M)\).

\(X\) in this case stands for the act of keeping the public schools in this country segregated. The \(F\) and \(G\) characteristics are social value predicates—equality of educational opportunity and cultural integrity and freedom of association, respectively. In both examples above, statement (1) combines each policy decision and its corresponding social value (made by the integrationist and segregationist, respectively) within a general principle of obligation.

When both disputants agree on the projected consequence, they essentially agree to a third value and incorporate this value predicate within a general principle of obligation represented in terms of statement (1) in the general deductive scheme.

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60 The incorporation of the value predicates (the social values) \(F\) and \(G\) within a general rule of obligation substantiates the previously-made claim that theory of obligation is a function of theory of value.
If any action \((x)\) leads to greater peace and harmony between the races \((H)\), then \(x\) is right [obligatory] \((M)\).

This action \((x)\) leads to greater peace and harmony between the races \((H)\).

Therefore, this action \((x)\) is right \((M)\).

These disputants now agree on statement (1) and this statement is a general rule. In act theory, the disputants do not agree on statement (1) and statement (1) is not a general rule. In the example above, disagreement between the disputants centers on statement (2). The integrationist says the following about statement (2): "Segregating the races \((x)\) does not lead to greater peace and harmony between the races. The segregationist counters by saying that segregating the races \((x)\) does lead to greater peace and harmony between the races. The disagreement is over a factual issue but only in so far as that factual issue is related to a rule upon which both disputants agree. Statement (1) above is a constitutive prima facie rule of obligation and is needed to justify the singular judgment falling under it.

This explanation helps to confirm previous observations which were made about justification procedures advocated in the Harvard Project rationale. All procedures for justifying value judgments or public policy decisions in the rationale fall under the rubric of rule theory.

E. Conclusion

The purpose of Part II of this chapter is to examine the rationale of the Harvard Social Studies Project. The descriptions
contained in the rationale are analyzed under two main categories in normative ethics: theory of value and theory of obligation. Within theory of value and theory of obligation, act theory and rule theory are operative. Three models are needed to explain adequately all the descriptions contained within the authors' theory of value. All three models share a mutual subscription to human dignity as a single categorical rule of intrinsic value. This rule is far from adequate because of the vagueness of the concept incorporated within the rule in question. The fact that the values in the American Creed are characterized by the rationale as (1) prima facie and intrinsic, yet as (2) solely beneficial and also as (3) contributive, generates inconsistencies within the description and makes the construction of three separate models necessary. The requirement of three separate models to account for the inconsistencies contained within the rationale's description is sufficient evidence to support the claim that the theory of value advanced by the authors is somewhat less than elegantly conceived and constructed. Within this rationale, theory of obligation is a function of the theory of value advanced by the authors. Since the authors' theory of value is inconsistent and unclear, the difficulties present within theory of value will probably manifest themselves within theory of obligation. The authors of the Harvard Project rationale are rule theorists and as such advocate the use of constitutive rules for justifying moral or value judgments. Rule theorists may be differentiated from act theorists, because the latter adhere to the notion of summary rules and maintain that these rules are not required in justifying singular moral or value judgments.
CHAPTER IV

THE INSTRUCTIONAL MATERIALS OF THE
HARVARD SOCIAL STUDIES PROJECT

The purpose of this chapter is to examine the extent to which the thirty individual unitbooks of the Harvard Social Studies Project (see Appendix I for a complete listing of the units) reflect or depart from the ethical theory advanced by its authors in the rationale. It was observed in the previous chapter that the authors of this Project are rule theorists and as such advocate the use of constitutive principles for justifying moral or value judgments. Of particular concern in this chapter are the "Persisting Questions of History" and the "Persisting Questions of Modern Life" which appear at regular intervals throughout each of the thirty units. Most of these questions follow the reading of a case study, and their specific purpose is to raise public policy issues related to the case that has just been read. For example, after reading excerpts from the "Trial of Galileo" in the unitbook, Science and Public Policy, the student is asked the following question:

Galileo was censored because [the Church felt] he posed a danger or threat to society. Was the Church right in prohibiting the publication of Galileo's book and forcing him to recant his beliefs? Discuss other situations in which a person's freedom is restricted primarily for purposes of protecting the welfare of society. Examples to consider: sentencing a convicted murderer to imprisonment for life; re-
quiring youth to attend schools; teacher disciplining a student for cheating; laws that prohibit the sale of obscene books; quarantine rules that isolate diseased people.¹

Because a public policy issue is a "question involving a decision for action in affairs that concern the government or community," most of the persisting questions are questions of obligation.² These questions are phrased both as broad social policy questions and as choices for personal action. One objective of this chapter is to demonstrate that the persisting questions of history and modern life in the individual units provide additive evidence to confirm the claim that the authors of the Harvard Project are rule theorists. To this extent, the teaching materials that have come out of the Project are consonant with its purposes as described in the rationale.

Correspondence in theory between the Project's rationale and its teaching materials is not a consistent phenomenon, however. Justification of public policy issues as recommended in the rationale of the Project does not always match a description of their justification (or lack thereof) within the teaching units. According to the rationale, public policy issues are justified by means of one or several of four identifiable procedures. One may justify a singular moral judgment (1) by appealing to a general social value embodied in the American Creed; (2) by arriving at a more qualified public policy judgment through analogical reasoning; (3) by translating a dispute over


²Oliver and Newmann, Taking a Stand: A Guide to Clear Discussion of Public Issues, p. 29.
value priorities into an issue of fact, and (b) by appealing to the concept of human dignity. Another purpose of this chapter is to show that only one of these justification procedures is used with any consistency and regularity throughout the teaching units of the Project; this is the second justification procedure, with its emphasis on analogical reasoning.

Five sections comprise the substance of this chapter. In the first section we examine the extent to which the teaching units distinguish between theory of value and theory of obligation and whether theory of obligation is a function of theory of value, as it is in the rationale's description. In the second section, we observe the various ways in which rule theory manifests itself within the teaching units by examining the different kinds of persisting questions in which this theory can be identified. The third section focuses on prima facie rule theory. The notion of conflict between prima facie rules, the overriding of one rule by another, and the utilization of stringency tests to resolve prima facie conflict are reconsidered as they apply to the persisting questions. In this section, particular attention is given to the way in which analogical reasoning is implemented within the teaching units. Categorical rule theory is discussed briefly in the fourth section, and the final section examines the extent to which the justification procedures described in the rationale of the Project are also present within the teaching units themselves.
A. Theory of Value and Theory of Obligation

We observed in Chapter III that theory of value and theory of obligation are two viable and distinct theories within the field of normative ethics. Theory of obligation addresses itself to the rightness (or wrongness) of actions, while theory of value discusses the goodness (or badness) of situations, events, states of affairs, persons, etc. Within the teaching units themselves, there seems to be a general tendency to obscure the distinction between theory of value and theory of obligation. Perhaps nowhere is this ambiguity so sharply in evidence as in the pamphlet, The American Revolution.

After presenting the case study of a man who is ambivalent about his allegiance to the British Crown, the authors investigate the notion of values as they relate to one's concept of good government. That investigation proceeds by means of the following exercise and is presented here in its entirety:

Who Should Govern?

George Watkins, central figure of the case you have read, is caught in a conflict of values about government.

What is a value? It is a firmly held idea of what is "good" or "right." People often hold strong values to the point that they feel no desire or need to prove them.

"It is good to help other people."

"Why?"

"I don't know, it's just good."

When a person values something for himself--where he has a personal preference--he isn't usually pressed very hard to defend it... A person's values for the society or the community, however, may be a different matter than personal preferences.

Many different values can be expressed about government. The person expressing values about government--what is good for himself and others--will usually find himself obliged to justify them if he can.
Check Your Values. On [this] page are ten value statements about government. Put a checkmark in the column to the left of those statements which represent the value you hold about "good" government. Compare the set of values you have checked with those checked by your fellow students. Are your values alike or different?

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<tr>
<td>✓</td>
<td>A</td>
</tr>
<tr>
<td>1. It would be wrong to change the system of government we have inherited. It has the benefits of long experience.</td>
<td></td>
</tr>
<tr>
<td>2. A leader is not finally responsible to the people, but only to God, from whom he receives authority.</td>
<td></td>
</tr>
<tr>
<td>3. Fair decisions can be made only by impartial leaders who have no special interest whatsoever at stake. Only these people should be allowed to govern.</td>
<td></td>
</tr>
<tr>
<td>4. Leaders should not bow to the prejudiced interests of the people, but should be guided by a sense of law. Legal rights and the general welfare should be their only guidelines.</td>
<td></td>
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<tr>
<td>5. Each man should have a say in determining his own fate. Thus the government should be run by representatives chosen by a majority of the people.</td>
<td></td>
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<tr>
<td>6. A country belongs to those men who own property in it, and they should govern.</td>
<td></td>
</tr>
<tr>
<td>7. Power should be separated and divided among several ruling groups. Centralized power often brings tragic mistakes.</td>
<td></td>
</tr>
<tr>
<td>8. The power to govern should be given to the most capable people, to those who have demonstrated intelligence and skill. The average man does not have enough skill to govern his fellowmen.</td>
<td></td>
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<tr>
<td>9. Life is naturally a struggle. Those strong enough to seize power earn the right to govern.</td>
<td></td>
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<tr>
<td>10. Time, money, and effort are saved when a small, unified group runs the government. It is inefficient and wasteful to split power among groups who will bicker and delay decisions.</td>
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</tbody>
</table>
Classify Values. Each of the statements [above] can be identified and classified as a different value. In Column A . . . mark each statement with the letter of the classification which you think fits it best:

(A) Competence and "know-how"
(B) Tradition or familiar customs
(C) Religion, belief in a Supreme Being
(D) Law, the written and spoken rules of the society
(E) Separated power
(F) Strength—"might makes right"
(G) Property ownership
(H) Impartiality
(I) Majority rule
(J) Efficiency

We observe from the previous exercise that the authors make no distinction between what is valuable and what is obligatory. The distinction is further clouded when the authors note that the ten sentences listed above are "value statements about government." A brief examination of these sentences reveals that they may more accurately be labeled as statements (or judgments) of obligation. It appears that one of the objectives of the exercise is to elicit from the student a commitment to one or several of the ten judgments of obligation.

Differentiation between theory of value and theory of obligation, while not always necessary, is often helpful, simply because one theory may sometimes be a function of another theory. We noted in the previous chapter that there is sufficient evidence, drawn from the rationale, to confirm the claim that in this Project theory of obliga-

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4The obligation terms are not underlined in the text. They are underlined in this quotation for purposes of clarifying the point in question. Statements 2, 9, and 10 are disguised judgments of obligation.
tion is a function of theory of value. It appears that such a claim is also being made in the exercise which is presented above. The section, entitled "Classify Values," asks the student to match each of the ten statements with a general value. By this question the writers are suggesting that one's judgments concerning who should govern are a function of one's judgments about good government. Thus, in this particular question, at least, one's judgments of obligation are a function of one's judgments of value. To this extent, the example above reflects the functional relation between theory of obligation and theory of value as it is described in the rationale of the Project.5

It is not difficult to locate additional evidence that may be adduced to support the claim that within the teaching units, obligation statements are a function of value statements. One such source seems to be the discussion guide unit, Taking a Stand. The unitbook opens by presenting the controversial story of Billy Budd. Subsequent to the presentation of this dramatic account, the authors make the following observations:

The policy position that Billy Budd should not be hanged may be based on the value judgment that it is morally wrong to take a man's life by capital punishment. Another example might be Billy Budd should be hanged (policy position) because it would be wrong for Captain Vere to ignore the law (moral-value principle) or because laws must be administered impartially (moral-value principle). In both cases, people are making simple assertions of

5For a review of the functional relation between these two theories as it is expressed in the rationale, see Chapter III, pp. 95-99.
values: killing is bad; disobeying the law is bad; impartial treatment is good. It is important for a participant in discussion of policy issues to recognize such value statements when others use them or when he uses them himself. It is equally important to recognize discussion situations in which a value statement can be challenged.6

That statements of obligation (or policy positions) are a function of statements of value may be ascertained on the basis of the preceding quotation. The relation is somewhat difficult to capture, however, because the two theories are not clearly identified within the quotation.

B. Rule Theory

Because the authors of the Harvard Project are rule theorists, they adhere to the belief that general principles are needed to justify singular moral judgments. They express that tenet in the following way:

Moral statements or value judgments suggest that some object, person, or conduct is "good" or "bad." They suggest that the "goodness" or "badness" is based on a general moral principle.7

There are very few places in the "Persisting Questions" sections of the individual units where reference is actually made to the fact that rules or principles are needed to justify one's moral judgments. More often than not, the reference to rules or principles is

6 Oliver and Newmann, Taking a Stand: A Guide to Clear Discussion of Public Issues, pp. 29-30

7 Ibid., p. 29.
implicit rather than explicit. Nevertheless, there are several places in the unitbooks where reference to the use of rules as adjudicating principles is clear and pronounced. Perhaps the most precise example can be found in the unitbook, Moral Reasoning. In one of the questions of this unit, students are asked to establish what they feel is a morally acceptable "rule" for settling the public policy issue: "Who should be thrown overboard?" The question is being asked consequent to the reading of the case study, "The Shipwreck of the William Brown."

The case concerns a shipwrecked crew stranded in the North Atlantic in a battered lifeboat that cannot stay afloat unless some of the passengers are thrown overboard. Several examples are offered by the authors as policies for deciding who should or should not be spared.

For example, someone might say, "If anyone volunteers to jump overboard, he should go first; but if no one volunteers, then the oldest people should be thrown first because they have had a greater share of life."

Or, "They should take a vote to see who is thrown over."
Or, "The weakest should be thrown over." After you have stated your policy, explain why you feel it is morally acceptable.

Each of the suggestions offered in the preceding quotation is a singular judgment of obligation, although this observation is not made clear from the text. What this question attempts to teach is the

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8 Explicit reference to the need for "rules" or "principles" in justifying one's moral judgments is made no more than ten times in all of the thirty unitbooks.

A proposition that a policy decision is justified vis-à-vis a moral rule.\textsuperscript{10}

Rule theory is as applicable within theory of value as it is within theory of obligation. The authors give us evidence to that effect in one of the booklets, entitled \textit{The Civil War}. In this example, the reference to rules or principles is as pronounced as it is in the previous example. The terms "desirable" and "better" indicate, however, that reference is being made to principles of value, not to principles of obligation. The example is quoted here in its entirety.

"If the North had been tolerant enough to allow the existence of slavery in the South," one might argue, "the Civil War could have been avoided. All states should not be forced by the Federal Government to have the same laws and customs. The Federal Government must be tolerant and respect diversity in the states' ways of doing things."

Article IV of the Constitution includes the following provisions:

Full Faith and Credit shall be given in each State to the public acts, records and judicial proceedings of every other State . . . The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States . . .

Suppose you were President of the United States, concerned with preserving the Union, but also favoring self-government and freedom for different groups of people. As you look around the nation, you see that states have differing policies on certain matters and some groups urge practices quite different from the national majority. For example:

\begin{itemize}
\item a. States differ in the age at which people become eligible to vote, drive a car, or buy alcoholic beverages.
\item b. Gambling is prohibited in most states, but allowed in some. Although all states prohibit prostitution, suppose one or a few states voted to legalize it.
\end{itemize}

\textsuperscript{10}The precision invoked by use of the general deductive scheme is not present in this example, nor does it appear within the context of any of the numerous ethical questions found in each of the thirty pamphlets. If such precision is to be sought, it must be introduced as additional explanatory material by a trained instructor.
c. In some states it is easy to obtain a divorce, while in others, people seeking divorce suffer serious legal problems.

d. The Amish (a religious group) oppose mandatory contributions to the Social Security system, and refuse to send their children to certain public schools. The Mormons once allowed men to have more than one wife, claiming this as a religious practice.

e. Most public schools in the country are racially segregated; only a few are integrated with proportions of black and white students reflecting the national racial percentages.

Try to arrive at a set of rules or principles that tell you for what kinds of problems a uniform national policy is desirable and for what kinds of problems it would be better to let states do as they wish.\[11\]

While most persisting questions attempt to elicit singular judgments of obligation from the student, concurrent reference to principles or rules which are needed to justify those judgments is either totally absent or circuitous.\[12\] Since no two questions of obligation in the thirty units are identical, an evaluator is faced with a plethora of possibilities regarding the objective intended in the question-asking process. Nevertheless, this author has been able to establish some general categories into which many of these questions can be placed. While the categories in this section are not to be taken as stringent or inflexible, they do provide general guidelines for analyzing and evaluating the degree to which rule theory is made explicit within each category. The categories may be identified in the following way:

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\[12\] The above example is one of the few questions of value contained within the "Persisting Questions" sections. Because there are so few of them, no mention is made of them in this sentence.
Category one: Some questions attempt to elicit one or several
singular judgments of obligation without requesting any reasons for
the judgment. Questions in this general category are almost com-
pletely non-directive.

Category two: Some questions attempt to evoke one or several
singular judgments of obligation and also ask the student to give
reasons or to justify his judgments. Most of the questions of obli-
gation in these teaching units fall within this category.

Category three: In some questions a general principle(s) or
rule(s) is (are) suggested—to a greater or lesser degree. Although
a principle(s) is (are) not always definitely stated, the student can,
within the context of the wording, give a reason, based on a rule, as
to why a particular moral judgment is right or wrong.

Category four: Some questions, where general principles are
implied, are more specific than those contained in the previous cate-
gory. In these questions, the operation of a general principle(s) is
(are) suggested by relating singular judgments of obligation to a list
of criteria, issues, reasons, conditions, or suggestions. Questions
within this category vary considerably, both with regard to nuances in
wording and general interpretation.

Category five: In addition to suggesting a general principle,
some questions ask students to offer additional criteria that would be
needed to arrive at a more appropriate principle than the one which is
advanced by the question. Questions within this category also vary
widely in both wording and possibilities for interpretation.
The remainder of this section is devoted to a more detailed examination of each category.

1. **The first category**

Because most of the questions which fall within the first category are almost totally non-directive, they give the student no assistance concerning what kind of procedures one uses for justifying one's moral judgments. Consequently, the skill and training of an instructor seem to be more necessary in considering questions of this type than in those instances where the questions are more directive.

Questions falling under this rubric may read like the following: "Does the United States or the United Nations have any responsibility to intervene in countries where dictatorships exist?"\(^{13}\) or "Do you think that certain jobs should be mainly restricted to the male or female sex?"\(^{14}\) Each of the preceding questions is obviously a question of obligation, but no reference is made to the fact that a singular judgment of obligation needs to be justified, nor is there any allusion to the role of adjudicating principles in justifying policy decisions.

2. **The second category**

Where questions of obligation are accompanied by a request for reasons, the student is receiving instruction in the recognition

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that he is not simply expressing a personal preference and that when rendering a moral judgment, he is obliged to justify his decision.\textsuperscript{15} It appears that a large number of moral questions in the pamphlets are tailored to fit this general description. These questions are not all worded in the same manner, but the general degree of non-directiveness implied by these questions indicates that they may be placed within the same general range along a directiveness/non-directiveness continuum. The quoted question below follows a description of the collectivization movement under Stalin's rule in 20th Century Russia and is a fairly clear example of the kind of question of obligation which is contained within this category. It reads as follows:

Various types of goods and services can be owned individually; collectively either by a group of people voluntarily, or under government supervision; or by the community as a whole, that is, the government. Indicate which of the following services you think should be owned individually, collectively by a group of people, collectively under governmental supervision, or by the government. Give reasons for your answers.

- automobiles
- highways
- high schools and colleges
- buses
- railroads
- water supply
- postal services
- large apartments
- telephone service
- laundries
- automobile factories
- hospitals\textsuperscript{16}

It should be noted that the preceding question only asks the student to give reasons for his judgments. This question (and others like it in this general category) does not clarify the fact that when a student gives reasons for his judgments, he attempts to relate his

\textsuperscript{15}Oliver and Newmann, \textit{The American Revolution: Crisis of Law and Change}, p. 14.

singular moral judgments to general moral principles upon which those judgments are based.\textsuperscript{17}

3. The third category

Not all moral questions in the units are as non-directive as the ones just cited. To that extent, questions falling under the succeeding rubrics contain more possibilities for instructional value than questions subsumed under the first two categories. Recognition of the need for general principles to justify one's judgments seems to be more pronounced in questions that fall within the third category. That is to say, when a student gives a reason for his judgment, he can cite a principle because its content is implied within the context of the question. The extent to which a principle is suggested varies with each question and seems to be solely a function of clarity in wording. Two examples may be offered here to illustrate the kind of questions which fall within this category. The first persisting question is taken from the unitbook, \textit{The American Revolution}, and reads as follows:

\begin{quote}
Did the Stamp Act protest or the Selma protest have more popular support? Should the "rightness" of either one be measured in terms of public support? Give specific grounds for your opinions.\textsuperscript{18}
\end{quote}

\textsuperscript{17}The need for general moral principles to justify singular moral judgments is an assumption which this author is making based on previously-made statements within the unitbooks, where the authors of the Project make it clear that rules are needed to justify one's policy judgments. See pp. 117-120 of this chapter.

\textsuperscript{18}Oliver and Neumann, \textit{The American Revolution: Crisis of Law and Change}, p. 60. The Selma protest concerns the non-violent march to Selma, Alabama, in the spring of 1965, despite a court injunction against the demonstration.
The principle referred to in this example is majority rule. The student is being asked if this is an acceptable principle for judging the rightness of a public protest when the law is clearly being violated. This example also calls into question the general tendency of people to measure the rightness of an action in terms of the amount of popular support that action receives. To this extent, the preceding question may also be trying to elicit another (or alternate) principle of obligation that would justify acts of public protest.

In the second example, which is quoted below, the student can also cite an adjudicating principle because its content is stated within the context of the question. This persisting question is taken from the unitbook, Rights of the Accused, and reads as follows:

Dr. Samuel H. Sheppard of Cleveland was arrested in 1954 on charges of beating his wife to death. He claimed that an unknown intruder had committed the crime. Even before his arrest, however, local newspapers carried news stories and editorials suggesting that he was guilty. Additional editorials attacked Sheppard after his arrest, and a Cleveland radio station staged a debate in which several of the participating newspapermen gave the reasons they thought Dr. Sheppard was guilty.

By the time the trial began, the case had attained national prominence, and hundreds of reporters and photographers crowded the courtroom. Newspapers and radio and TV stations carried interviews with policemen, prospective witnesses, and the opposing lawyers. Members of the jury were also photographed by newspaper and television cameramen. Several members of the jury admitted in court that they had seen or heard at least some of the publicity about the case.

Dr. Sheppard was convicted and sentenced to life imprisonment. He had served nine years when his appeal reached the U.S. Supreme Court in 1966. The Court ordered, in an 8-to-1 decision, that he be given a new trial. The majority decision blamed much of the "carnival atmosphere" of the case on the presiding judge, but said that "virulent publicity" had denied Dr. Sheppard's right to a fair trial. Dr. Sheppard was acquitted in his second trial during which the judge severely restricted reports by news media.
From your brief acquaintance with . . . the Sheppard case, would you advocate putting certain restrictions on the press to help guarantee defendants fairer trials? Give reasons for your position.19

In the case study above, the principle of an impartial public trial is plainly stated. The general principle which is stated and supported (fair trial), however, stands in juxtaposition to another principle which is violated (free press). This example may be used to illustrate how some persisting questions defy stringent categorization; for it is undoubtedly the case that some instructors will be able to detect the prima facie element contained within the question. The important observation, however, is that a rule(s) of value is (are) evident in both the content and context of the question.

4. The fourth category

Some questions, in which a general principle is stated or implied, are more specific than the preceding examples. This is because they suggest the operation of a general principle by relating singular judgments of obligation to a list of criteria, issues, reasons, conditions, or suggestions. One may find differences in degree of specification and sophistication between questions that fall within this category. For example, some of these questions simply ask for a singular judgment of obligation and suggest the operation of general principles on the basis of numerous criteria that are offered. The

following question, drawn from The Immigrant's Experience, is an example of this type.

If we agree that it is necessary to restrict immigration on some basis, the problem is to arrive at a policy that will be most fair and will best protect the interests of the United States.

Evaluate each of the following criteria which might be used to determine whether or not an immigrant might be allowed to enter this country:

(a) The candidate for immigration should already speak English.
(b) The candidate should be able to read and write his native language even if he cannot speak English.
(c) The candidate should never have committed a felony (serious crime) in his native country.
(d) The candidate should never have been involved in subversive activities in his native country.
(e) The candidate should be given special consideration if he has tried to overthrow an autocratic government and is being persecuted for this political activity.
(f) The candidate should be given special consideration if he lives in a country constantly threatened by famine.
(g) The candidate should be given special consideration if he has been educated in the United States and has friends here.
(h) The candidate should be given special consideration if he has friends in U.S. political office.

Each of the above criteria may be translated into general principles of obligation on the basis of which one can determine the right-

20 Donald W. Oliver and Fred N. Newman, The Immigrant's Experience: Cultural Variety and the "Melting Pot" (Middletown, Connecticut: American Education Publications, 1967), p. 38. The underlining in the above quotation is not found in the text. It was done by this author to draw attention to the fact that obligation statements have a prudential mode of expression as well as a moral mode of expression. Statements of obligation that are prudential refer to what is right because the action in question is wise, judicious, fair, etc. Statements of obligation that are moral operate from an ethical base. That is to say, the rightness (or wrongness) of an action is judged on the basis of moral principles. For example, the terms "fair" and "might be allowed" suggest a prudential sense of obligation. Statements (a) and (b) above are prudential statements of obligation, while statement (c) is clearly a moral statement of obligation.
ness (or wrongness) of the act of admitting immigrants into this country. It should be noted that the criteria are not referred to as principles, nor is there an explanation of their function in the process of justification. It may also be noted that these criteria can conflict, although there is no mention of that possibility in the question.

There are other questions included in this category that are somewhat more directive in that they ask students to rate or rank the criteria that are selected and, in some cases, to explain the basis for such rating. Two examples are offered here to illustrate this observation. The first example is taken from the pamphlet, Diplomacy and International Law, and the second is drawn from the unitbook, The Civil War.

At the time the Common Market was formed, the Consumers Union (an American group) rated Grundig radios [German-made radios] as superior to all or nearly all American radios in the same classes. However, the United States maintained a tariff that kept Grundig from outrating its American competitors in stores in America. Was it right for the United States to maintain this tariff? In answering this question, consider the following criteria:

--The hardship of American companies if there were no tariff.
--The hardship that the tariff might cause the U.S. consumer.
--The value of maintaining the tariff to protect the American radio industry, which might be needed in time of war to produce radios for military use.
--The probable effect of the American tariff on Germany.
--National pride.

Which of your criteria did you consider most important?21

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Suppose each of the eight men quoted below decide not to serve in the Union Army, and that these are their main reasons for refusing to join:

a. Joe: "It's morally wrong for the North to try to force the South to stay in the Union."

b. Pete: "I have close relatives in the South, and I refuse to take the chance of getting into a situation where I would do them harm, possibly even kill them."

c. Harry: "It's against my religion to kill another human being."

d. Mike: "To go in the Army now would mean I'd have to close my clothing factory, and I don't see why I should lose all that money."

e. Bill: "I just don't think the North can win this war. It makes no sense to risk your life for what you believe to be a losing cause."

f. Dave: "I may not be very religious, but it's just against my conscience to kill."

g. Henry: "I'll be perfectly honest. I'm just afraid of getting hurt or killed."

h. Frank: "Why should I risk my life to free the Negroes when they'll just come North and take my job?"

Which of these are the most and least legitimate reasons for a person's decision to refuse service in the Union Army? Try to rank the reasons in order from best (1) to worst (8) and explain the basis of your ranking.22

Again, each of the above criteria may be translated into general principles of obligation from which to determine the rightness (or wrongness) of the actions in question. This time, however, the student is being asked to determine priorities among principles and (in the last example) to give reasons for his selection. It was noted in Chapter III that when a stringency test is needed to determine priorities among rules of obligation (or value), another rule (or meta-rule) is used to adjudicate the dispute or to determine priorities among rules of obligation (or value). No reference to the need for such a rule appears in any of the preceding examples. Where

22Oliver and Newmann, The Civil War: Crisis in Federalism, p. 56.
the instructional material provides no further and seemingly necessary assistance, supplementation must be provided by the teacher.

It is sometimes the case that those who espouse the same singular judgment of obligation do so for different reasons. In other words, different principles (or criteria) are used to support the same moral judgment, so that people who seemingly agree about a certain judgment, disagree concerning the principle which should be used to justify the judgment. The following example, drawn from the unit, *The Civil War*, illustrates this point quite clearly:

**Judging a Position vs. the Reasons behind It.** To what extent would your opinion of the above policy [the congressional policy made in the Missouri Compromise of 1820] depend not merely on the side a person takes (i.e., whether he's pro-slavery or antislavery) but also on the kind of reasons he gives? For example, Jones says, "Missouri should be free because slavery is morally wrong." Smith says, "Missouri should be free because the North needs to gain more votes in Congress." Do you believe one reason is "better" than another? Why?²³

In this question, as in the previous one drawn from this unit, there is a tacit request for a meta-rule to determine which of the supported principles takes priority. Since there is no explicit instruction to that effect within the context of the question, one must rely upon the initiative of a trained instructor if that point is to be made clear.

Not all questions within this category relate singular judgments of obligation to clearly-stated criteria or reasons. Sometimes these criteria must be elicited from the student himself. It is reasonable to assume that when questions of this type are posed, the

²³Ibid., p. 15.
student is confronted with more of a challenge. One such question is presented within the unitbook, *The Progressive Era*.

According to the 1970 federal income tax law, the taxpayer can deduct from his taxable income certain kinds of expenditures (that is, he does not have to pay taxes on these expenditures). Following are some of these expenditures:
- Cost of medical care (above 3 per cent income)
- One-half of medical care insurance premiums
- State or local retail sales taxes
- Real estate taxes
- Personal property taxes
- Gifts to religious, charitable, educational, scientific, literary, or veterans organizations
- Expenses for one's own education if the education is necessary to maintain or improve skills required in one's employment
- Alimony payments.

Certain related expenditures, however, are not deductible. Following are some of these:
- Gifts to political organizations or candidates
- The proportion of your rent that goes for real estate taxes
- Educational costs or expenses for one's children or other relatives
- Travel ordered by a doctor for a rest or change
- Funeral expenses.

(a) Try to figure out the possible reasoning behind these deductions.
(b) What logical reasons can you think of that make some deductions more justifiable and others less justifiable?
(c) What deductions do you think should be abolished and what new ones added?
(d) Is there an underlying policy (or kind of life-style) that you think should be favored or discouraged by a pattern of deductions?²

When dealing with questions of this type, the student cannot simply translate any already-delineated list of criteria into a number of general principles of obligation. The criteria must first be elicited from the student on the basis of the evidence presented.

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When the authors ask for reasons as to why some deductions are more justifiable than others (b), they are indirectly asking for priorities among principles of obligation (or value). The same kind of probing occurs in (c) where the student must refer to a rule to justify his decision concerning what deductions should be eliminated or added. The last question of the series (d) suggests the need for a meta-rule to determine priorities among principles of obligation (or value). This meta-rule would determine which "reasons," among the ones that are offered, are most important and would thus define the kind of lifestyle that one thinks should be encouraged by income tax deductions.

This type of question appears to be more sophisticated than others that have been reviewed thus far. Like so many other questions, however, the educational value of this exercise depends, to a large extent, on supplementary instruction from the teacher, for there is no reference within the question to the need for adjudicating principles.

5. The fifth category

In addition to suggesting a general rule, some questions ask students to offer criteria that are needed to arrive at a more appropriate principle. Questions falling within this category are as variegated as the questions found in the previously-discussed categories. In each of the following examples a general principle(s) of obligation is (are) clearly stated or strongly implied; the student is asked to qualify the general principle(s). The examples offered below should give the reader some indication concerning the multiplicity of approaches in question-asking within these units, even for
questions which fall within the same general category. The first example is drawn from the unitbook, Organizations among Nations, and follows a discussion concerning the legitimacy of Italy's entry into Ethiopia in 1936.25

Would you subscribe to the general principle that if powerful nations ensure their own citizens healthful and humane treatment they have an obligation to spread this treatment to people in other nations? If you agree with this principle, would you place any limitations on the ways you would use to carry it out? (For example, would you allow the more humane nation to use military force for any purpose other than self-defense?)26

The second example is drawn from Population Control and follows a detailed description of poverty-stricken conditions in Sao Paulo, Brazil and Calcutta, India.

How should the United States decide how much to help each of the underdeveloped countries (UDC's) suffering from poverty and high populations? A process called triage, used in military medicine, has been suggested.

With a limited medical staff, not all casualties in a war zone can be treated. All casualties are first placed in one of three categories: those who are so seriously injured that they will die regardless of treatment; those who will live even if their injuries are not treated immediately; and those who can be saved only if they are given prompt treatment. When medical aid is limited, only the third group is treated.

Since the developed countries (DC's) have only limited resources to offer the UDC's, should the DC's use this process to decide which countries will be helped and which will be left "untreated"? A number of experts have suggested, for example, that India cannot be saved with the limited resources available. If that prediction can be well-documented, should

25Italy entered Ethiopia partly under the pretext that Ethiopia was barbaric and needed to be civilized.

the U.S. refuse India aid? If you oppose this system of
decision-making, what criteria would you substitute or add
to help decide who receives aid and who does not?27

In both of the above examples, general principles are clearly
stated. The student is asked to qualify the principle by adding or
altering criteria to make the principle more acceptable.

In the next example, a series of questions is asked in an
tempt to get students to qualify general principles of obligation
and to add new principles of obligation to those already formulated.
These questions are subsequent to a detailed description of the an­
nual killing of baby seals in Canada. The account is found in the
unit on Moral Reasoning.

1. Is it wrong to kill the baby seals even if the Canadian
government supervises the process so there is no danger of the
species becoming extinct? Why or why not?
Does the fact that the seals are helpless babies affect
your answer to the question above? If so, how? Is the killing
of adult seals justifiable?

2. Many people oppose the seal killing because of the
clubbing method. Does the method of killing the seals make any
difference? Why or why not?

3. Some people object to the seal killing because the furs
are luxury items not necessary to human survival. Do you agree
that this makes the killing unjustifiable? Why or why not?

4. The men licensed to kill the seals are either fishermen
or men who trap lobsters for a living during the rest of the
year. They earn up to $1,000 for the seal skins, which is a
sizable portion of their annual income (as much as one-third).
Does the economic need of these men justify the killing of the
seals? Why or why not?28

27Donald W. Oliver and Fred M. Newmann, Population Control:  
Whose Right to Live? (Middletown, Connecticut: American Education  

28Oliver and Newmann, Moral Reasoning: The Value of Life,  
p. 62.
The basic objective of the question-asking in this instance is to elicit a series of general principles from the student that justify specific judgments concerning the rightness (or wrongness) of seal hunting. The questions encourage the student to formulate more than one principle of obligation and also to qualify some of the principles already formulated.

We can amplify this point by means of prima facie rules of obligation and a meta-rule of obligation. For example, as a result of the preceding questions, a student may arrive at the following prima facie rules of obligation:

**PF-1:** If any action \((x)\) is an instance of killing adult seals, then action \((x)\) is not wrong.

**PF-2:** If any action \((x)\) is an instance of clubbing seals to death, then action \((x)\) is wrong.

The student may then determine the stringency of the two rules of obligation on the basis of the following meta-rule:

**Meta-rule-1:** PF-2 overrides PF-1.

This meta-rule enables one to arrive at a qualified rule which may read as follows:

If any action \((x)\) is an instance of killing adult seals, then action \((x)\) is not wrong, except when this action \((x)\) is done by means of clubbing, then action \((x)\) is wrong.

It should be noted, however, that the precision with which this rule is stated and the whole notion of exception clauses to general rules are not taught within the pamphlets. These understandings would have to be acquired through additional instruction.
C. Prima Facie Rule Theory

We noted in Chapters II and III that the authors of the Harvard Project are prima facie rule theorists. Prima facie rule theory stands in contrast to its theoretical counterpart, categorical rule theory, in that the former attempts to account for conflict between rules and to explain morally justified actions in terms of the phenomenon of one rule being overridden by another. We also noted that prima facie rule theory requires a stringency test to adjudicate conflict between the rules in conflict. An examination of the ethical questions contained within the teaching units of the Project reveals that the authors have implemented the notion of prima facie conflict into the teaching materials themselves. It is the purpose of this section to demonstrate the way in which that translation has been achieved with the individual units.

1. Conflict not explicit (the sixth category)

The concept of prima facie is present in a large number of questions through these units, but unfortunately, the notion is rarely presented with any degree of clarity. This is because in most of the questions the concept of prima facie is left unexplained. A few examples are offered below to illustrate this observation. The first example is taken from Diplomacy and International Law, the second is found in Race and Education, and the third illustration is drawn from Religious Freedom.
I. Suppose the Panama Canal and the Panama Canal Zone had been transferred from the United States to Panama. Panama and the United States agreed that Panama could decide which ships should be allowed to pass freely through the Canal in time of peace and in time of war.

The United States suddenly finds that it needs destroyers moved rapidly from the Pacific to the Atlantic to deal with a revolution in Puerto Rico. The United Nations General Assembly passes a resolution calling upon the United States not to send shipsthrough, and upon Panama to deny passage to the warships. Panama agrees.

Would the United States be legally justified in using force to get its ships through the Canal? Justify your position.29

II. The basic reason for bussing children to provide integrated education is that housing patterns are segregated. It would be possible to pass laws directed at racial balance in housing similar to the Massachusetts racial balance law for schools so that each neighborhood would more accurately reflect the racial composition of the whole community. Negroes, for example, would be offered first choice of certain new housing and for those with financial problems, subsidies on rents and mortgages could be arranged. New houses could be built in Negro ghettos and racial quotas set. This might protect the concept of neighborhood schools, but prevent ghettos. What are your opinions of racial balance in housing and schools? Justify your stand.30

The next question is drawn from the unitbook, Religious Freedom, and follows another persisting question concerning the rightness of the Puritan Bible Commonwealth to deny voting and office-holding privileges to its members on the basis of strict religious tests. It reads as follows:

III. Remember that the Bible Commonwealth began as a corporation, a private and voluntary business organization. In this light, consider the modern situations listed below,

29Oliver and Newmann, Diplomacy and International Law: Alternatives to War, p. 32.

indicating which you think are "right" and which you think should not be allowed.

a. A private country club excludes non-Christians.
b. A boxing promoter has announced that he will cancel a match because one of the professional fighters involved is an "un-American Black Moslem."
c. A labor union schedules important business meetings at a time when some members cannot attend because of religious obligations.
d. A veterans' club excludes applicants because they belong to a religious sect which supports pacifist beliefs.
e. A religious group expels its own members for such practices as divorce and remarriage, drinking, smoking, or profanity.
f. A distributor of kosher food hires only Jews as salesmen, on the grounds that members of other faiths do not work effectively with his customers.
g. A hospital financed by a religious group discourages admission of patients who belong to other faiths.31

For anyone who is already familiar with the notion of prima facie, the observation that there are conflicting principles of value in each of the preceding questions can probably be made with relative ease. Such a conclusion, however, is not as easily drawn by someone unfamiliar with the complexities of prima facie rule theory. In the first selection above (the Panama Canal case), the values of international law and national security are in conflict. One value cannot be endorsed without violating the other value, but this general observation is not made clear by any explanation within the question. In the second example, one could argue that the value of equal protection under the law (or equality of educational opportunity) conflicts with the value of cultural integrity or freedom of association, while the third question presents a number of situations in which the value

of private property rights conflicts with the value of religious freedom. In these last two examples, as in the first example, the observation that in each case there is a conflict between rules of value is not made explicit, nor is there any explanation concerning the role of adjudicating principles in settling such conflict. These examples seem to be representative of the general manner in which the notion of prima facie is presented throughout the individual units. It is the unusual question which clearly attempts to teach the understandings associated with the notion of prima facie, and it is to these questions that primary attention is now given.

2. **Conflict between rules of value**  
   *(the seventh category)*

There are a few questions in the teaching units where the notion of conflict between moral principles is clear. Perhaps the most lucid example may be found in the unitbook, *Nazi Germany*, where in each controversial situation that is presented, the value of loyalty to one's country is challenged by another value. This example is presented below.

   **Enemies of the State: The Problem of Loyalty.** Each of the following situations might be considered an example of disloyalty to one's nation:

   a. A young man, trying to protect his parents, refuses to answer questions by the FBI on his parents' suspected Communist associations.

   b. A college student refuses induction into the Army on the grounds that the war the U.S. is fighting is immoral and against his conscience.

   c. A businessman deliberately violates a U.S. Government regulation on travel and spending abroad, claiming that freedom of personal travel and investment is more important than the world market value of the U.S. dollar.
d. A soldier refuses to execute prisoners of war after he is ordered to do so by a superior officer.
e. A father teaches his young child that loyalty to the United Nations is much more important than saluting his nation's flag or serving in its army or acting in other patriotic ways.

Use these and other situations to begin a list of values or considerations that may come into conflict with loyalty to one's country.32

In this exercise the value of patriotism comes into conflict with the values of loyalty to one's parents, loyalty to one's conscience, freedom of movement, sanctity for life, and loyalty to the United Nations (or some kind of world government). This question may be used to teach the observation that within a controversial situation two mutually honored and esteemed values might come into conflict. The decision concerning what is right (or wrong) is often difficult, simply because so many controversial situations are characterized by conflict between two competing goods (or values).

3. Concept of "overridden" (the eighth category)

In other questions the notion of conflict between values is accompanied by a description of the phenomenon of one value overriding another. Although this notion is crucial for an adequate understanding of prima facie rule theory, it rarely appears in any of the questions where the concept of prima facie is evident. One of these more unusual questions is found in the unitbook, The Rise of Organized Labor, and reads as follows:

In each of the following situations, a property owner justifies his action by saying, "Although people may not like this, it is my property, and on my property I may do what I wish." Put a checkmark in front of any action listed below which you think should be prohibited by law, and give reasons in discussion:

a. A homeowner lets his lawn grow three feet high, to the annoyance of his neighbors.

b. The owner of a lot in a suburban neighborhood decides to build a dome-shaped house which will contrast radically with the colonial styling of all the other houses.

c. A businessman decides, over the protests of the local merchants association, to break the uniform white-brick architecture of the shopping district by installing a colorful metal front on his store.

d. A high school student gives a party at his home at which liquor is served with his parents' permission.

e. A factory owner orders scrap burned in open incinerators behind the shop buildings.

f. A restaurant owner bars all people under 16 from his place of business.

g. A restaurant owner bars non-white people from his place.

h. A factory owner forbids any gathering of more than five employees during coffee breaks or lunch hour.

i. A factory owner refuses to hire women workers.

In any case where you have decided that the action should be prohibited, indicate the other value (such as public health, community morals, equality of opportunity) that you consider superior to the rights of private property.33

The term "superior" in the example above captures the notion of one value overriding another and does so with more precision than any question in the entire series. By means of this question (and others like it), one is encouraged to understand that the resolution of controversial situations involves the selection of one value in preference to another. The fact that each of the controversial situations above is characterized by the application of two values--one of which applies

positively, the other of which applies negatively—is not made clear by this example; nor does it seem to be explained in any of the questions within the teaching units.

An explanation of this feature of prima facie rule theory is given, however, in the discussion guide, Taking a Stand. The presumption may be that once this notion is presented in the discussion guide, the student will transfer this understanding to the questions contained in the individual units. An explanation of this aspect of prima facie rule theory as it appears in Taking a Stand reads as follows:

Policy positions are commonly supported by a value statement. But this often does not settle the issue, because in most public controversies we find moral-value principles that conflict with one another. We could outline the value conflict in "The Mutiny Act" as follows:

Policy Stand: "Billy Budd should be hanged.
Supporting Value: "Obeying the law is good."
Opposite Policy Stand: "Billy Budd should not be hanged."
Supporting Value: "It is wrong to take a man's life."

Each policy stand is supported by a value statement. But which do we choose? If we choose to obey the law (and hang Billy), we violate the value of "Thou shalt not kill." If we accept the value "Thou shalt not kill" (and excuse Billy), we violate the law.34

On the basis of the previous example, it is evident that by endorsing the value of obedience to the law, one likewise violates the value of sanctity for human life. This is because the positive application of one value and the negative complementary application of another value are an ineluctable characteristic of certain controversial situations.

34Oliver and Newmann, Taking a Stand: A Guide to Clear Discussion of Public Issues, p. 31
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l. Stringency tests for
prima facie conflict
(the ninth category)

We noted in Chapter III that when the notion of prima facie is
operative, there is usually some stringency test that is needed to re­
solve a conflict between two or more prima facie rules of value or of
obligation. The stringency test may be another prima facie rule
(PP-3), a categorical rule, or a meta-rule (either prima facie or cate­
gorical). What we wish to determine at this juncture is the extent to
which the notion of a stringency test appears in the individual teach­
ing units.

While there is no overt reference to a stringency test in any
of the pamphlets, reference to such a test is sometimes implied in
various types of questions. The most obvious reference occurs when
the authors ask the student to determine which of two conflicting prin­
ciples is more important and to explain why. Some of the previously-
cited examples presented in this chapter demonstrate the point being
made, but additional examples may be offered at this point to confirm
this observation. Several fairly uncomplicated examples are pre­
sented below and are taken from the pamphlet Moral Reasoning.

Do you believe that killing Hitler would have been morally
justified? Why or why not?

Some people believe that the question of capital punish­
ment should be answered on the basis of our moral values about
life and punishment and should not be answered simply on the
basis of its possible deterrent effects. Do you agree or dis­
agree? Why?

35Some previous examples cited, where a stringency test is
needed for prima facie rules in conflict, may be found in Chapter II,
Does the fact that human lives are saved by DDT justify its use when it also results in the endangering of whole species of animals? Why or why not?36

There is a prima facie conflict in each of the preceding examples, although the conflict is not as obvious in the first question. In the first example, the injunction not to kill conflicts with the value of preserving a nation or large numbers of human lives. In the second example, the same injunction against taking the life of another is present and it conflicts with the value of deterring crime.37 In the third example, the value of human life conflicts with the worth of an entire species of animals. In each instance, the student is asked to choose which of the conflicting values to endorse and to explain the basis or reasoning behind his choice. If rule theory is to be consistently applied throughout these units, the reasons would have to be based on another standard or rule which would determine the stringency of each of the values in conflict. In each of the questions above, there is no specification concerning the kind of rule that is requested.

Specification of an adjudicating principle to settle conflict between rules of value (or obligation) seems to be made in only one question throughout the entire series. This exercise appears in the unit on Privacy and reads as follows:

36Oliver and Neumann, Moral Reasoning: The Value of Life, pp. 29, 45, 63.

37This value is only operative in this context if we can correctly assume that capital punishment does, in fact, deter crime.
Some have argued that in some situations people may voluntarily waive constitutional rights in return for other privileges; for example:

--A person who chooses to work for the state (policeman, judge, tax collector) may not be free to participate in political campaigns.

--An accused person can waive his right to jury trial.

--A military officer has fewer rights to free speech than a civilian.

When a person applies for welfare, should he have to waive certain rights to privacy? Do you believe in general the decision to apply for welfare is free choice or a forced action for which there is no alternative?38

The stringency test that is suggested above is found in the last sentence, and it appears to be a meta-rule of value. The primary conflicting values in this question are a person's right to a minimum wage (and concomitantly, to a minimum standard of living) versus a person's right to privacy. The last question suggests that the stringency of either value may be determined by another rule of value—voluntary choice (or its complementary negative value, forced action). It should be noted that no explanation is given in the question above for the fact that a stringency test is being suggested, nor is there an additional explanation concerning the purpose of such a test. Its purpose, even as it is applied to this example, is to settle the stringency of two or more prima facie values in conflict. It is at this point—where gaps in explanation are evident—that the role of an instructor is both necessary and crucial.

5. **Analogical reasoning**
*(the tenth category)*

It was observed in Chapter II that one of the purposes of analogical reasoning is to refine the hypothetical point at which a value is violated. It was also noted that when one employs analogies, one analyzes a particular case by comparing and contrasting it with one or several cases, either hypothetical or real, in which questions concerning the same possible violations of value arise. In the original case, two values are usually in conflict and an analogous case(s) is (are) introduced for purposes of invoking a principle(s) of value similar to the original case. By this procedure, reinforcement is given to the suggestion that the basic issue raised in an original case is resolved differently than in a related case. Furthermore, we observed in Chapter III that analogical reasoning is in actuality a stringency test for prima facie conflict. Conflict may occur between two prima facie rules of value or between two prima facie rules of obligation. When such a phenomenon occurs, another rule is used to settle the conflict between the two rules. This rule may be a third prima facie rule (of value or obligation), a categorical rule (of value or obligation), or a meta-rule (of value or obligation). The meta-rule may be either categorical or prima facie.

Throughout each of the individual teaching units, the use of analogous cases appears to be consonant with their purpose as described in the rationale of the Project. The analogous case introduces another rule (of value or obligation) for purposes of settling the stringency of two conflicting prima facie rules. It is not within the parameters
of this study to discuss all, or even most, of the analogous cases which are found in the teaching units. A few analogies are presented here for purposes of illustrating the previously-made observation that the use of analogies in these units reinforces a description of their use within the rationale.39

Perhaps the clearest and simplest use of an analogy, from an instructional point of view, may be found in the unit, Moral Reasoning. In this pamphlet the shipwreck of the William Brown is described. The story is a familiar legal case described in United States v. Holmes, 26 Fed. Cas 360 (C.C.E.D. Pa. 1812). The litigation concerns the prosecution of a seaman named Holmes who was put on trial for manslaughter. Holmes was a crewman on the William Brown when it set sail from Liverpool to Philadelphia in 1811. The ship struck an iceberg in the North Atlantic and sank; some of the passengers and crew survived by climbing into an over-weighted lifeboat. In order to keep the boat afloat and spare the lives of the women and children, Holmes threw the male passengers overboard. The lifeboat stayed afloat, but fourteen male passengers were drowned. Holmes was indicted and convicted of manslaughter and was sentenced to six months' imprisonment at hard labor. The story is followed by an analogous case and also supplemented with questions. It appears as follows in the unitbook:

The Lifeboat. After their ship sank in heavy seas, eight survivors found themselves on a rubber raft that was gradually sinking because it could support only six adults. The eight

39 For a review of how analogies are discussed in the rationale, see Chapter II, pp. 26-29. For a review of an analysis of how these analogies are used, see Chapter III, pp. 78-89.
survivors included a 70-year-old man, a doctor, a 25-year-old woman, a baby boy and his mother, a sailor, a young minister, and a convicted murderer who was, prior to the shipwreck, being transported to jail to serve a life sentence.

They all knew the raft would sink within a half hour and, because they had been blown out of the main shipping lanes, there was almost no chance of being rescued for two or three days. At least one adult would have to be removed from the raft. The survivors talked it over, but no one would volunteer to jump overboard.

a. How is this story different from the true story of the shipwreck of the William Brown?

b. Refer back to the policy you created in response to question 2 above. How does your policy apply in this situation? Are you satisfied that it is the right way to resolve such dilemmas? Would you change your policy in some way as a result of this story? If so, how?

When the students were discussing this story, John said: "I think we have to look at the consequences in making this decision. Obviously it would be best if all could be saved, but this case requires an extremely hard decision."

"I think if no one volunteered to jump overboard, the criminal should be thrown over first. He has not made any contribution to society, and he will be in jail the rest of his life anyway.

"If someone had to go after him, it should be the old man because he at least has had a chance to live his life and the younger people should have a chance to live out their lives too.

"The doctor can save the other lives, the minister helps people, the baby needs his mother, and the sailor is needed because he knows about boats and navigation."

Laurie didn't agree with John. She said: "As I said before, we have to treat all people as having an equal right to be alive. I agree that we need doctors to help people in general to stay alive, but I don't think a man's occupation gives him a greater right to life than someone with a different occupation ... The only way to decide it is by chance. Let them draw straws or something."

What is the major difference between Laurie's and John's reasons?

Question 2 asks, "Can you establish what you feel is a morally acceptable rule for deciding who should be thrown over?"

Oliver and Newmann, Moral Reasoning: The Value of Life, pp. 16-17.
The above example is a clear-cut instance of question-asking in the units that concerns the instructional value of an analogy. The student, as a result of this question and others which are similar to it, should arrive at a better understanding of the fact that analogies help to clarify the range of situations which one would judge as violations or non-violations of a particular value by encouraging the student to seek criteria that distinguish the original case from similar cases.

It may be noted that no mention is made in the above question concerning prima facie conflict or the need for a stringency test to settle the conflict under consideration. Since neither this question nor any other question in the units (where analogies are involved) makes these kinds of distinctions, one must rely solely upon the instruction and skill of the teacher to make these differentiations clear. The extent to which these distinctions are made will depend, of course, on the age and/or ability-level of the students who are taught. The delineation which follows provides an illustration of the kinds of distinctions that can be made.

In the William Brown case, two prima facie rules of value seem to be in conflict. This conflict may be illustrated as follows:

**PF-1:** If any situation \((x)\) consists of taking the life of another person \((F)\), then \(x\) is (prima facie) not good (not-\(M\)).

**PF-2:** If any situation \((x)\) consists of preserving the lives of others \((G)\), then \(x\) is (prima facie) good (\(M\)).

**PF-1** may be used to support the policy judgment that it was wrong for Holmes to throw the male passengers overboard. This policy judgment
stands in contrast to the opposing policy decision that this behavior was right. The values in conflict are incorporated as value predicates in each rule of value. In both instances, x represents any situation of throwing someone overboard in order to keep a sinking boat afloat and save the lives of other passengers.¹²

The Lifeboat analogy generates additional prima facie rules of value. They may be illustrated as follows:

PF-3: If any situation (x) consists of taking the life of someone who has never made a contribution to society (H), then x is (prima facie) good (M).

PF-4: If any situation (x) consists of taking the life of someone who has already lived a long life (I), then x is (prima facie) good (M).

PF-5: If any situation (x) consists of preserving someone's life whose occupational skills are needed to help other people (J), then x is (prima facie) good (M).

PF-6: If any situation (x) consists of reaching a decision by lot (K), then x is (prima facie) good (M).

Again, in each of the preceding instances, x represents any situation of throwing someone overboard in order to keep a sinking lifeboat afloat, and other people alive. It is apparent that PF-3, PF-4, PF-5, and PF-6, like PF-2, support the policy judgment that throwing someone overboard to keep other people alive is good. However, in order to argue for this point, one needs a meta-rule stating that one of the above rules of value (PF-3, PF-4, PF-5, or PF-6) overrides PF-1.

¹²This paragraph, in effect, says that policy judgments are a function of previously-formulated principles (or rules) of value. A value predicate is incorporated within a general principle of obligation which is used to support a singular judgment of obligation (or policy judgment). Thus, theory of obligation is a function of theory of value.
What is not so obvious in this example is that PF-3, PF-4, PF-5, and PF-6 may conflict with each other. While there may be general agreement among the students that in situations comparable to x, throwing someone overboard is morally justified, there is no general agreement concerning the method by which that decision is to be effectuated. It would appear that various other meta-rules are needed to adjudicate the stringency of PF-3, PF-4, PF-5, and PF-6 when any two of these rules of value come into conflict. In the dialogue presented above, John and Laurie both seem to agree to PF-2. They disagree, however, concerning the stringency of PF-5 as it conflicts with PF-6. A meta-rule is necessary to adjudicate that conflict.

Not all of these distinctions need to be made apparent by the teacher. In fact, some of them should not be introduced to the relatively unsophisticated. The preceding delineation is an illustration of the kinds of distinctions in moral reasoning that can be made by an instructor, once the students are introduced to some necessary preliminaries in the field of ethics. Since every original case and its corresponding analogy(ies) are different, procedures in ethical reasoning will vary from case to case. The following two examples are presented here to give the reader some indication of the general approach to analogical reasoning as it manifests itself within the teaching materials. The first example is taken from the unitbook, Nazi Germany; the second example is found in Rights of the Accused.

The international tribunal assembled at Nuremberg after World War II established the principle that men under certain circumstances must disobey orders to avoid committing serious moral wrongs.
Do you think it was just for the judges to sentence Hoess to death in spite of his argument that he had to obey orders?

Consider this more recent case:

"The dominating figures of the air war in the (Mekong) Delta are the forward air controllers. They fly around looking for signs of guerrilla activity in little single-engined Cessnas, known as O-1 Bird Dogs... The FACs have the authority to call missions only after approval by the South Vietnamese province chief, except in dire emergency when friendly troops are under fire... They cruise over the Delta like a vigilante posse, holding the power of life and death over the Vietnamese villagers living beneath their daily patrol..."

"An FAC must be very sure of what he's doing before he calls in the jets. He can kill a lot of innocent people if he makes a mistake, which sometimes happens. I met an FAC who had been directing gunfire from Navy destroyers against hooches (native huts) and VC concentrations for several months. The destroyers were many miles offshore in a rolling ocean. This young man had been relieved of duty because he had openly declared himself guilty of assisting in the killing of many civilians because the long-range guns had fired wild so often, hitting houses and people in the vicinity of the target coordinates. It was impossible not to feel the agony this boy was suffering. 'I just want to go home and forget it forever,' he said.

"Another FAC who had just flown in his last artillery-directing mission over a nearby village was in the bar at the Eaton compound in Can Tho. He said he was going back home to the States the next day. He had been ordered to direct artillery against a village because 'three VC were reported there this morning.' He got over the village, he said, and looked down and all he could see were men, women, and children walking around. He radioed back to the ARVINS (Army of South Vietnam) and told them he didn't see anybody who resembled a VC but that there were civilians in the village. Did the province chief really want this place hit? They radioed back that the province chief did, and to send the coordinates. 'I sent them this young FAC told me, and drained his drink.

"'You must have seen a lot of people killed,' I said.

"'No,' he said. 'No people got killed. Nobody was in the paddy where I directed the artillery fire.'"

Do you think that the first FAC should be punished for avoiding his duty or that the second should be punished for deliberately misguiding the attack?

In what ways are the issues of their situations similar to and different from the issues in the case of Rudolf Hoess?"
Law enforcement agencies have used a number of techniques to gather information about crimes and suspects. Police have forcibly pumped the stomach of a narcotics suspect who has swallowed heroin capsules. They have used electronic eavesdropping devices and telephone wiretaps to investigate suspected racketeers. Inside the station house, suspects have been forced to confess through application of psychological and physical pressures. In situations like the "Matson case," an unconscious suspect's blood has been taken for tests of alcohol content.

Amendment IV of the U.S. Constitution says, "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated . . . ." Amendment V says that "No person . . . shall be compelled in any criminal case to be a witness against himself . . . ."

Do you think the police violated Bill Stoddard's constitutional rights under these amendments when they took a sample of his breath? Justify your position.

How much protection against surprise search and surveillance should be guaranteed to individuals? Consider the following two [analogous] cases:

I. The washrooms at Hooper High School had apparently become sanctuaries for all the rulebreakers and "discipline cases" in the student body. Principal Sam Smith knew that many students, both boys and girls, ducked into the washrooms to have a quick smoke between classes or to hide out when they skipped classes. He had also heard that some of the older students were cornering young boys and girls in the washrooms and persuading them to break school rules too. Yet he felt he could not spare teachers' time or his own for the constant patrol that would be necessary to catch students smoking or cutting classes. Then he hit upon the idea of wiring the washrooms into the public address system, which he ordinarily used for two-way communication with classrooms. The one-way wires and receivers were installed on a week end. The hookup permitted him to listen in on any of the washrooms at any time.

Within a few days several of the most flagrant offenders were caught smoking or cutting classes and suspended from school. This was no tragedy as far as Carole Jones was concerned. Like most of the students, she believed in obeying

Bill Stoddard is the defendant in the only case study of this unit. He is accused of manslaughter for striking and killing an eighty-year-old woman while driving through a snow storm. The breath sample is relevant because prior to the accident Stoddard was at a cocktail party.
school rules. She was as puzzled as everyone else by the principal's new success in policing the washrooms, but she didn't miss the offenders one bit. Then she heard a rumor that the washrooms were "bugged." It disturbed her. Only two days before she had run into Susie Schnell in the girls' lavatory when she had stopped there on a pass during study period. They had talked loudly for a few minutes about the boys they liked most—the teachers they disliked most. She wondered now if anyone had been listening. She decided to report the rumor of the "bug" to her father, who was a member of the school board.

Do you think that the school board should reprimand the principal for violating the students' privacy? Justify your position.

II. The "tapping" of telephone lines has been severely criticized—and was forbidden in federal law enforcement procedures by U.S. Attorney General Ramsey Clark in 1967. District Attorney Frank S. Hogan of New York expressed a different opinion before the Senate Judiciary Committee in 1962:

"... State wiretapping has been the only means available, in many instances, to uncover major larcenies and frauds, in which the telephone served as the instrument of the crime. Wiretaps were used by my office in successfully prosecuting a half-million-dollar stolen bond ring led by one Irving Mischel, who acted as a broker for burglars specializing in stolen securities... He operated with forgers and other underworld characters, including Irving Nitzberg, an alumnus of Murder, Inc. A wiretap on Mischel's home phone was the prime factor in bringing about his indictment, conviction, and a ten to twenty years' prison sentence. In addition, Nitzberg and eight others were arrested and indicted. All pleaded guilty to charges of grand larceny and forgery."

Do you think that police should be allowed to continue such electronic watches on suspects? Justify your position, and compare your opinions in the two cases.45

Each of the preceding analogies and its corresponding original case asks the students for a policy decision. Each exercise also asks the students to compare and contrast the different policy decisions

45 Oliver and Newmann, Rights of the Accused: Criminal Procedure and Public Security, pp. 25-26. The reader may want to ascertain what kind of rules of value or obligation are in conflict in each of the preceding cases, the adjudicating principles that are needed to resolve the conflict between rules, and the qualified principles that ensue from resolution of the conflicts in question.
that are rendered in each case. Clearly, the objective is not only to identify the rules of value (or obligation) that are in conflict but also to encourage the students to formulate qualified rules of value (or obligation) that would remain unqualified were they not challenged by additional rules contained within the analogous cases. These additional rules serve as stringency tests to adjudicate conflict between rules of value (or obligation). The qualified rules also serve as judgments of stringency. The notion of prima facie conflict, the use of rules (or meta-rules) as adjudicating principles, and the utilization of exception clauses are not incorporated as instructional material within these questions. It is clear then that these distinctions, if they are to be made, must be introduced as additional material by an instructor.

D. Categorical Rule Theory

There is no explicit reference to categorical rule theory in any of the units, nor is there any clear explanation of the difference between this theory and its counterpart, prima facie rule theory. If categorical rule theory is to be distinguished from prima facie rule theory, the distinction must be made by the teacher, simply because the difference between these two approaches to moral choice is almost totally ignored in the pamphlets. There are some questions in the units which seem to be more conducive to instruction in the recognition that these two approaches to rule theory are different. One such question, drawn from Negro Views of America, is presented below.
Expectations and Morality. In thinking about Richard's job and his conduct at the movie theater, consider the following statement:

"In deciding whether something is right or wrong, we can consider two basic ideas: (a) we do what people expect us to do; or (b) we behave according to some natural or moral law that may differ from what people expect. The Ten Commandments are an example of (b), so if we follow them, we then conclude that it was wrong for Richard to steal. The whites in the South deliberately put the Negro in a situation where he had to steal in order to get along; the whites could then look on the Negro as a poor, immoral law-breaker. This helped the whites consider themselves superior. Since the whites' own feelings of superiority depended on Negroes being poor, petty thieves, we can say that the whites really expected and wanted Negroes to steal. Thus it was right for Richard to steal."

Discuss your opinions of this argument.

If we take the Biblical injunction not to steal as a categorical rule, then it obviously cannot be overridden by the rule contained in (a) and the argument is untenable. But there is more to the preceding example than the fact that it contains a specious argument. The argument may be used as an illustration of the weakness inherent in categorical rule theory, namely, the vulnerability of categorical rules to counter-examples. If there are situations in which it is right to do what people expect of us, then such situations provide a genuine moral impasse for those who accept the categorical rules of the Decalogue. We may circumvent this difficulty if we accept the rules embodied in (a) and (b) as prima facie. The argument, "it was right for Richard to steal," is tenable if we can agree that in this instance

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h6 The person being referred to in this question is Richard Wright. This question follows a selection drawn from Richard Wright's autobiography, Black Boy.

(a) overrides one of the rules subsumed under (b). In order to arrive at this conclusion, we need a meta-rule (either categorical or prima facie) to serve as a stringency test. These distinctions, however, are not provided as instructional material within the question.

E. The Justification Procedures of the Rationale
As Found in the Teaching Units

We have already observed that analogical reasoning is used with some consistency and regularity throughout the teaching units of the Harvard Project. To this extent, one of the teaching strategies as presented in the individual units is faithful to one of the purposes of the Project as described in its rationale. The same general assessment, however, cannot be made of all the justification procedures contained within the rationale. In this section, the remaining justification procedures (the first, third, and fourth) are examined to determine the extent to which they are incorporated within the "Persisting Questions" of the individual units.

1. The first justification procedure

The first justification procedure states that one can justify public policy decisions by appealing to the general social values embodied in the American Creed. While there is no direct reference in any of the thirty pamphlets to the "American Creed" as it is defined and described by its authors in the rationale of the Project, there

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48 Analogical reasoning constitutes the second justification procedure as found in a description of the rationale in Chapter II.

are numerous references to specific social values that may be identified as Creed values. A review of the questions presented within earlier sections of this chapter reveals that many social values normally associated with the Creed are incorporated within the "Persisting Questions" of the individual units. For example, the social values of separated powers, property ownership, and majority rule are present in the question "Who Should Govern?" in the unitbook, The American Revolution, while the values of sanctity for human life and obedience to the law are evident in the case study of Billy Budd. The Creed values of states' rights and national security (and welfare) are juxtaposed in some of the persisting questions in the Civil War unit, while the values of the right to a fair trial and freedom of the press are operative in the Sam Sheppard case in Rights of the Accused. It should be noted, however, that no special effort is made in these questions to instruct students that when these social values are incorporated within rules of value, they constitute legitimate principles for justifying singular judgments of obligation (and value). According to the rationale, these principles are legitimate because they are a reflection of the values incarnate in an honored Creed.

50 See Chapter I, pp. 3-5.
51 See Chapter I, pp. 6-7.
52 See Chapter II, pp. 9-11.
53 See Chapter II, p. 16.

54 These principles of value can justify singular judgments of obligation only if we assume that theory of obligation is a function of theory of value.
2. **The third justification procedure**

The third justification procedure states that one can justify his policy judgments by translating a dispute over value priorities into an issue of fact. This procedure commonly involves reaching agreement on a third value (or mutually-desired consequence) in order to adjudicate a dispute between rules of value that are incorporated as value predicates in opposing public policy judgments. The dispute may be settled by examining situations in which opposing policies have been applied and by judging which policy, in fact, leads to the third value or projected consequence.\(^5\) It appears that nowhere in the pamphlets is this justification procedure clearly explained. Once this particular procedure is understood and mastered, however, there are a few questions in the units to which it may be applied. But such application requires prior knowledge of the justification process; for there is nothing in these questions which definitely states that the process is best suited to any particular type of question.

Probably the clearest example of the application of the third justification procedure may be located in the pamphlet, *Diplomacy and International Law*. The question is presented here in its entirety:

**Defending a Position in the Missile Crisis.** Six individuals or groups should each select one of the six positions outlined above and write a brief or summary of the major points that make that position more desirable than the other five.\(^6\)

\(^5\)For a review of this justification procedure, see Chapter II, pp. 29-31 and Chapter III, pp. 105-108.

\(^6\)There were six alternatives suggested to President Kennedy by his advisers for handling the Cuban Missile Crisis. These alternatives are presented prior to this question in a case study.
After the briefs are prepared, all the major points should be presented . . . A "judge" should screen whether or not a point is valid. Validity of a point is determined by whether or not the individual or group can support it with the basic criteria by which a "good solution" to the crisis is to be judged. Criteria might include:

---The reason demonstrates how the solution minimizes the possibility of war and violence.
---The reason shows how the solution might increase U.S. prestige and gain favor in world opinion.
---The reason shows how U.S. interests (economic, political, cultural, etc.) might be strengthened.
---The reason shows how the solution is consistent with international law.
---The reason shows how the solution is consistent with maintaining the Democratic party in power in the U.S.

To illustrate the relationship between reasons and criteria, one group might say, "An air strike is best because it is quick and decisive." The person giving this reason would have to show how it would increase chances of peaceful solution, how it would increase U.S. prestige, etc., in order for the reason to be considered valid.57

In the example above, the reason "because it is quick and decisive" is used to support the public policy decision that "An air strike is best." We can translate both reason and policy decision into the language of the general deductive scheme by incorporating both statements within a general principle of obligation. The principle would read as follows: If any action (x) is quick and decisive, then action (x) is right.58 While there may be other policy decisions which oppose this one, the question seems to suggest that the resolution of differences in policy is best effectuated by reaching mutual agreement on a set of criteria. These criteria may be interpreted as

57Oliver and Newmann, Diplomacy and International Law: Alternatives to War, p. 38.
58In this instance, x represents any action which is an air strike.
projected consequences or mutually-agreed-upon values. Each of these criteria may also be incorporated as a value predicate within a general principle of obligation. We may use the first criterion above to illustrate this translation. It would read as follows:

If any action (x) leads to minimizing the possibility of war and violence (G), then action (x) is right (M).

Now the question becomes: what action does in fact lead to minimizing the possibility of war and violence? The exercise which is quoted above addresses itself to that question by confirming the necessity of testing whether or not any given action (for example, an air strike) does in fact lead to the desired consequences (or the six criteria). If the particular reason given does lead to the six criteria listed above, then that reason is "valid" (or justified).

That this justification procedure may be used to settle this particular dispute is not made clear within the context of the question. The application of the third justification procedure to this question would appear to be largely a function of how well any given teacher understands and applies the process as it is described in the rationale of the Project.

It should also be noted that there is only one other question in the entire series to which the third justification procedure is applicable. The limited possibility for application of this procedure

59 Not all the criteria listed in the question above can be translated into a projected consequence. It is difficult to make this translation with the fourth criterion.

60 This question appears in the unitbook, 20th Century Russia: Agents of the Revolution, pp. 20-21.
ture to questions within the units may suggest that the authors are not persuaded that the procedure is a feasible one. We cannot be sure, however, simply because of the paucity of explanatory material that involves the application of this procedure to the teaching materials of the Project.

3. The fourth justification procedure

The fourth justification procedure states that public policy decisions can sometimes be justified by appealing to the notion of human dignity and that this concept may serve as an adjudicating principle whenever two or more Creed values are in conflict. We noted in Chapter III that when the concept of human dignity is incorporated within a rule of value or obligation, that rule may be designated as categorical. If it is categorical, no other rule can override it.

Explicit reference to human dignity as an adjudicating principle appears at no point in any of the thirty units of the Project. To this extent, the teaching units do not reflect one of the most significant observations made in the rationale. While the authors may express the conviction that human dignity is an all-important and all-encompassing concept, they have not transferred that general observation to the teaching materials themselves. If the notion of human dignity is to be taught through use of the teaching materials, the

61 Comments to this effect are made within the body of the rationale. See Chapter II, p. 30.

62 See Chapter II, p. 31.

63 See Chapter III, p. 65.
initiative must rest with an instructor who has had an opportunity to examine the rationale and translate the purposes as stated in that description to the case studies and persisting questions in the individual teaching units.

F. Conclusion

The purpose of this chapter is to examine the extent to which the teaching units of the Harvard Social Studies Project are consonant with the purposes of the Project as described in its rationale. Our conclusions indicate that while there is partial correspondence between the rationale and its teaching materials, there is enough inconsistency between theory (the rationale) and practice (the teaching materials) to merit additional comments on those differences.

The teaching materials of the Project provide sufficient evidence to lend credence to the previously-made claim that the authors of this Project are rule theorists. To this extent, the purposes of the Project as stated in the rationale correspond with the implementation of those objectives within the teaching units. Reference to the need for rules or principles to justify singular judgments of obligation (or value), while unusual, occurs in enough instances throughout the persisting questions of the individual units to confirm the observation that rule theory is consistently endorsed and applied. From an instructional point of view, however, it is unfortunate that more questions do not make explicit reference to rules as adjudicating principles or explain their function within the justification process.
In most persisting questions, reference to the need for rules to justify one's judgments is implied; rarely is it clearly stated.

Prima facie rule theory is also evident within the teaching materials of the Project. Because most persisting questions that contain the notion of prima facie make little or no reference to the fact that they do so, one must already be familiar with this concept to detect its use within any given question. Fully-stated explanations concerning the notion of conflict between rules of value (or obligation), the phenomenon of one rule of value (or obligation) overriding another, and the use of stringency tests to settle a conflict between rules of value (or obligation) are not incorporated in a systematic fashion within the teaching materials of the Project.

Of all the justification procedures that are contained within the rationale’s description, only the second procedure is used with any consistency and regularity throughout the units. The second justification procedure places primary emphasis on the functional value of analogical reasoning. While the primary purpose of an analogy is to generate additional rules of value (or obligation) so as to encourage one to formulate qualified policy judgments, this purpose and its necessary attending explanations are not present within the context of the persisting questions of the individual units.

Unfortunately, the remaining justification procedures are not as obviously stated or as consistently applied. Because the teaching units make no explicit reference to the social values incarnate in the American Creed, the purpose and function of the first justification procedure is obscured. The third justification procedure can probably
be applied to no more than a few questions within the entire series, primarily because the general wording of the questions does not invite its implementation. It appears that the fourth procedure is not utilized at all. This last failure of application represents the most fundamental disparity between the purposes of the Project as stated in its rationale and the teaching materials.

The most significant observation garnered from a review of the teaching units is that many of the persisting questions require supplementary instruction from a trained teacher if their educational value is to be fully explored and utilized. The precision invoked by use of the general deductive scheme is not to be found within the rationale or the teaching units, nor are there the kinds of distinctions present within these units that additional theoretical refinement might provide. While one would not want to introduce these distinctions to the relatively unsophisticated student, where such induction has possible educational value, one must rely wholly upon the teacher to provide and develop it. If the teacher is untrained, instruction in certain distinctions fundamental to ethical reasoning becomes highly improbable.
CHAPTER V

THE REFLECTIVISTS' APPROACH TO VALUATION
AND ETHICAL REASONING

In attempting to justify and to clarify their own ethical theory, the authors of the Harvard Project review some ethical positions in social studies education which represent a departure from their own point of view. Of crucial importance in this chapter is the pragmatic or reflective approach to social studies education. This chapter consists of four sections. The first section examines the criticisms voiced by the authors of the Harvard Project against the reflective approach to valuation and ethical reasoning. The second section reviews the reflectivists' position concerning the nature and method of moral choice. Some suggestions are also offered regarding what things the reflectivists hold to be of intrinsic value. In the third section, the criticisms raised by the authors of the Harvard Project against the reflectivists are evaluated. The fourth section compares the ethical systems of the Harvard Social Studies school of thought and the reflective school of thought.

A. Objections to the Reflectivists

The origins of the reflective position to social studies education are commonly attributed to John Dewey. Followers of this leading
philosopher and educator advocate application of the scientific (or reflective) method as the best curative approach to the environmental and social problems that continue to plague and confound modern man. Although the authors of the Harvard Project\textsuperscript{1} do not seem to oppose the claim that one solves empirical problems best by application of the scientific method, they do object to the additive claim that this procedure, however carefully refined, should be extended to solve problems and dilemmas best characterized as ethical. They accuse the reflectivists of "reducing" ethical problems to empirical problems and disagree with the reflectivists' claim that "disagreements over values are fundamentally not different from disagreements over factual claims.\textsuperscript{2}

More specifically, Oliver and Shaver object to the claim made by Gordon Hullfish and Philip Smith, two leading reflectivists, that one can test the validity of a framework of values by observing the "long-range usefulness" of these values.\textsuperscript{3}

A more fundamental difficulty with the reflectivists' position, as Oliver and Shaver perceive it, is their inability to deal with extreme violations of important social values whose long-range usefulness is empirically tested. The authors express it this way:

\textsuperscript{1}The authors referred to are Donald Oliver and James Shaver. The criticisms that are reviewed here are found in their text, Teaching Public Issues in the High School.

\textsuperscript{2}Oliver and Shaver, Teaching Public Issues in the High School, pp. 32-33. Whether this criticism accurately and adequately captures the reflective position regarding the relation between the ethical and empirical domains is not in question here. What is being presented is a description of Oliver and Shaver's criticisms.

\textsuperscript{3}Ibid., p. 33.
Suppose, for example, that after due deliberation we find it socially useful to sterilize or deport all citizens of sub-normal intelligence. The long-range social consequences, it is argued, will be to strengthen the intellectual quality of the community and lead to more responsible social living. All our evidence indicates that crime, delinquency, illegitimacy, unexcused absenteeism from work, and other kinds of irresponsibility will be markedly decreased. Would we then proceed with the action? One might very well argue that Soviet treatment of the kulaks was "rationally" conceived and led to many "beneficial" results. Is it appropriate, for example, to debate the reasons for and against Hitler's extermination of the Jews in central Europe in terms of possible consequences?\(^4\)

Oliver and Shaver also criticize the reflective approach to the adjudication of normative disputes. They note that the reflectivists suggest that conflicts among social values can best be settled by referring both conflicting values to "a more basic third value" which has a testable referent and upon which there is mutual agreement.\(^5\) An example is offered by these authors to clarify this particular adjudication procedure.

Suppose one man suggests that railroads should be taken over by the government because the people might then have some affective control over a basic utility. A second man suggests that this would be an invasion of the free enterprise system. Here is a value conflict or democratic control versus private property rights. Both positions might then be evaluated in terms of a third value—economic efficiency. Economic efficiency can be translated into agreed-upon "good" and "bad" consequences and the issue can be settled by transforming the third value into an empirical issue: Under which system are we likely to get the most frequent and cheapest rail service?\(^6\)

Oliver and Shaver observe that there are several weaknesses associated with this procedure. They note that in many cases the third

\(^4\)Ibid., p. 34.
\(^5\)Ibid., p. 34.
\(^6\)Ibid.
value which the discussants agree upon is stated in terms that are too vague. In such instances, the problem between the disputants is not so much an empirical one as a controversy regarding the most adequate definition of the value-concept in question. For example, both the segregationist and the integrationist may agree to a third value, such as equal protection under the law. But the conflict is not so easily settled, simply because, as Oliver and Shaver note, both parties to the dispute will insist on the appropriateness of their respective interpretations of the term "equality." The integrationist will most likely claim that segregation is an "essential defining characteristic in inequality," while the segregationist will disagree with that claim.7

Finally, Oliver and Shaver object to settling normative disputes by reference to a third and more basic value. This objection is based upon the recognition that such a procedure inevitably requires one to place certain social values in a fixed logical hierarchy. According to Oliver and Shaver, there is no fixed and permanent hierarchy of values; the salience and importance attributed to any given social value is largely, if not entirely, a function of the specific situation to which that value is applied.8

B. The Ethical Position of the Reflectivists

The primary objective of this section is to show that reflectivists in social studies education are prima facie rule theorists and

7Ibid.
8Ibid., p. 35
that many of their descriptions regarding the nature and method of moral choice can be explained, if not clarified, by application of the notion of prima facie rule theory.\textsuperscript{9}

1. The nature of moral choice

According to Maurice Hunt and Lawrence Metcalf, two leading reflectivists in social studies education, values education has remained largely undeveloped to date because of the repeated failure of curriculum builders to focus "on questions of policy at the level of moral conflict."\textsuperscript{10} These authors draw a sharp distinction between methods of education which teach the young to differentiate solely between good and evil as opposed to methods of instruction which emphasize the importance of choice in the face of two conflicting goods. In the authors' opinion, it is the latter approach to instruction in values which represents the crux of moral education. The following description develops that observation:

\textsuperscript{9}A number of writers may be included within the list of authors who are identified as reflectivists. Since not all of them can be discussed either in part or in their entirety in this study, this author has chosen to draw from a few of the more influential writers. They include the following: Bernice Goldmark, Social Studies: A Method of Inquiry (Belmont, California: Wadsworth Publishing Company, Inc., 1968); Alan F. Griffin, "A Philosophical Approach to the Subject-matter Preparation of Teachers of History" (Unpublished dissertation, The Ohio State University, 1942); H. Gordon Hullfish and Philip G. Smith, Reflective Thinking: The Method of Education (New York: Dodd, Mead & Company, 1961); Maurice P. Hunt and Lawrence E. Metcalf, Teaching High School Social Studies: Problems in Reflective Thinking and Social Understanding (New York: Harper & Row Publishers, 1955 and 1968).

If the difficult decisions of life involved only choices between good and evil, where would be the problem? Who would deliberately choose evil? Unfortunately, moral choice is not this simple. It never involves merely distinguishing between right and wrong. For a person making a choice, moral decision requires distinguishing between two or more good things. It is when at least two desired courses of action come into conflict that moral choice becomes necessary.11

The authors proceed to provide the reader with an instance where genuine moral choice is required:

The story is told of a secretary who sought advice from the editor of a lovelorn column in a local newspaper. The secretary wrote that she was working for a man for whom she had developed strong feelings of loyalty. He had raised her salary several times, provided liberal vacations, furnished good working conditions, and even helped to finance the medical care of her aged mother. The secretary, in sharing many of her employer’s business secrets, had learned that he was embezzling large sums of money from the corporation. She wanted to know whether she should be loyal and keep quiet, or be honest and report his crime to the police authorities. The columnist advised her that a moral person is always both honest and loyal!

The usual procedure for a person in this kind of situation is to decide in some way what he wants to do, then rationalize his decision by describing it as either honest or loyal... A moral training which uncritically inculcates both honesty and loyalty tends to produce in a learner self-deception rather than moral responsibility.

This kind of confused and contradictory thinking will always exist in the area of values so long as we teach that moral problems involve choices between good and evil rather than between two or more goods. The felt moral problems of our culture arise when people find it desirable to follow two cherished but incompatible ends at the same time.12

On the basis of the preceding excerpt, it would appear that Hunt and Metcalf regard genuine moral choice as a confrontation between two desired yet incompatible courses of action. In terms of the pre-

11Ibid., p. 94.
12Ibid., pp. 94-95
example, we can represent these two courses of action as follows:

**Action a:** Reporting the employer to the proper authorities, where the value of honesty is upheld, and

**Action b:** Keeping silent about the employer's misdeeds, where the value of loyalty is upheld.

According to Hunt and Metcalf, this kind of moral dilemma represents a choice between two competing goods. Action a upholds the value of honesty and that is good, and Action b upholds the value of loyalty and that is also good. The notion of two conflicting goods, however, does not adequately describe the complexity of the problem which confronts a person who is caught in this kind of moral dilemma. To this extent, Hunt and Metcalf's explanations concerning the nature of moral choice lack the necessary clarity that additional theoretical refinement would provide.

The application of prima facie rule theory seems to offer the precision necessary to explain the kinds of distinctions which are left unclarified by the previous discussion of moral choice. We can translate the moral dilemma represented by Action a above into prima facie rule theory by utilizing a set of conditionals that should be familiar to the reader.

If any action \((x)\) represents an instance of honesty \((F)\), then that action \((x)\) is (prima facie) right \((M)\).

If any action \((x)\) represents an instance of disloyalty to a friend \((G)\), then action \((x)\) is (prima facie) not right \((\text{not-}M)\).

If any action \((x)\) represents an instance of honesty \((F)\) and an instance of disloyalty to a friend \((G)\), then action \((x)\) is (prima facie) right \((M)\).
In all three instances above, x symbolically expresses any act of reporting an employer to the proper authorities. All three conditionals are prima facie rules of obligation. The last rule of obligation describes the nature of moral choice as it manifests itself within prima facie rule theory. This last conditional states that honesty to a principle and disloyalty to a friend may both apply to a situation where action is required. If it is the case that the act is one of reporting a friend who is embezzling company money, that act represents a conflict between the value of honesty and the complementary negative application of another value—in this case, loyalty to a friend. The good of honesty and the violation of another good—loyalty to a friend—inescapably apply to action x. In performing the action in question, one does not ignore the fact that he violates the value of loyalty. One simply recognizes that in executing this kind of action, the value of honesty overrides a violation of the value of loyalty to a friend.

The action can, of course, be changed to one of not reporting the employer. If this is done, the F and G characteristics would also change, and different prima facie rules of obligation would apply. These changes can be illustrated by means of another set of conditionals.

\[13\text{In the preceding set of conditionals, conflict takes place at different levels. There is conflict between the first two prima facie rules of obligation; there is also conflict between the values which are incorporated within each rule of obligation.} \]
If any action (x) represents an instance of dishonesty (F), then that action (x) is (prima facie) not right (not-M).

If any action (x) represents an instance of loyalty to a friend (G), then action (x) is (prima facie) right (M).

If any action (x) represents an instance of dishonesty (F) and an instance of loyalty to a friend (G), then action (x) is (prima facie) right (M).

X in each of these conditionals symbolically expresses the moral dilemma embodied in Action b, where one upholds the value of loyalty by remaining silent about the employer's misdeeds. In the last conditional above, the application of positive and negative values is simply the reverse of what it is in the last conditional on the previous page (and of what is expressed in the moral dilemma embodied in Action a).

Regardless of the rule(s) which is (are) invoked, the phenomenon of moral conflict comprehended by the notion of prima facie rule theory remains unaltered. Within a conflict situation the positive application of one value conflicts with the complementary negative application of another value, and in this instance, a given action is justified in terms of a rule which states that the positive application of one value overrides the complementary negative application of another value. If the secretary reports her employer and she justifies her action as morally obligatory, in terms of prima facie rule theory, she does so by means of a prima facie rule of obligation which states that the value of honesty overrides a violation of the value of loyalty. If the secretary remains silent and justifies her action as morally right, in terms of prima facie rule theory, she does so by means of a prima facie rule of obligation which states that the value of loyalty overrides a violation of the value of honesty.
General failure to grasp the notion of one value overriding the complementary negative application of another value within a conflict situation may perhaps account for Hunt and Metcalf's criticism of moral education as it is practiced within the home and particularly within the school. According to the authors, an inadequate moral training involves learning a set of rules for what is right (or wrong) or what is good (or bad). As the authors perceive it, learning rules in this manner does not assist a person who is confronted with the dilemma of following "two cherished but incompatible ends at the same time."\(^1\)

Learning rules of behavior in this manner may be reprehensible to Hunt and Metcalf because this method of instruction represents an application of categorical rule theory, where disobedience to one or several rules of obligation is sufficient to make an action morally wrong.\(^1\) We can illustrate this point by means of the rules of obligation which were presented in connection with the previously-discussed case:

1. If any action \(x\) represents an instance of loyalty to a friend \(F\), that action \(x\) is right \(M\).
2. If any action \(x\) represents an instance of honesty \(H\), that action \(x\) is right \(M\).

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\(^1\)The reader should not interpret this statement to mean that Hunt and Metcalf are aware of the distinction between categorical and prima facie and that they criticize categorical rule theory and endorse prima facie rule theory. The distinction between these two theories is not knowingly made by Hunt and Metcalf. This author believes, however, that categorical and prima facie rule theory can be used to account for many of the explanations which are advanced by these two reflectivists.
Each of these categorical rules of obligation may also be expressed in terms of its complementary negative application, as the two following conditionals illustrate:

(1) If any action \( (x) \) represents an instance of disloyalty to a friend \( (F) \), that action \( (x) \) is not right \( (\text{not-M}) \).

(2) If any action \( (x) \) represents an instance of dishonesty \( (G) \), that action \( (x) \) is not right \( (\text{not-M}) \).

What categorical rule theory does not do is show how it is possible for statement (1) in the first set of conditionals and statement (2) in the second set of conditionals to be an ineluctable feature of certain morally justifiable actions.\(^1\) The categorical rule theorist simply assumes that if either statement (1) or statement (2) in the second set of conditionals applies to a given action, this application is sufficient for describing that action as wrong. The prima facie rule theorist cannot abide by such a stricture. His theory allows for the application of complementary negative values to morally justified actions. According to the prima facie rule theorist, a positive value can override another negatively applied value within the context of a given action; it is precisely this phenomenon that accounts for the fact that the action is justified.

Not only do Hunt and Metcalf characterize the nature of moral choice as a conflict between personal values, but their descriptions are also reminiscent of the explanations given by Oliver and Shaver

\[^1\]It is, of course, possible to describe the action in question in terms of a conflict between statement (2) in the first set of conditionals and statement (1) in the second set of conditionals.
in their discussion of the American Creed. Recurrent conflicts among social values in American society are described by Hunt and Metcalf in the following way:

... in the United States we want to preserve our cherished civil liberties but we also want to be secure from possible subversion. We want to retain a free-enterprise system but we also value certain economic ends which only government can give us. We want to preserve the family but we want to give married couples freedom, if the going gets rough, to dissolve their marriage. We want to practice economy in government but we want the services which only government can provide.

It would appear then that prima facie rule theory can adequately account for the nature of moral choice as two leading reflectivists describe it. This theory also helps to explain the method of choice which these authors propose for settling moral or value dilemmas.

2. **The method of moral choice**

The establishment of conditions necessary for genuine moral choice still leaves unspecified those methods which one uses to adjudicate disputes which ensue from differences in judgments (be they judgments of value or judgments of obligation). For example, one person may judge that reporting a dishonest employer is morally justified, while another may claim that remaining silent about the dishonest behavior of an employer is generally the right thing to do.

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17 The reader will recall that the values in the American Creed are *prima facie* values.

What method(s) does one use to decide which of these two claims is morally preferable?

Hunt and Metcalf maintain that differences in judgment that result from disputes over value priorities can only be resolved in "one way." Those individuals (or groups) who are partners to a dispute must accept "without question some third value."  

In any given process of evaluation, some preferred end must remain unquestioned. This unquestioned end is then used as a point of reference for judging competing values. Each conflicting value is regarded as a potential instrumentality for achieving the accepted goal and is judged according to whether it would lead toward the goal.  

We have already established, on the basis of the previous discussion, that for reflectivists, moral dilemmas involve a conflict between prima facie rules of obligation.  

Let us examine in more detail what this statement implies. If one holds to the singular prima facie judgment that a particular act of reporting a dishonest employer is right, one justifies this judgment by reference to a general prima facie rule of obligation. Likewise, if another holds to the singular prima facie judgment that the act of remaining silent about an employer's misdeeds is right, he also justifies this judgment by reference to a general prima facie rule of obligation. We may represent the conflict between these two prima facie rules of obligation as follows:

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19 Ibid., p. 97.
20 Ibid.
21 See pp. 174-175 of this chapter.
First Prima Facie Rule of Obligation:

If any act of reporting a dishonest employer (x) endorses the principle of honesty (F) yet violates the principle of loyalty (G), that act (x) is morally justified (M).

Second Prima Facie Rule of Obligation:

If any act of remaining silent about a dishonest employer (x) endorses the principle of loyalty (G) yet violates the principle of honesty (F), that act (x) is morally justified (M).

Not only is there disagreement between the disputants over the rules of obligation, there is also disagreement over the priority to be accorded each of the rules of value which are represented as the value predicates of F and G, respectively. The first disputant believes that the value of honesty overrides the complementary negative application of the value of loyalty, while the second disputant holds that the value of loyalty overrides the complementary negative application of the value of honesty. This explanation is a precise way of expressing what the reflectivists imply when they state that moral problems arise only when there is a conflict in values.

What does one do, then, when two prima facie rules of obligation conflict? According to Hunt and Metcalf, disputants to moral disputes should attempt to settle their disagreements by reaching mutual agreement on a third value. Although there is no explicit textual reference to this third value being a rule of value, positive evidence for this fact is embodied in the claim made by the authors

22The value of honesty and the value of loyalty are rules of value because they are prima facie values. We know they are prima facie because when incorporated within a prima facie principle of obligation, one value can override another and thereby make the principle in question a morally justifiable one.
that a third value must be accepted "without question." This third value appears to be a rule for settling the stringency of two conflicting values.

We have already noted that what is actually in conflict is the particular course of action judged as morally right or not right and that rules of value are incorporated as value predicates within the conflicting general principles of obligation (see previous page). To settle the conflict between these two principles of obligation, we need a third prima facie principle of obligation in which the agreed-upon (and third) rule of value is incorporated as a value predicate. Furthermore, this third value must be expressed in terms of consequences. The authors state this requirement in the following way:

Whether a questioned value may serve as an instrument for helping achieve a value which for the moment is accepted without question can be determined only by carefully examining the consequences of acting in terms of the conflicting values.

Let us suppose that two disputants agree that any one of two courses of action, be it one of reporting or not reporting a dishonest employer, is morally justified if the action in question results in the projected consequence (third value), "whatever is most beneficial for the company." The disputants can now settle their dispute by reference to a third prima facie rule of obligation. This rule, and its accompanying justification procedure, may be expressed as follows:

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24Ibid., p. 96. This statement provides us with sufficient evidence to make the claim that the reflectivists are teleologists.
Third Prima Facie Rule of Obligation:

(1) If any action (x) leads to whatever is most beneficial for the company (H), that action (x) is right (M).
(2) This action (x) leads to whatever is most beneficial for the company (H).
(3) Therefore, this action (x) is right (M).

The disputants agree to statement (1). They may disagree, however, concerning what action (i.e., reporting the employer or remaining silent) is most beneficial for the company. According to Hunt and Metcalf, this disagreement is best resolved by means of the scientific or reflective method, and it is at this point that the logic of evaluation is translated into the logic of reflection. Hunt and Metcalf express it this way:

The logic of evaluation is quite different at certain of its stages from the logic of reflection. An act of thought of a wholly reflective nature confines itself at all stages of manipulation to judgments of fact. In contrast, an act of evaluative thought shifts from operations with value judgments to operations with judgments of fact, then back again.25

The act of reflection confines itself to the truth or falsity of statement (2) above where the disputants try to [1] reach conceptual agreement and [2] establish empirical referents for the statement being tested.26 The fundamental question that confronts the disputants is the following: Does the act of reporting the employer, in fact, lead


26Hunt and Metcalf make no reference to the conceptual problems which necessarily emerge in a discussion of this kind. In light of the example (the third value) which is provided above, it seems only reasonable to add this contextual requirement.
to what is more beneficial for the company or does the act of remaining silent lead to what is more beneficial for the company?

The textual references provided by Hunt and Metcalf seem to indicate that the third value is prima facie because it can be overridden by another value which then becomes the unquestioned point of reference.

... if anything happens to make the unquestioned value appear of doubtful worth, then a new problem has arisen which is essentially similar to the first. Again two values are in conflict, and again the conflict can be resolved only by testing each in relation to some further value which is not in doubt. It is obvious that the unquestioned ends which are accepted as the outcome of the process of evaluation ... are assumed to be good without further proof.27

The agreed-upon prima facie values suggested by Hunt and Metcalf have a similar ring to the prima facie values which are espoused by the authors of the Harvard Social Studies Project. Hunt and Metcalf state that

even though situations of conflicting values are characteristic of our culture, in almost any such situation a third value can be found which is acceptable to all, even if it is necessary to settle on some abstract end such as justice, democracy, cooperation, or happiness.28

3. Intrinsic values

What things are held as intrinsically valuable to the reflectivists is difficult to assess and probably cannot be captured with any degree of precision. An examination of the literature reveals that


28Ibid., pp. 99-100.
the reflectivists are not completely clear themselves concerning what things (in a broad sense) are good or desirable. Consequently, an evaluator is forced to cope with a difficult question made more difficult by the vagueness and ambiguity of the literature.

It would probably not be too far amiss to say that the reflectivists adhere to at least two categorical rules of intrinsic value. One categorical rule of intrinsic value concerns democratic growth; another such rule of intrinsic value concerns the reflective (or scientific) method.

Bernice Goldmark seems to refer to intrinsic values in terms of "ends" held by the society. She identifies one of these ends as the "growth" of an "open, democratic society."29 Alan Griffin seems to concur with this assessment. He substantiates the notion of intrinsic value as applied to democracy by stating that among all our commitments, "our purpose is finally to foster democracy."30

Nevertheless, growth of the democratic system does not seem to be the only intrinsic value. Goldmark notes that the ultimate objective of education is to inculcate a commitment to the "method of scientific inquiry."31 Hullfish and Smith likewise state that


30 Griffin, "A Philosophical Approach to the Subject-matter Preparation of Teachers of History," p. 63. The reader should note that the claim that there is one categorical rule of intrinsic value concerning democratic growth (or democracy) contradicts a previously-made claim by another reflectivist that democracy is often incorporated within a third prima facie rule of value. See p. 182 of this chapter.

31 Goldmark, Social Studies: A Method of Inquiry, p. 43.
the final objective in any educational process is "a commitment to thinking [reflective method] itself ... "32

Reflection, however, does not seem to operate solely as an intrinsic value. There is sufficient evidence in the literature to indicate that this method is also a beneficial good. Hunt and Metcalf state that "the scientific method [reflection] implies the social ends of democracy—even if in its direct operation it remains as a means or instrument."33 Griffin also labels reflection as a beneficial good, stating that when this process is employed, the ends of a democratic society are best fulfilled.34 Goldmark concurs when she notes that the "application of the method of inquiry to the area of social values" is a "means toward" an open, democratic society.35

We have already established that reflectivists are rule theorists. Given the nature of rule theory, the principles espoused by rule theorists are either prima facie or categorical. The reflectivists' descriptions of democratic growth and reflection in terms of "final" or "ultimate" commitments lead one to infer that when the values of democracy and reflection are incorporated within general rules

32Huntfish and Smith, Reflective Thinking: The Method of Education, p. 263.


34Griffin, "A Philosophical Approach to the Subject-matter Preparation of Teachers of History," p. 149.

35Goldmark, Social Studies: A Method of Inquiry, p. 78.
of value or obligation, these rules become categorical. They are categorical because no rule can override them. We can illustrate how these categorical rules would appear in terms of the first premise of the general deductive scheme.

As Rules of Value:

If any thing \((x)\) is an instance of reflection \((I)\), then that thing \((x)\) is intrinsically valuable \((M)\).

If any thing \((x)\) is an instance of democratic growth \((J)\), then that thing \((x)\) is intrinsically valuable \((M)\).

As Rules of Obligation:

If any action \((x)\) is an instance of reflection \((I)\), then that thing \((x)\) is intrinsically valuable \((M)\).

If any action \((x)\) is an instance of democratic growth \((J)\), then that thing \((x)\) is intrinsically valuable \((M)\).

It is probably intended, although never explicitly stated, that these categorical rules are to function as second-level rules or meta-rules. As second-level principles, these rules would apply to first-level rules of value or obligation and not to the situations or actions \((\text{any } x's)\) to which the first-level moral or value rules apply. As meta-rules, the above principles would settle the stringency of conflicting first-level prima facie rules of value or of obligation. For example, the above meta-rule of obligation that reflection is intrinsically valuable may be used to justify the claim that a second and third prima facie rule of obligation overrides a first prima facie

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36 These rules, if correct, indicate that reflectivists are not only teleologists; they also have deontological elements in their theory of obligation.
rule of obligation. The justification would hinge on the fact that the endorsement of PF-2 and PF-3, as opposed to PF-1, leads to the solution of the problem (or is an instance of reflection).

The issue is confused, however, when the reflectivists refer to the core values of a democracy. One cannot accurately determine whether these values are a necessary part of democracy (in which case they would not have intrinsic value), whether these values have intrinsic worth in addition to democracy, or whether they lead to more democratic growth (in which case they would have beneficial value). Hunt and Metcalf identify the core values of a democracy as commitment to the dignity and worth of individuals, the method of intelligence, and political freedom. On the other hand, Griffin holds to the values of brotherhood, inviolability of the human personality, and human growth as the core commitments that give democracy its central meaning. It should be somewhat instructive to note that one of these core values is identical to the categorical rule of intrinsic value espoused by the authors of the Harvard Project—namely, human dignity.

37 It is understood, of course, that all three prima facie rules of obligation are in this instance first-level rules and not meta-rules of obligation.


Probably the most accurate statement that can be made about the reflectivists in this regard is that they have not identified with any degree of accuracy or precision those values which are central (or intrinsic) within their ethical framework. Democracy and reflection seem to be referred to repeatedly as having salient worth. But the kind of relation which these two value-concepts share with each other is never carefully delineated. In many instances, the literature would lead one to believe that these two concepts share an identity relation. Goldmark, for example, defines democracy as a method of solving problems, and she labels this method as reflective.\textsuperscript{100} If democracy is identical to reflection, then it is clear that exception clauses need to be added to the latter concept whenever reflection is utilized for solving social problems in any system which is not democratic.

C. "Objections to the Reflectivists" Reviewed

Interestingly enough, most of the criticisms which the authors of the Harvard Project have against the reflectivists can also be turned against themselves. We noted in the first section of this chapter that Oliver and Shaver criticize the manner in which the reflectivists settle normative disputes. This particular strategy involves the referral of two or more conflicting prima facie values to a third prima facie value stated in terms of consequences and the testing of those consequences in terms of their empirical referents. This procedure, however, is essentially a restatement of one of the justifi-

\textsuperscript{100}Goldmark, Social Studies: A Method of Inquiry, p. 78.
cation strategies advanced in the rationale of the Harvard Social Studies Project. In this particular strategy, Oliver and Shaver suggest that one can justify certain policy decisions (obligation judgments) by translating a conflict among values into an issue of fact. According to the authors, this translation essentially involves asking questions about the consequences of a particular policy decision. One tries to get discussants who disagree on a particular policy decision to agree on a projected and mutually-desired consequence (or a third value). The truth or falsity of the consequence is then tested in an identical fashion to the way in which a reflectivist advocates the testing of statement (2) within a general deductive scheme where a third value (and consequence) is incorporated as a principle and where it is represented in terms of statement (1).^1

Furthermore, when the authors of the Harvard Project claim that the third value which is settled upon is often too vague, they touch upon one of the most significant criticisms that can be made about their own project and its rationale. Most of the adjudicating principles, including human dignity and the values incorporated within the American Creed, are too unclear to serve as reliable stringency tests for conflicting prima facie rules of value or obligation.

The authors of the Harvard Project also object to the fact that reference to a third value as a stringency test places the social values within any given system into some kind of logical hierarchy.

^1 For a review of this justification procedure, see Chapter III, pp. 105-108.
The third value(s), they claim, would always be of greater worth than the conflicting values. One cannot, however, deny that the authors of the Harvard Project also endorse a hierarchical ordering of social values, with human dignity assuming a position beyond challenge.

Finally, Oliver and Shaver claim that the reflectivists cannot deal with extreme violations of important social values whose long-range usefulness is empirically tested. The authors of the Harvard Project claim that by this method one can, for example, justify the sterilization and deportation of all citizens of subnormal intelligence. All one would have to do is adduce sufficient evidence showing that the action in question leads to desirable consequences, such as a decrease in crime, delinquency, illegitimacy, unexcused absenteeism from work, etc. The argument is far less convincing, however, when one remembers that problem-solving via the scientific method is not the only intrinsic value espoused by the reflectivists. It was noted in the previous section, that one of the core values of a democracy, as the reflectivists perceive it, is the inviolability of the human personality. To deport or sterilize certain citizens of a state without their consent is a clear-cut instance in which the aforementioned value appears to be violated.

D. Two Ethical Systems Compared

Although they are by no means identical, the reflective school of thought and the Harvard Social Studies school of thought share similar approaches to valuation and ethical reasoning. It is of some
importance to note that the approach used by both schools to analyze
the nature and method of moral choice can be explained in terms of
the notion of prima facie. Within both systems, the overriding of
one value by another accounts for the fact that certain acts or
situations are morally justified. Under the rubric of prima facie, an
action or situation may be justified as morally right or good even if
one of the values which applies to the action or situation is violated.
This is because the violated value is overridden by a positively ap­
plied value.

It is also significant to observe that both schools of thought
advocate the adjudication of prima facie conflict by introducing a
third prima facie value as a stringency test. The reflectivists would
have us believe that this is the only way in which prima facie dis­
putes can be settled. The Harvard Project rationale appears to offer
categorical rules and meta-rules (which may be either categorical or
prima facie) as alternative procedures. If we can claim, however,
that reflectivists adhere to several categorical meta-rules of in­
trinsic value, it is not difficult to see how these rules may also,
on occasion, function as adjudicating principles.

Because both groups are rule theorists, the logic of a valid
appeal is essentially the same under both systems. Singular prima
facie judgments of value and of obligation are justified by appealing
to a general prima facie rule of value and a general prima facie rule
of obligation. Under both systems, moral education is instruction
in the recognition that moral choice involves a conflict among two
or more prima facie rules of obligation (or among two or more prima facie rules of value). A solution of this dilemma requires that one determine which of two or more prima facie rules is (are) more stringent in any given situation.
CHAPTER VI

CONCLUSION

In Chapter I we noted that many curriculum development efforts move through several successive and identifiable stages. The first stage usually consists of identifying the objectives of a proposed curriculum effort. Curriculum builders generally agree that the process of identification is enhanced when a designer takes the necessary time and effort to clarify and specify projected learning outcomes. Such clarification and specification of one's objectives often culminate into a fully-developed rationale. Since the identification of proposed objectives should occur logically and chronologically prior to the development of instructional materials which eventually emerge from any given project, one would (or should) expect a certain degree of correspondence between the objectives as stated in the rationale and the instructional materials designed to implement those objectives.

Summary Statement

This study is an evaluation of the Harvard Social Studies Project in terms of the two developmental stages of curriculum design which are described above. An in-depth description and evaluation of

1See Chapter I, p. 3.
the rationale of the Project in Chapters II and III disclose some significant observations. Contrary to Mark Krug's assessment, the rationale of the Harvard Social Studies Project does not have a "coherent, well-worked-out theoretical framework." Evidence for this disclaimer hinges on the authors' (Oliver and Shaver) use of the vague concept of human dignity as an adequate and reliable adjudicating principle and their concomitant commitment to the values embodied in the American Creed. The authors' inadvertent descriptions of these values as being intrinsic yet solely extrinsic precludes the establishment of a consistent theoretical framework needed to explain the pattern of valuation which is found within the descriptive material of the rationale. The necessity of having to construct three separate models to account for contradictions among descriptive statements within the rationale lends additional support to this author's claim that the objectives of this Project are not clearly conceived or carefully constructed. If a blueprint of this theory as stated in the rationale were applied to the instructional materials of this Project, the materials, if consistent with that theory, would most likely reflect the same aberrations contained within the rationale itself.

We noted in Chapter IV, however, that the teaching materials of the Project are not entirely reflective of the theoretical position advanced by the authors in the rationale. Lack of correspondence between rationale and teaching materials may be attributed more to the

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absence of certain theoretical procedures within the unitbooks themselves, than to any specific statements or strategies in the instructional materials which contradict what is contained in the rationale. Only the second justification procedure as found in the rationale's description is duplicated with any consistency or clarity in the teaching materials of the Project. The remaining justification strategies are either obscured or ignored. Correspondence between theory (the rationale) and practice (the teaching units) is evident, however, when one observes that the persisting questions within the individual units endorse rule theory in general and prima facie rule theory in particular.

One of the most significant findings of this study is that the nature and method of moral choice within the Harvard Social Studies Project can be explained in terms of the notion of prima facie.\textsuperscript{3} Prima facie rule theory attempts to explain how a positively applied value and a negatively applied value are sometimes an ineluctable feature of certain morally justified actions. According to prima facie rule theorists, a given action is justified in terms of a rule which states that the positive application of one value overrides the complementary negative application of another value. This is a theoretically refined way of explaining the phenomenon of how two "goods" conflict within a controversial situation.

Another significant observation that can be made as a result of this study is that the ethical theories advanced in the rationale

\textsuperscript{3}We noted in Chapter V that the same conclusions can be drawn for the reflective school of thought in social studies education.
and partially implemented in the teaching materials probably cannot be taught to secondary school students without providing additional background and training for the teacher. The teaching materials do not, in and of themselves, give enough clear or explicit instruction concerning the complexities of rule theory. Although extended explanations are given in the rationale of the Project, these explanations often obscure, rather than clarify, significant distinctions that are essential for an adequate understanding of rule theory, particularly prima facie rule theory. If such understanding is to be achieved, it must come from a source other than the Harvard Social Studies Project. At present, the teacher is somewhat crippled in his (or her) efforts to teach about value dilemmas germane to this Project because such teaching would necessarily involve instruction in certain distinctions fundamental to ethical reasoning—distinctions which are not clarified by any descriptive material in the Harvard Project.

Recommendations

This author recommends that improvement of this Project, both with regard to the construction of additional curriculum materials and to the teaching of these units, can be accomplished by means of several procedures. A more comprehensive and theoretically-sound rationale may aid the present and prospective teacher, if he (or she) is uncertain about how to approach the teaching materials. Since correspondence between the present rationale and materials is by no means complete, a thoroughly revised rationale would probably not impede the teaching of these units in their present form. This author's analysis
of the rationale in Chapter III noted the kind of theoretical difficulties which accompany an ethical framework based upon categorical or prima facie rule theory. The espousal of one singular categorical rule of value (or obligation) as part of one's ethical framework is certain to create a number of difficulties, especially if the categorical rule incorporates a notion as vague and ambiguous as human dignity. Of the two types of rule theory, prima facie is probably the more viable theory. Its functional significance can be explained and described for teachers and students at appropriate and corresponding levels of sophistication. One who rewrites a rationale such as this one, would certainly want to take these observations into account. Furthermore, it might be advisable to introduce the notion of act theory into a revised version of the rationale. Since this theory poses a genuine alternative to the adjudication of public controversy, its inclusion both at the descriptive and illustrative levels would serve to demonstrate another viable method for fruitfully carrying out value discussions, especially when these discussions include problems that revolve around judgments of value.

It appears to this author that a revised rationale should only be the beginning of more concerted (and genuinely needed) efforts to develop clear and precise theoretical foundations for talking about the teaching of value dilemmas in social studies education, especially dilemmas which pertain to the adjudication of public controversy. A comprehensive text dealing with this general problem need not only be applicable to the Harvard Project materials. Such a text (or manual) can serve as a reference point for teachers and students whenever any
kind of value discussion is taking place within the classroom.

In addition, many of the persisting questions in the Harvard Project unitbooks should be rewritten (1) to instruct more clearly in the theoretical subtleties associated with rule theory and (2) to draw a sharper distinction between act and rule theory. Let us suppose that a group of high school students are considering the following question: "Are present marijuana laws morally justifiable?" When operating under the tenets of rule theory, one attempts to seek moral principles which justify a singular judgment for or against present legal policies toward marijuana users. The principles may be hinted at within the context of the question; there may be one rule or several rules which are suggested; these rules may be conceived as categorical and/or prima facie. Despite these distinctions, when operating under the rubric of rule theory, one fact remains unaltered. A principle(s) is (are) needed to justify the judgment rendered, and a stringency test(s) is (are) required when there are opposing views on a particular policy.

When students operate under the tenets of act theory, however, they use the method of hypothetical agreement to settle the dispute under consideration. By means of this procedure, one sets up pairs of hypothetical statements with contradictory consequents and compatible antecedents which both parties to the dispute will agree are both true. The following pair of such statements is presented as an example of a hypothetical agreement which might possibly be reached when considering the controversial question: "Are marijuana laws morally justified?"
Pro: If [the moderate use of marijuana
a. leads to no harm for anyone other than the user,
b. leads to no more harm than alcohol,
c. does not lead to the use of "hard" drugs,
d. is not addictive,
e. when illegal, leads to control of its trade by criminal
   elements who would otherwise not gain further in-
   fluence over the users,
f. when illegal and widely used, leads to disrespect for
   the law and impractical and arbitrary enforcement
   of the law],
then marijuana laws are not morally justified.

Con: If [the moderate use of marijuana]
   (not-a, not-b, not-c, not-d, not-e, not-f)
   g. leads to crime (perhaps = with not-e),
h. leads to a significantly large number of persons harm-
   ing others while under the influence of drugs as a
   result of the lowering of physical and psychological
   sharpness (namely, accidents caused by persons while
   under the influence of marijuana),
i. leads to a significantly large number of persons es­
   caping from reality,
j. is significantly more harmful to the user than alcohol
   or tobacco (partially identical with not-b),
k. leads to possibly dangerous consequences (where the
   force of "possible" is that other drugs, namely
   thalidomide, have turned out to have very bad side
   effects, and that we do not yet know enough about
   the effects of marijuana to be sure that it has no
   such bad side effects)],
then marijuana laws are morally justified.  

While principles are not ruled out in this procedure, their
presence is not necessary to adjudicate the dispute in question.
Rather, a moral question concerning the justification of marijuana laws

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1The term "moderate" in the hypothetical agreement above may be
   understood on the model of "moderate use of alcohol."

2The legal-ethical distinction should be noted in this ques-
   tion. While the content of the question focuses on the legality of
   marijuana laws, the question itself does not fall under the legal
   typology. It is accurately described as an ethical question.
is translated into a hypothetical pair of conditionals that can be tested with already established methods of the social and behavioral sciences. At a more basic and theoretical level, this procedure states that we can get persons to agree that given the non-moral characteristics of some specific $F$, some specific $M$ also holds. Many of the questions in the Harvard Project which represent various versions of rule theory can be rewritten to demonstrate the procedure which is illustrated above. It may be advantageous to incorporate some of these rewritten questions within a revised rationale.

While the unitbooks seem to place emphasis upon the importance of dramatic case studies, curriculum builders interested in improving this Project may wish to add more interpretive essays to these units. An interpretive essay on the morality of civil disobedience, for example, may help the student make some analytical distinctions about the descriptive account of Gandhi's resistance movement in *Diplomacy and International Law*—distinctions which are not present within the case study itself.⁶ The interpretive essays would, of course, have to be tailored to match the age and ability-level at which instruction takes place. Their inclusion, if done skillfully and intelligently, would probably help initiate students to the importance of analysis in the justification of policy decisions and the adjudication of normative disputes. As they stand, the teaching materials are oriented more toward a description of each controversial issue rather than an analysis of what each issue might signify, both legally and ethically.

⁶Oliver and Newmann, *Diplomacy and International Law: Alternatives to War*, pp. 49-55.
There are various ways in which teachers can be trained to recognize certain distinctions fundamental to ethical reasoning. Elementary instruction in these distinctions can be incorporated within segments of social studies methods courses; they can be expanded upon during in-service teacher training sessions and may culminate in summer workshops for teachers interested in the study of controversial social issues and the adjudication of value dilemmas associated with those issues.

Finally, it seems clear to this author that a study such as this one has implications for other social studies curriculum projects, both for the ones that are already completed and for those projects that are still at the inception stage of development. If we desire to know and understand "what we are about" in terms of the teaching-learning process, we must be clear about our purposes. Such clarity is not encouraged by placing exclusive reliance upon gimmicks, creative teaching strategies, and material-collecting habits. We must also clarify for ourselves why we choose to teach one thing in preference to another. Such choices are almost always guided by a set of assumptions, many of which are not consciously articulated by the teacher and/or curriculum designer. If more curriculum projects were presaged by a carefully-written statement of purpose (a rationale), many designers would be forced to clarify for themselves what it is they intend to accomplish. Furthermore, a fully-developed rationale serves to assist those who are asked to perform the necessary yet critical task of evaluating these projects. If the rationale of any given curriculum project is theoretically unsound and the teaching materials
coming out of such projects demonstrate a high degree of consonance between theory (rationale) and practice (instructional materials), then these materials will most likely reflect the same weaknesses contained within their corresponding rationales. Pin-pointing these weaknesses seems to this author to be a necessary precursor to the fundamental task of curriculum revision. Unfortunately, far too little of this kind of revision has taken place within the field of social studies education.

Rule Theory versus Act Theory

Since this study is primarily concerned with the teaching of controversial issues in the high school, it is expected that one of its main concerns is the teaching of reliable procedures for arriving at correct moral (or value) judgments. The authors of the Harvard Project, it would appear, maintain that the most reliable procedure for arriving at correct moral (or value) choice is through application of rule theory or more specifically, prima facie rule theory. Not all moral philosophers are in agreement with this contention, and to that extent Oliver and Shaver's philosophy toward moral (or value) education differs from those who believe that one can also arrive at correct moral (or value) choice through application of act theory. The distinction between act and rule theory as applied to the justification of moral (or value) judgments and the adjudication of normative disputes has significant implications for curriculum and instruction in social studies education. It is clear that the method of instruction vis-à-vis the study of controversial issues will be different if act
theory is applied rather than rule theory. When act theory is implemented, the adjudication of moral (or value) disputes cannot proceed via appeal to a constitutive rule or a set of such rules. Under the tenets of act theory, moral (or value) education involves (or should involve) instruction in the understanding that one often makes moral (or value) judgments which go contrary to the rules without any apparent use of rules. The main adjudicating procedure endemic to act theory is to set up pairs of hypothetical statements with contradictory consequents and compatible antecedents which both parties to the dispute will agree are both true. The questions and explanations contained within both rationale and teaching materials of the Harvard Social Studies Project can be translated from rule to act theory, and one could probably test for differences in the quality of the discussions which result from application of both theories. Since such translation and testing are not within the parameters of this study, they await the applied diligence of those interested in undertaking further research and evaluation in this area.
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APPENDIX

PUBLIC ISSUES SERIES OF THE HARVARD
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Race and Education: Integration and Community Control, 1969.
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APPENDIX II

THE RATIONALE OF THE HARVARD SOCIAL STUDIES PROJECT

The Selection of Content in the Social Studies

The selection of appropriate content for the social studies program in the public schools should be the first order of business for social studies teachers and other curriculum people responsible for instruction in this area. Unfortunately, the rather static condition of the social studies for the last fifty years or so (since the report of the 1916 Commission on the Social Studies) indicates that if educators have been actively involved in this selection process it has not seemed necessary, at least among those who finally control the curriculum, to make any significant changes. As with any generalization, there are, of course, exceptions to such a statement: In some school systems the curriculum structure of the social studies has undergone considerable change. But in the main, whether because of reliance upon conservative, commercially reproduced textbooks, reluctance to depart from past practice, or firm convictions about the validity of the traditional social studies pattern, the status quo has prevailed.

To those concerned with content selection, however, the problems have become increasingly acute in recent years. There are several reasons: The first has to do with history and historians. There is growing sophistication regarding the fact that historians must select the data upon which to base their narratives and interpretations of the past, and that further selection is made by the teacher—either deliberately or by default. This aspect of the problem is becoming more pressing as decades of history add up and as historical works accumulate dealing with the past in greater breadth and depth. It is not comfortable to fall back on the textbook and its historical selection when one recognizes the amount of time that could be spent,

1All material in the following pages comes from Teaching Public Issues in the High School by Donald W. Oliver and James P. Shaver (Boston: Houghton Mifflin Company, 1966). Much of it is excerpted from the first seven chapters of the text. It is presented to give the reader a more comprehensive overview of the rationale.

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for example, teaching only that period of American history covering World War II to the present, or when one thinks of the flood of historical material on the Civil War alone that has become available in the last hundred years.

But the expansion of knowledge problem is not confined to history. The methodology and accumulated findings of the various social sciences have mushroomed since the beginning of World War II. A relatively new branch of social science, the behavioral sciences, has developed a methodology and approach to human and societal problems that is influencing other disciplines, such as political science and economics, which traditionally have been historical or philosophical studies.

Moreover, in the last few years the pendulum has swung again, and the indifference of the social scientists to the social studies curriculum of the secondary school has changed to active concern. Social scientists have been seeking a greater part in the shaping of the secondary school curriculum—following on the heels of notable involvement in curriculum development on the part of physical and biological scientists. They are also seeking greater acceptance of methodology and theory from the social science disciplines in the secondary school curriculum. Some want to insure preservation of the integrity of their disciplines in the social studies curriculum; others want to do away with "social studies" and teach the social sciences as courses. But in general, most are willing to discuss how the social sciences might best fit into the social studies program of the high school. And many are even willing to carry on this discussion in the context of citizenship education. This reinvolvedment of the social scientist has had a healthy effect. Social studies educators are being forced to rethink more rigorously the relationships between the social sciences and social studies objectives. But the pressure of time—and the concomitant need to select—is the specter peering over the shoulder of the discussants.

Another factor adding to the problem of selection should not be overlooked. With increased world-wide ideological competition, Americans have become more self-conscious with regard to their own values and value commitments. As a result, people are suggesting strongly that history as well as the new social sciences should be used as vehicles by which the student can learn what is right and what is wrong (particularly the former) about himself, his community, and his national society. When forces in society act to mold the social studies curriculum according to the belief that morality should be taught directly through historical or social science content, or when, more in line with our commitments to rationality, it is maintained that such content should be used to clarify social issues, expansion into the areas of political and ethical theory is inevitable. This expansion should be thought through clearly and not be a haphazard appendage to an already poorly justified social studies curriculum.

But where should one start in rethinking the social studies field? It is an axiom of education that curricular decisions should be made on the basis of objectives. That is, course content, teacher behavior, and the means used to evaluate student progress are appropriate, or valid, to the extent that they are derived from the aims
of the course. Course objectives are to be consistent with the ob-
jectives of the school and, more broadly, with the goals of the
society.

There is much evidence that objectives do not actually play this
esteeed role in curricular decision-making in the social studies.
Despite the espousal of objectives having to do, for example, with
the development of the reasoning abilities of students, both teacher-
made and published tests all too often call mainly for the recall or
paraphrasing of "factual" material. The fragmented nature of the social
studies curriculum in many schools has often been noted. Frequent
lack of sequential relationship between social studies courses, and
even between parts of individual courses, suggests that an overall
structure for the social studies has not evolved from a consideration
of objectives.  

Social Studies as General Education

The terms social science and social studies are often used inter-
changeably. However, to many educators the terms do have different
referents, and it is thought that keeping them distinct helps to make
thinking less muddled. Wesley first put in writing definitions that
have come into common usage among those in the field. He defined the
social sciences as scholarly fields "concerned with the detailed,
 systematic, and logical study of human relationships." The social
studies, on the other hand, were called "those portions or aspects
of the social sciences that have been selected and adapted for use
in the school or in other instructional situations." Actually, the
increasing concern with the criteria by which selection will be made
from the social sciences has been accompanied by the idea that there
might be a certain unity to the social studies. Some have even
argued for consideration of the social studies as a discipline. And
educators have begun to say "the social studies is" rather than "the
social studies are," indicating a feeling of integrity of subject
matter organized around central goals. That the social studies does
not yet deserve the rubric "discipline" is perhaps evident from our
discussion of lack of structure and concern for relating instructional
choices to objectives. But to some extent this book [rationale] can
be viewed as a contribution to building the social studies into a
unified curriculum area.

The distinction between the social sciences as the study of man
in his social environment and the social studies as the pedagogical
application of the results of this study has some important implica-
tions for content selection. One may choose to teach a social
science as a discipline or to use social science content to contribute
to the general intellectual competence of all the citizenry, but each
choice will lead the teacher to a different curricular decision be-

2Oliver and Shaver, Teaching Public Issues in the High School,
pp. 3-5.
cause the criteria for content selection will be different. The following example should make this point clear: What reply might a university scholar of the Jacksonian period of American history make if asked why he wishes to teach students about Jackson? It would not be surprising if he simply said that it happens to be his field of scholarly competence. From a disciplinary point of view, need he answer more? His rationale for presenting certain data to students and for not presenting other data bearing on the Jacksonian period need rest only on the premise that a particular selection of "facts" will represent the most accurate interpretation of the period. That is, his criterion for content selection is basically that of choosing historical data and interpretations that meet his own scholarly requirements, and perhaps those of his academic colleagues in history.

As a professional historian, the teacher might also include in his justification the hope that a permanent spark of interest about the period may be generated in his students—if it is not already there. Some of them will then perhaps pursue the subject of Jackson for the sake of knowing—for scholarship or personal interest. But basically, justification rests on the straightforward assumption that a particular social science discipline should be taught as an attempt to perpetuate scholarship and "truth."

The same reasoning might be used to justify teaching introductory courses in any of the basic disciplines to large numbers of able college (or, for that matter, high school) students. Although only a small percentage of those introduced to a particular content area will actually enter training in a scholarly field, the decision might well be defended on the ground that one is not only passing on knowledge but recruiting academic personnel who may make significant contributions to the discipline and to the culture as a whole.

Such criteria are not adequate for the selection of specific content for the general education high school social studies program. Here the personal predilections of the teacher, or even the perpetuation of truth-seeking within a discipline, has at most second priority. The interests of the community, and of the student who will live within the community, become the most essential factors. Because of this obvious fact, curriculum-developers in the social studies often begin with a statement of objectives such as "selecting content to help the student understand his community, his country, and the world."

As a basis for content selection, such a general statement is unrealistic because it provides no guidelines. And educators are becoming increasingly aware of, and disturbed by, the scope and complexity of the potential curriculum required to attain this objective. Trends in the present secondary school curriculum suggest that social studies educators and teachers are seeking to solve the "increasing complexity" or "explosion of knowledge" problem either by introducing courses covering a wider and wider range of content at successively higher levels of generalization or by developing new and more specialized fragments. We note, for example, the yearly extension of the United States history courses to include contemporary history; the current popularity of "world history" courses which literally attempt
to cover recorded history from the first caveman to the last atom; and
the inclusion of specialized African and Asian area studies in world
civilization courses.

It is certainly possible to extend the scope of existing courses,
but this does not solve the problem of selecting particular content to
put into the exhaustive chronological or geographical scheme which
must still "fit" into the same amount of instructional time. Perhaps
teachers feel that because the chronology covers the full range of
time, or because the instructional plan includes geographical areas
over the whole globe, the content selected to parallel the totality of
the earth's known time and space is complete. This notion is, of
course, absurd. After this recognition we will, perhaps, use our time
more profitably to seek out more specific criteria for curriculum
development.3

Position on Criteria

The social studies as a general education school subject, then,
demands that the criteria for content selection—or, in a broader
sense, curriculum development—be derived from a consideration of the
needs of society rather than from concern for the needs of social
science disciplines. Beard emphasized some thirty years ago that one
cannot discuss the objectives of education without considering the
objectives of the society in which the education is to operate. This
is especially pertinent to the social studies.

The basic theme of this book is that the multiplicity of purposes
in American society can be summarized in one very abstract phrase: to
promote the dignity and worth of each individual who lives in the
society. This statement of central commitment in our society is not
unique; on the contrary, it is common, and it is not likely to be
disputed at least as an ideal, even though it presents some problems
in translation into practice.

We find it basically impossible to justify or rationalize in any
ultimate sense why individual freedom and human dignity should be the
central objective of the society. Not only does such rationalization
on a philosophical level inevitably become regressive and circular,
but anthropological evidence suggests the extent to which the per­
suasiveness of "reasons" depends on the culture in which one is
reared. There is no final proof of such a value; when one pushes to
the heart of human values, he must invariably end up accepting some
tenet on faith. Recognizing the impossibility of breaking loose
entirely from the strictures of one's culture, even if one desired
to do so, we see in the commitment to human dignity an inexplicable
affirmation of the belief in man as an end in himself. We frankly
accept the value of human dignity as a societal goal in a society in
which that commitment is central . . .

To assert that our society is dedicated to the value of human
dignity obviously is to say very little. The key term is vague, and
nothing is said about the kind of behaviors which evidence this com-

3Ibid., pp. 6-8.
ment or the type of curriculum that might produce these behaviors. We will not define dignity in very specific terms, although the rest of the present chapter and succeeding chapters will be concerned with values derived from and giving meaning to this central value.

In considering criteria for curriculum development based on commitment as a society to this central value, we must be concerned with the perpetuation of the value. There are undoubtedly a number of ways in which a society that promotes and protects the value might be organized. We assume that, whatever way is chosen, the society will have one salient characteristic: A number of groups which have different points of view regarding how the basic problems of the society should be solved will exist more or less independently of governmental control. These groups represent subcultures in the society.

We are assuming, then, that if human dignity and one of its essential defining characteristics, the right to make important choices, are to exist there must be real freedom to choose among a variety of ways of life. There must be, therefore, a multiplicity of groups—subsocieties—to support alternative solutions to the problems men must face in their dealings with the world. There is no participation in choice-making in the totalitarian society, where the formal instruments of government, even though sometimes supported by the great majority of people, are used to define and enforce the one solution that can be contemplated for each major decision. A plurality of active groups—i.e., pluralism—is a necessary ingredient of a free society, because it is the only natural mechanism which can insure some freedom of choice. Pluralism as we are using the term, implies the existence not only of different political or partisan groups within the society but of various subcultures which claim the mutual respect of one another, at least to the extent that there is free communication among them.

If cohesion is to be maintained in a society which contains the desired multiplicity of competing subgroups holding a variety of views toward the adjustments man needs to make to his social and physical environment, several factors must be present: (1) Despite an inevitable degree of isolation among groups within the society, there must be recognition that many problems have to be handled by the community as a whole. (2) The members of all the subgroups must to some extent share value commitments and a normative vocabulary as a framework within which to deal with these common problems. And (3) this normative framework must include procedures for the mediation of interpersonal and intergroup conflict, especially as necessary to solve the societal problems.

The commitment of the government, then, to the concept of human dignity has two components: protecting the autonomy of individual sub-societies or groups and developing a common standard which can be applied to conflicts within the national community. A national society is possible only if there is some conception of national ethical

\[\text{Footnote: Tbid., pp. 9-11.}\]
standards on which antagonists can find common ground to debate their differences.

Broad general concepts, such as the concept of human dignity, moreover, are too vague to be very useful as normative criteria for debating community problems. They must be translated into ideals with more concrete meaning. These more specific ideals are not difficult to discover in the political and legal documents which describe the ethical basis of our own society and government. The Declaration of Independence, for example, states that all men are created equal—that each is entitled to life, liberty, and the pursuit of happiness. The keynote is clearly equality guaranteed by constitutional government. The Preamble of the Constitution enumerates the ideals of justice, domestic tranquility, common defense, general welfare, and the blessings of liberty. Liberty is further defined in the Bill of Rights to include freedom of speech, freedom of religion, freedom of assembly, the right to privacy within one's own home, and the right to the protection of personal property. Justice is defined in the Bill of Rights in terms of an explicit system of due process, as well as equal protection under the law (in the Fourteenth Amendment).

Myrdal calls these normative concepts or ideals the "American Creed." They provide the national community with standards by which common problems facing the community can be described, debated, and evaluated.

The role of the government in handling the common problems of a free society is critical. Because of different standards of "right" or "good," men will not see the general welfare of the community or interpret the ideals in political and legal documents in the same light. And, insofar as the government accepts some responsibility for resolving societal problems, even by mediating between those who differ on solutions, it carries with it the power to tolerate or destroy various groups within the community. The government is thus in a very difficult position: It is obligated to protect the rights of men and groups, even though by doing so it fosters social and political conflict. It is obligated to invite rational contention and dispute, but it is also often the only instrument through which disputes that affect the whole community can be resolved, however temporarily. The paradox of tolerating, even encouraging, dispute, yet helping to resolve it, is a major challenge to the government in a free society. This paradox places special demands on the public school in its governmental function.

The implications of this position for general education in the social studies are important. First, since there is no revealed truth, the teacher is obliged to tolerate a variety of ideals, values, or creeds among his students. Furthermore, although the teacher may find a personal solution to ideological conflict, he must condone the constant battle among various groups within the society as they are represented in his classroom. The good society is not to be construed

5Ibid., pp. 11-12.
as one in which everyone behaves uniformly according to some agreed-upon substantive definition of right; rather the good society is one in which individuals and groups are allowed wide latitude in developing their own standards and tastes—i.e., their own definitions of human dignity. Progress from this point of view consists of longer and longer periods of non-violent conflict among groups of free men who have chosen a variety of modes of conduct as exemplifying the "good life."

On the basis of these considerations about the pluralism and commonality of American society, two criteria for selecting content for general education in the social studies become salient. First, the student should be exposed to public problems within our society—situations over which individuals as well as the society are in conflict. And second, the student should be taught to analyze these public problems within some useful political and social framework. We are suggesting that initially the appropriate framework grows out of a Western constitutional tradition.6

... Despite the fact that different economic groups and different ethnic and racial groups have a variety of modes of life, in a society based on a commitment to personal freedom and human dignity such pluralism is tolerated and encouraged. Many of the most important personal decisions each of us makes, however, are contingent upon the conduct of other groups within society which may have different interests and different standards of conduct from ours. This is a source of constant conflict and controversy. When the conflicts become salient for large segments of society, they move from the realm of private decision to public decision, because the government is the only agency which has sufficient coercive power to deal with such far-reaching issues. When a decision becomes public, all the citizens are involved directly or indirectly, and each citizen has a stake in the conflict. To debate public issues requires common standards, common principles of ethical and political conduct, and a common vocabulary of norms. Western civilization in general, and America in particular, has developed such standards to serve as a basic vocabulary for the debate of public issues. They include concepts such as property rights, free speech, freedom of religion, freedom of personal association and privacy, rejection of violence and faith in reason as a method of dealing with conflict, the general welfare of all, equal opportunity, equal protection under the law, rule of law or constitutional limits on government, rule by consent of the governed, due process of law, separation of powers, and local control of local problems.

Committing ourselves to public conflict and political controversy as the focus of general education in the social studies is, however, only the first step in selecting content. One must specify what the student is to do with the content once he has received it. The intellectual process, the acceptable standards of analysis by which the student is actively to relate the content to his own principles of conduct, and the criteria for defining when content is "understood" must be described.

6Ibid., p. 13.
First, however, an extremely important point must be clarified. There is, we believe, an intimate connection between the way one conceptualizes the nature and structure of societal values and the process by which one clarifies an ethical position. Whether one conceives of liberty, equality, and fraternity, for example, as each demanding equal allegiance from the citizen or as placed in a hierarchical order makes a fundamental difference in the way one uses them to justify his position on a particular controversial issue. We next, therefore, turn to social values and how they operate in the arena of public controversy.

Social Values in the Analysis of Public Issues

Perhaps the best introduction to our own conception of social values and the intellectual process by which their nature and function may be understood is provided in Myrdal's An American Dilemma.

We would emphasize as follows those parts of Myrdal's position which have central significance for us:

1. It is important to distinguish between factual issues or beliefs, which are subject to the methods of objective verification, and values or valuations, which require a different kind of analysis and justification.

2. Values operate at different levels of generality. Some apply to specific groups; some apply to all men; some apply to specific situations; some apply to all situations. The more specific values often contradict the general values.

3. We attempt to "rationalize" values by finding facts or beliefs which are affectively loaded in the same direction as our values. Factual distortion and repression take place when the affective loading of our facts is inconsistent with our values.

4. There are two kinds of inconsistencies with which we have to deal: (a) inconsistencies between the loading of a fact and a social value and (b) inconsistencies between specific values and general values.

5. General values, those which apply to all men at all times, have a higher and more permanent status, at least as Americans see them.

6. When we stand on the threshold of a value conflict, we tend to deal with it by leaving one value in the shadow of our consciousness and making salient the value which supports our immediate behavior. In this way we try to avoid recognizing and coping with inconsistency.

7. Open discussion tends to force society to have before it the total range of beliefs and values, even those which conflict with one another.

7Ibid., pp. 14-15.

8Ibid., p. 19.
6. Most Americans share the basic values of the culture. There is cultural unity at the general value level, but different individuals and groups share general values with different degrees of intensity as they apply to different issues.

9. Since most Americans share the same general values, when public discussion lays bare our inconsistencies we feel compelled to deal with them.

10. As a "public" becomes increasingly sensitive to the fact that many of the specific beliefs supporting its values are erroneous, it will be forced to alter the values. And as the public becomes aware of the inconsistency between the specific values and the more permanent and general values (e.g., liberty, equality, and Christian brotherhood), the specific values will gradually become modified and finally affect a change in behavior.

As an analysis of the way values and facts modify one another, and of the way specific values interact with general values, Myrdal's remarks have our general agreement. However, we do have some disagreement with his final point. Myrdal apparently assumes that values at the general moral level will be consistent with one another. Only the values of the narrow, unenlightened bigot will contradict the more general values. From our point of view, it is possible for the most fundamental and enduring values of the American creed to conflict with one another when applied to practical political situations. So while we agree that the initial step in the analysis of political controversy involves testing the factual assumptions behind the alleged violations of certain general values, or exposing inconsistencies between the narrow values of special interest groups and the more general values of the society, what Myrdal fails to note is that the narrow values of these groups are in themselves supported by basic values: personal freedom and cultural autonomy. Myrdal's preoccupation with brotherhood and equality, the values so salient in the race issue, probably accounts for his position. Even so, it is quite possible for these two values to conflict with each other: Christian brotherhood can be interpreted to mean discrimination in favor of a particular group within society--the weak and humble.

So while Myrdal assumes that the general values of the Creed are consistent with some more general notion of just relations among men, from our own point of view this is the case only when one sees these general values as abstract ideals. When one attempts to justify practical judgments about specific situations on the basis of the general values alone, he still faces problems of inconsistency. Our own solution is to regard what Myrdal calls "general valuations" as existing on two moral planes. The higher plane is denoted by a single "ultimate" value--human dignity. The second level consists of the values identified in Myrdal's American Creed. In this way we feel it is possible to avoid the difficulties Myrdal encounters when he considers the general values of the Creed final. If these values are final,
permanent, and universal, what do we do when one of them contradicts another? If both are final, both must be accepted as right; it is impossible to choose between them as criteria for action. An important part of our own solution is to raise our thinking to a higher moral plane and posit the more general "ultimate" human dignity and look at the values of the Creed as both defining characteristics of and instrumental to the final value. Thus values such as consent or representation, due process, freedom of speech and conscience, and equal protection under the law can be conceived as containing some essential facet of man's idea of human dignity. In the sense that each contains a defining characteristic of dignity, these values are not contradictory; they are all criteria of a single concept and collectively describe how men should behave toward one another in an ideal society. Because the person committed to the democratic ideology believes that all of these social values are elements of human dignity, he construes political controversy in terms of the values, often without reference to the former. Many of these values or rights are guaranteed under law, it being assumed that support of such concrete aspects of dignity will lead to the promotion of the less tangible and more general value. Constitutional restraint, for example, can be conceived as a defining attribute of human dignity—the coercive power of government should be delegated to it by the men who are governed. Constitutional restraint also has instrumental value—when built into the concrete legal institutions of the society, it helps to insure that government will not infringe unduly upon those aspects of existence judged necessary to their dignity by the members of the society.

The social and political values, then, can be thought of both as the general values which help define an ultimate ideal concerning how men should treat one another and as instrumental values supporting practical public institutions which may enhance or promote the ideal of human dignity. As operative political or legal values, however, they take on concrete meaning and as such are often inconsistent; e.g., personal freedom sometimes does conflict with the general welfare of the majority. Nevertheless, whatever shortcomings Myrdal's analysis may have, we are in agreement that these general American values provide the normative rhetoric by which analysis and judgment of controversial public policies can begin.9

(There are) two ways of using or thinking about social values. One may think of them either as "ethical ideals" (equality, freedom) or as dimensional constructs (equal-unequal, free-coercive). If we regard social values as ethical ideals, we judge behavior on an all-or-nothing basis: this behavior is either fair or unfair, lawful or unlawful. When we consider social values on a dimensional basis, our ethical problem is to determine at what point on a value dimension an action should be categorized as intolerable or bad or at what point it should be given priority over another competing value.

9Tbid., pp. 23-25.
Both conceptions of value have particular strengths. Thinking of a value as an ethical ideal or ethical absolute tends to focus our attention on the essential defining characteristics of the value and prevents us from pretending that compromises with the value really don't matter. Thinking of the value as a dimensional construct, on the other hand, allows us to apply the value more flexibly in a broad range of situations and to deal more realistically with problems of value conflict. Rather than simply saying that a value is or is not violated in a particular situation, we can describe degrees of violation and weigh the violations against other "goods" protected in the same situation. For example, separate-but-equal schools for Negroes are clearly not as extreme a violation of the equality concept as are separate-and-inferior schools. To treat both situations simply as examples of inequality tends to force us into a rigid moral posture which cripples our ability to compromise one value to protect or preserve another.

Freedom of speech can be used to illustrate the same principle. As an absolute value, freedom of speech is violated both by law and by custom in this country. We cannot libel or slander and plead free speech for a defense (although Justice Black has suggested that this rule be changed). In times of national emergency, many of us are restricted by legal censorship. One cannot speak so as knowingly to violate the peace and safety of large numbers of people in the community, e.g., incite to riot. These restrictions violate the unqualified concept of "free speech." If we think of free speech as an ethical absolute, we can rationalize these restrictions only by saying that what is restricted is really not an expression of free speech but an "excess," which is not, in fact, "free speech" at all. From our point of view this is a semantic dodge. Considered as a dimensional construct, the absolute value of free speech must be compromised to some extent to protect other values.

Ethical conduct in a particular conflict situation consists of the "right" compromise among the values by which the situation is conceptualized or construed. Extreme violations of the values can be considered ethically justifiable only under extreme conditions, e.g., restrictions on civil rights during wartime. Otherwise we attempt to protect each value from all but minimal violation. "Minimal violation," however, has meaning only if we maintain a clear image of and commitment to the ethical ideal as an ethical absolute. Otherwise time and conditions may obscure this standard until finally an extreme violation is condoned, not because the value is no longer held essential to human dignity, but because our basic conception of the value has become altered. Freedom of speech, for example, may gradually give way to censorship because each new generation allows a little erosion to take place. Perhaps the only antidote to such erosion is to maintain a powerful image of the positive end of the value continuum as an ideal value, recognizing that the ideal must not be compromised except in the interests of other competing values which also make demands upon the conscience of the individual and the society. Utopia, then, is not a community in which each value
finds maximum expression. It is a society in which each value makes the proper claim upon the actions of the individual so that human dignity finds maximum expression.

The problem of maintaining a clear conception of social values is further complicated when we recognize the implications of regarding our final value, human dignity, as a composite of the values in the Creed. In a single situation, we may condone an action which can be justified as supporting one aspect of human dignity but condemn the same action because it violates another dimension of dignity. For example, suppose a speechmaker on a street corner incites a noisy crowd, which then threatens the safety of the speaker, innocent bystanders, and the crowd itself. At this point should a policeman who happens on the scene forcibly stop the speaker because the crowd is too large to be dispersed, or call for reinforcements, who may arrive too late to prevent injury and violence?

Let us suppose the policeman forces the speaker to stop. In the same act he is abridging free speech and protecting the safety of both the speaker and the people on the sidewalk. For purposes of clarification, we might imagine that such a value dilemma can be described as two value constructs or dimensions abstracted from a single situation. These constructs can be considered diagrammatically as a coordinate system, lacking, of course, the preciseness of unitization implied by the mathematical terminology:

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Security of the speaker and crowd

+------ Area of Disagreement +------ Area of Agreement
Censorship  - + Free Speech
+------ Area of Agreement +------ Area of Disagreement

Violence to the speaker and crowd
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The "perfect" society is one in which rejecting actions which fall in the lower left-hand quadrant, where an action is bad on either dimension, or accepting actions which would obviously fall in the upper right quadrant are the only choices. The most difficult decisions are usually posed when men are forced to choose between courses of action which fall in either the lower right-hand or the upper left-hand quadrant. Of necessity, the support of one value is to the detriment of another. In real life these are the situations which are likely to cause ethical confusion and inner conflict be-
cause, as Myrdal points out, we have internalized the whole Creed, not simply the parts with positive connotations in each particular situation. 10

Social Values and Human Dignity

Community Conflict and Controversy

There appear to be three important facts about human beings and the groups in which they live. First, each person is somehow different from all other people; he is often different in what he believes, what he desires, what he thinks is good for himself, how he feels about other people and other things in the world around him. Second regardless of their individual differences, people generally choose to live in groups and modify some of their own personal desires and beliefs in order to get along with others who live in the same groups. So, although each person is unique and different, all of us as social beings share enough in common so that we desire to live in groups and depend upon one another for safety, shelter, and companionship. Third, the fact of being different and yet living in communities which face common problems leads to controversy and disagreement about decisions affecting the community. The controversy may erupt when we place our own desires and preferences above those of other members of the community; it may be caused by different interpretations of what is in the best interests of the community. Whatever the situation, it is usually difficult to establish a clear-cut case for the rightness or wrongness of any specific proposal which is presented to resolve, or may be the basis for, public controversy.

Public and Private Decisions

We should qualify our initial statement about community conflict by noting that every controversy over right and wrong, good and bad, is not the business of the whole community. Some of our actions affect mainly our own personal welfare and are nobody's business but our own. On the other hand, many if not most of the decisions we make affect not only ourselves but many of the people around us. It is important to distinguish between these two kinds of decisions. Decisions which affect the community we shall call public decisions; those which affect only an individual or a small private group we shall call private decisions. Decisions affecting the control of communicable diseases in the community, for example, are obviously the concern of the community in general. Those about the choice of the food, clothes, music, or art one enjoys are usually private matters. Those about choice of occupation or the number of children one chooses to bear and raise are at present private personal concerns yet have an important affect upon the community.

One of the major sources of community controversy springs from this question: "Should my decision be a matter for only me to consider, or should it be discussed, regulated, or controlled to some degree by other members of the community?" The problem of determin-

10 Ibid., pp. 27-29.
ing the point at which a private decision might be a legitimate public concern can perhaps best be described by illustration. Suppose we look at the simple problem of deciding what color to paint a house. Few would deny that this is clearly a private decision. Suppose we then move over into the problem of decorating the outside of a store. Should the community be able to regulate the size and appearance of the signs which advertise the name and nature of the store? Signs are now usually regulated by zoning laws. The town fathers of an old New England community, for example, recently became very indignant because the sign displayed by a new F. W. Woolworth store clashed with the colonial decor of the town, which had both monetary (tourist) as well as aesthetic value. The store gave in to community pressure and now displays a "colonial" store front.

It is not difficult to find other instances that illustrate the difficulty of drawing the line between personal preferences and general social values. In which kinds of situations, for example, does the effort to "compete with" or "outdo" another person remain a private concern and in which kinds of situations does it violate some important general social value? The following is illustrative:

According to the complaint he filed in court, Edward C. Tuttle had for many years been a successful and popular barber in the Minnesota village where he lived. He had maintained his family comfortably and had actually saved $800 a year, which in 1909 when his case was litigated could certainly be called "a considerable sum." But somehow he incurred the enmity of Cassius B-----, a rich local banker. B------, Tuttle pleaded, decided to drive him out of business and, to that end, opened up and furnished a second barber shop in the village, hired a barber to run it, and used his wealth and prominence to divert Tuttle's customers to B------'s shop. Tuttle alleged that B------ took these steps maliciously to destroy Tuttle's business, and that, far from trying to serve any business purpose of his own, B------ had started the new shop without regard to any loss it might entail. Therefore Tuttle sued for damages.

B------ contended that even if these allegations were proved, he would not be liable, because, however ill his motives might be, he had only exercised the right everyone has to enter into competition in a lawful trade.

The highest court of Minnesota decided (3-2) that, if Tuttle could prove the truth of his pleading, B------ should be held liable for damages. B------'s alleged conduct was not competition but a brutal "application of force."

This situation is interesting because of certain obvious questions it raises. If B------'s anger had led him to boycott Tuttle's barber shop, this would certainly have been considered a private matter between B------ and Tuttle. If B------ had hired three thugs to stand outside the shop and discourage customers from entering, it would clearly have been a public matter. But what of the use of cutthroat
competition to satisfy feelings of personal antagonism? B——— has legally purchased and established a business to compete with Tuttle. On the other hand, in no sense does Tuttle have a chance to compete with B——— on equal or fair terms. At this point it is important to note that we begin to employ the language of social values; terms such as property rights and a fair or equal chance to compete. Both parties to the dispute support or justify their positions in the language of social values.

Human Dignity and Standards of Conduct

What, then, is the purpose and function of social value concepts in public dispute? One answer to this question may be stated as follows: When we are faced with a public dispute in which it is difficult to determine who is right and who is wrong, or when it is difficult to say whether the community or individual parties in the dispute should make this decision, we often seek to resolve the situation by searching for general principles of ethical or moral conduct. We attempt to discover rules of behavior by which our lives can be guided. Moreover, we want to anticipate stable and predictable ways of resolving future conflicts with others. From these stable approaches to conflict more or less general rules of conduct are generated which allow us to evaluate or judge many different kinds of situations. In the conflict between Tuttle and B——— there are clearly two general principles involved: B———'s right to use his own money or property to start a business, and Tuttle's right to compete with others on a fair and equal basis. In this troublesome situation two general rules of values which we want to employ to make an ethical decision have come into conflict. So while the use of general rules of conduct or social values allows us to clarify or evaluate social conduct more consistently, often these values clash. In such a conflict we may appeal to a more basic standard—our intuitive sense of human dignity, which will tell us, perhaps, that a particular application of a social value is in itself a perverted use of the concept. As the court decided in the Tuttle case, properly rights can be used as a "brutal application of force" rather than to protect this more basic standard.

But if there is a more important and more basic value, why do we need to think in terms of specific values, such as property rights, to evaluate social and political decisions? Why not judge all behavior by the extent to which it contributes to human dignity and respect for the individual? Some philosophers have, in fact, tried to compress all ethical principles into a single general prescription to guide behavior. We are familiar with the general recommendation: Do unto others as you would have others do unto you. This is a powerful yet simple statement telling us how to behave toward one another. It is a guide to the resolution of human controversy. But such general prescriptions, although they are simple and powerful, often create as many problems as they solve. Since men interpret how they would like to be treated in different ways, thoughtful persons have sought to construct more
specific principles or guidelines to help us behave in accordance with
the fundamental standard of human conduct we are calling the dignity
of man.

What we have been saying about the use of social standards, or
values, to judge situations or human conduct is summarized in the fol­
lowing three statements:

1. People often try to develop general principles of behavior to
guide their action; the most general and basic principle in our society
is a commitment to human dignity.

2. While respect for human dignity and the rights of the individual
may be the essential basis of judgment in a controversial situation, it
is often difficult to understand or communicate the reasonability of
alternative decisions on the basis of this principle alone.

3. Throughout history, men have developed more specific values
which, when followed, are believed to promote the value of human dig­
nity. These specific values or rights may be thought of as both ele­
ments of and bridges leading toward the more basic value. . . .

The more specific values give a clearer idea of what we mean by
human dignity. They help us understand better how to interpret and
protect our freedom. But, as noted above, the use of more specific
values leads to the problem of what to do when two such values con­

lict. How can people go about resolving their controversies within
the limits of these basic values? 11

Selected Analytic Concepts for the
Clarification of Public Issues

Up to this point it may seem that problems involving human conflict
in a democracy are easily resolved. Two people or two groups within a
community have an argument over a public issue. Each takes a different
position. Who is right? We find out which person is basing his argu­
ment on an important value or upon a governmental principle which sup­
ports the value. Whoever can rationalize his position in terms of a
supporting principle must be right; the other person must be wrong.

There are obviously a number of difficulties with this approach:

1. As most problems which affect the welfare of the American com­

munity are discussed, different individuals or groups take different
positions. Usually each position can be reasonably supported by im­
portant social values.

2. Claiming that a position is supported by an important value
or that a position violates some value does not necessarily make the
claim true. Such claims must be examined to see exactly how the
problem situation is described, as well as the extent to which the
description is accurate. Often precise descriptions are not avail­
able, so one has difficulty judging the extent to which a value has
in fact been violated or is supported.

3. Even when all the facts are clear, people often use differ­
ently the words which describe or label values and value-loaded situa­
tions. Terms such as adequate education and equal protection mean

11 Ibid., pp. 56-60.
different things to different people, although all may be committed to whatever values are described by these labels.

We are likely, then, to encounter problems in analyzing political controversies in our community and nation. One problem involves clarifying which values or legal principles are in conflict and choosing between or among them. A second problem involves clarifying the facts around which the conflict has developed. A third involves clarifying the meanings or uses of words which describe the controversy. As we shall see, there are different strategies for dealing with each problem. It is important, therefore, to distinguish a value problem from a factual problem and a factual problem from a definitional problem. Dealing with political issues usually means resolving disagreements in all these areas. Perhaps we can best illustrate these points, as well as how they might be treated in the classroom, by looking at a concrete incident based on an actual case presented to the Supreme Court.

The Sidewalk Speech

On a raw, windy afternoon in March, a hot-headed, earnest young student named Barry Schwartz was making a speech to a crowd in a small shopping area. The street was in a Negro neighborhood in Poughkeepsie, New York. Schwartz stood on a large wooden box on the sidewalk and shouted at the crowd in a high-pitched voice through a loudspeaker system attached to an automobile. He waved his arms, stamped his feet, and once in a while smacked a fist in his palm. He wanted to publicize a meeting of the Young Progressives of America that was to be held that evening. Among other things, Schwartz said,

"The mayor of this city is a champagne-sipping bum; he doesn't care who crushes the Negro people."

"The President of the United States is a bum."

"The Legion of American Veterans is a Nazi Gestapo."

"The Negroes don't have equal rights; they should rise up in arms and fight for their rights."

The crowd listening to Schwartz numbered 75 to 80 people, both Negro and white. It filled the sidewalk and spread out into the street. The people were restless. There was some pushing, shoving, and milling around. Some men picked up bricks and threatened to throw them at Schwartz. Lincoln Frost, who owned a nearby store, was afraid for his plate glass window, so he phoned the police.

Lieutenant Collins and Sergeant Davis drove up in a squad car to investigate. For a while they just sat in the car and watched. Then one of the women onlookers who thought Schwartz should get a chance over and said, "What's the matter? You scared? Can't you cops make people behave right?" A big, muscular man nearby turned around and said, "If you cops don't get that guy off his orange crate in two minutes, I'll shove it down his throat." Then he elbowed his way into the crowd until he was very close to Schwartz.
Lieutenant Collins pushed his way after him through the crowd and asked Schwartz to break up the crowd "to prevent it from resulting in a fight." He repeated the suggestion several times. Each time Schwartz ignored the policeman and went on talking. During all this time the crowd was pressing closer around Lieutenant Collins and Schwartz. The muscular man began urging the man near him to "Get Schwartz." Finally, Collins told Schwartz he'd have to arrest him for his own safety, and ordered him to get down from the box.

Schwartz got off the box, but as Collins took him through the crowd to the squad car, he shouted, "What's happening to free speech in this country? I've got a right to say what I think even if the big-wigs don't like it. I've got a right to talk even if some bigots standing around here want me to shut up.

Schwartz was tried and convicted of disorderly conduct and sentenced to thirty days in the county jail. Schwartz appealed the conviction because he said it took away his rights under the First and Fourteenth Amendments of the American Constitution.

In discussing "The Sidewalk Speech" we can ask a number of important questions to clarify the problem. Are any important values being violated? Barry Schwartz claims his freedom of speech is abridged. The Poughkeepsie police claim that the peace and order of the neighborhood is threatened. Clearly, there is a conflict over important values. Further questions: Is there any legal basis to support these values? Does the violation of a value in these circumstances also violate a law? And even more important: Does the government have the power under the Constitution to make the law which has allegedly been violated? In this particular case, is there any constitutional protection for freedom of speech? The answer is plain, as Barry Schwartz points out: in the First and Fourteenth Amendments. We might also ask: Does the community have the authority to make laws prohibiting disorderly conduct? Again the answer is surely "yes." We now have a conflict not only between values but also between laws which are designed to protect these values. Although we know what constitutional law is supreme, we also know that the First Amendment does not necessarily protect people from unreasonable use of free speech. Assuming that we want to protect peace and order, then, how is order to be preserved? By arresting the speaker or by restraining those who threaten the speaker with violence. Which course of action is taken depends to a large degree on how "reasonable" use of free speech is defined.

This is not only a definitional and a value problem. It is closely related to an important factual issue: What is a clear and accurate description of the problem situation? The relevant factual questions in "The Sidewalk Speech" center on how much violence actually occurred and to what extent there was an immediate threat of more violence. In this connection the following factual questions might be important:
How large was the crowd?
To what extent did the crowd obstruct traffic or pedestrians?
To what extent was there "pushing, shoving, and milling around"?
How many people actually threatened Schwartz?
How serious were their intentions?
How many policemen were available to keep order?
Analyzing a case such as "The Sidewalk Speech" is a complicated business. We must identify the different kinds of problems involved: value conflicts, legal and constitutional problems, factual problems, problems regarding the interpretation or definition of value, and problems regarding the definition of terms used in the factual description. While this process of analysis is a creative endeavor, and will be done differently by different individuals there are, we believe, concepts which might generally be useful as guidelines.

It is important to note, however, that in teaching, the objective of analyzing such a case is not simply to impart conceptual abstractions; more particularly it is to teach the ability to shift alternately from conceptual analysis to the testing ground for the validity and adequacy of the analysis—the concrete facts in the case itself. With such a goal, the "case method" is a powerful tool. Instead of being provided with pre-analyzed material which he then applies to new situations, the student is engaged in a process that allows him latitude in testing the utility of alternative conceptual systems. Cases, then, are not simply a means of illustrating and teaching concepts; they provide the grounds by which general statements about public policy can be generated and tested. The classroom discussion that follows a case will of necessity be dialectical and controversial in the type of curriculum we suggest—no one conception of a case is necessarily the "right" one. This does not preclude the idea that there are principles of analysis, which the teacher should have in mind, that give such discussion focus and direction in raising appropriate questions. The following sections lay out some of these principles. Again, the fact that they are made explicit does not mean they should necessarily be taught as final principles. They do, however, provide guidelines for the testing of questions which inevitably arise in the attempt to come to general principles of public policy and public conduct . . .

Value Problems
Since we have already talked a great deal about value problems, the statements in this section are, in part, summaries of what has gone before. The act of valuing involves classifying objects or actions as "good" or "bad," "right" or "wrong." Values are those actions or objects that are valued. When we say due process is a value, we mean that to us actions of procedures labeled due process are good . . .

\[12\text{Ibid., pp. 88-91. Only principles of analysis for value problems are included in this text because of the limited scope of the topic discussed in this study. This study does not consider problems of definition and problems of fact.}

\[13\text{Ibid., p. 98.}\]
A value judgment suggests not only that something has been judged good or bad but also that a person will act on the basis of this judgment. A social value judgment, moreover, suggests that all people should act on the basis of the judgment. Likewise, suggested actions or decisions imply the support of a value judgment. That is, value judgments suggest decisions; decisions imply the support of value judgments. For example:

<table>
<thead>
<tr>
<th>Value Judgment</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Equal educational opportunity is good</td>
<td>Suggests that Negroes should be given just as good instruction in the public schools as whites</td>
</tr>
<tr>
<td>A peaceful community is good</td>
<td>Suggests that We should have an adequate police force</td>
</tr>
<tr>
<td>Free speech is good</td>
<td>Suggests that We shouldn’t pass laws censoring Communist literature</td>
</tr>
</tbody>
</table>

Decisions or policy stands describe the actions one is likely to support or carry out. Decisions can be justified by predicting that certain consequences will occur or that other consequences will be avoided if a decision is carried out. This assumes that everyone agrees on the goodness or badness of the consequences. Decisions can also be justified by demonstrating that important social values will be violated if the decision is not made.

Disagreements which center on whether or not a predicted consequence will occur as a result of a decision can often be resolved by gathering factual information and evidence to support one’s prediction. Disagreements over whether or not the consequences themselves are good or bad must first be dealt with by referring both the consequences and the decisions back to important social values. For example:

<table>
<thead>
<tr>
<th>Decision</th>
<th>Specific Consequence</th>
</tr>
</thead>
<tbody>
<tr>
<td>We should arrest people who make Communist-sounding speeches because...</td>
<td>these people will spread Communist ideas</td>
</tr>
</tbody>
</table>

If the person who gives this argument is confronted with evidence that arresting people who make Communist-sounding speeches does not prevent the spread of Communist ideas it weakens his position. But if he produces evidence that such arrests do in fact halt the spread of Communist ideas, someone might say, "That is bad. We should have as many people as possible know about Communist ideas. We should have a free market place of ideas."

At this point in a value disagreement, the people disagreeing can refer back to more basic social values that each wants to preserve in the community. For example:
<table>
<thead>
<tr>
<th>Decision</th>
<th>Social Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr. Smith might say: We should jail people who talk in favor of Communism because such talk threatens the safety of the community</td>
<td>We should let everyone speak on any subject he pleases, as long as he does not use lies to damage people's reputations, because free speech is an essential ingredient of personal freedom</td>
</tr>
</tbody>
</table>

Justifying decisions by asserting that they tend to support or violate basic social values forces us into the problem of value conflict. A single decision may be defended on the grounds that it preserves one social value and at the same time denounced because it violates another. In the example above, censorship of Communist speeches was defended on the grounds that it preserved peace and order and denounced on the grounds that it abridged free speech.

Confrontation between these controversial points of view, however, depends upon the assumption that there is at least some truth to the implied claims of consequences behind each person's value position. For example, the person who stresses the importance of peace and order assumes that Communist speeches will lead to violence and disorder and to a general weakening of important societal values. If we found upon careful investigation that there was very little chance that Communist speeches and publications would lead to violence, disorder, and the deterioration of important values, there would be no value conflict. Censorship would be seen as simply bad. If, on the other hand, we found that in several countries where Communists were given freedom of speech there was a loss of respect for law and individual freedom resulting in riots, or even revolutions, we might seriously consider some censorship on the grounds that it would help preserve a lawful society. We can see, therefore, that value conflict may disappear when the factual assumptions behind each value position are tested.

But suppose we test the factual assumption behind each value position and find that for a given situation any reasonable decision will lead to the violation of at least one important value. For example:
The Anish, a religious group in Pennsylvania, believe that the government should not provide citizens with old-age pensions. It is part of their religious conviction that each person should take care of his own family in sickness and in old age.

There is a national emergency. The North Korean Communist have invaded South Korea. President Truman wants to call up several military reserve units. Many of the men in these units served three and four years in the armed forces during World War II. Their lives were disrupted once by war, and now they will be disrupted again. But the President needs troops.

1. The government can force the Anish to pay their social security taxes, which will never benefit them, and which violate their religious convictions; or
2. The government can exempt the Anish from the tax and violate equal protection under the law, i.e., everyone but the Anish will be required to pay the tax.

1. The President can call up the troops in the reserve units and have a better-trained defense force to protect the national security; or
2. The President can draft young men who have never served their country, and give all young citizens more equal treatment.

Let us assume that in these situations (and in many like them) there is a genuine value conflict, one that does not disappear when the facts are in. No simple solution exists. One cannot resolve the conflict by saying that the answer is only a matter of opinion. Public policy is at stake, and a wrong decision may affect the future of the nation. One cannot resolve it by simply saying it is a matter of definition, using the right words to describe the situation. No matter how the situation is described, there is, in some sense, a violation of fairness or justice. One cannot solve the problem by saying "Get more evidence." The evidence indicates more and more clearly that some people's rights are going to be violated in the interests of the community.

In confronting this issue we must accept the fact that there is no "correct" or "right" solution. We must create or accept that policy which least violates our concept of human dignity and which least violates any of the social values that promote human dignity. The purpose of analyzing political problems of this type is to lead to a decision which will minimize the violation of important values, not to pretend that no conflict between these values exists.

... In general, value problems are at the center of political and social disagreements. In a community which is concerned with maintaining a balance between governmental actions that benefit the community and governmental actions that protect the freedom of each individual, every one of us has an obligation to weigh in our own minds the wisdom of proposed governmental action and make a decision in terms of its benefit to the dignity of each individual. To surrender this obliga-
tion to influence governmental actions through carefully thought-out decisions can lead to loss of the freedoms that are most important to us all.\(^{14}\)

The Use of a Jurisprudential Framework in the Teaching of Public Issues

... We have attempted to develop some concepts that can be used in relating moral imperatives, principles of government, and standards of proof. These can be fitted together into a framework which allows the teacher—and the student—to focus on a limited number of important questions whenever issues of public policy arise. A curricular approach needs a "handle" for easy reference. We have called our model simply a "legal-ethical," or "jurisprudential," framework. It has been difficult to label because of its complexity; it combines several ingredients not commonly put together in the social studies curriculum. Beginning with a type of contemporary issue commonly mentioned in the problems of democracy course, but initially stating the issue in terms of a concrete setting most often included in "current events" discussions, it then relates the contemporary case to cases which range widely in time and space, appealing especially to historical analogies to broaden the context of discussion. The initial questions raised by this material tend to be "should"-type ethical questions, but the class is inevitably thrust into legal, factual, and definitional questions when the students' own views of the "good" solution are compared with other "legitimate" social solutions. It is this amalgamation of law-government, ethics, contemporary, and historical factual questions developed around perennial issues of public policy that we refer to as jurisprudential teaching.

It is important to distinguish between jurisprudential teaching and what is commonly called "critical thinking." Critical thinking... refers to the ability to differentiate factual statements from opinion statements, the ability to identify logical fallacies, etc. While there is clearly a relationship between such a notion of "critical thinking" and the approach described here, there are major differences. Our approach emphasizes the clarification of two or more legitimately held points of view as they bear on a public policy question. In general there is much less concern with rhetorical devices or the logic of deductive reasoning than with the anatomy of legitimate communication and persuasion.

The distinction between the conventional teaching of "critical thinking" or applied logic and the approach suggested here can, perhaps, best be understood by thinking about the pedagogical strategies employed in each. The direct teaching of "critical thinking" usually involves the analysis of the persuasive message (sometimes referred to as propaganda) or the analysis of different accounts of the same events to illustrate the problem of interpreting information and drawing conclusions. In the jurisprudential framework, the teacher is likely to begin the discussion by reading a provocative message pre-

\(^{14}\text{Ibid.}, \text{pp. } 98-102.\)
sented a controversial situation and quickly move to a dialogue about the substance of the issue or problem described in the message. What he seeks to analyze is less the controversy-provoking message than the disputative discussion about the controversy that ensues. Our focus, then, is on the dialogue, either between teacher and student or among students.

The role of the teacher in such a dialogue is complex, requiring that he think on two levels at the same time. He must first know how to handle himself as he challenges the student's position and as his own position is challenged by the student. This is the Socratic role. Second, he must be sensitive to and aware of the general processes of clarification or obscuration that takes place as the dialogue unfolds. He must, that is, be able to identify and analyze complicated strategies being employed by various protagonists to persuade others that a particular stand is "reasonable" or "correct." Nor is it sufficient for the teacher simply to teach a process of questioning evidence, questioning assumptions, or pointing out "loaded words." In matters of public policy, factual issues are generally handmaids to ethical or legal stands, which cannot be sloughed off as "only matters of opinion." Clarification of evaluative and legal issues, then, becomes a central concern. At this point in the curriculum the student is not taught to believe or accept certain values but rather to clarify his evaluative commitments and to understand the relationships among the justification of a value position, the clarification of a definitional issue, and the proof process involved in a factual issue.

It should be stressed again that teaching oneself to be sensitive to strategies of justification, clarification, and proof requires the teacher to "double think" or think at two levels simultaneously. He must be aware of the substantive issues on which the controversy has focused and the intellectual process by which these issues might be clarified, if not resolved. Moreover, it is our contention that the intellectual processes or strategies are much more complex than have conventionally been described in "critical thinking" or "how to think" educational literature. Below we suggest a few such strategies by way of illustration. The context is obviously not one in which the teacher simply describes these strategies to students. The student must, in fact, engage in a controversial discussion before the definition of a strategy becomes relevant or meaningful. Such engagement may be between the teacher and the student or between students. Again we would affirm that such discussions are not simply to teach the student intellectual process, nor are they only to teach about the topic under discussion. There is a dual purpose requiring a dual intellectual process by the teacher, and eventually by the student: the student must learn the legal, ethical, and factual substance of the issues under discussion, the way this information relates to his own personal knowledge and values, and sensitivity to the general processes by which the issues might be clarified.

The second or analytic level, moreover, involves not only identifying definitional, evaluative, or factual problems that are embedded within broader public issues but also awareness of the more complex relationships among these different kinds of problems. In a con tro-
versial discussion there are undoubtedly an infinite number of patterns by which these problems can be usefully related. At this point we will suggest only a few such patterns which commonly arise in political controversy, and show how the three dimensions of political conflict play a part. We do not think it useful or desirable for students to "memorize" something called "patterns of intellectual clarification." The point is that the teacher, and in turn the students, hopefully will develop a general rhetoric for describing strategies involved in political arguments. At best, the patterns described below can only suggest that it is possible to talk about strategies of persuasion in a useful way; they do not constitute a "handbook for public debate."

Pattern 1. Establishing the Point at Which a Value is Violated:
The Factual Emphasis

The problem of determining when a social situation violates an important social value is both definitional—does the value term apply?—and evaluative. Arguments along these lines, however, often center on a descriptive controversy over the nature of the situation under discussion, emphasizing factual disagreement.

In school segregation, for example, the argument often has focused on the issue of whether or not the separate schools provided for the Negro were in fact equal to those provided for whites in terms of objective criteria like quality of buildings, teaching load, teaching salary, and physical equipment. Both antagonists in such an argument may assume that separate—but-equal could be a legitimate answer to the problem of race relations in the schools, but they disagree on whether or not Negro schools will ever be brought up to white standards under segregated conditions. The 1954 desegregation decision of the Supreme Court was finally argued on such factual grounds. Both segregationists and integrationists agreed on the value of an equal education for the Negro. The question was: Does the situation that exists (segregation) prevent the Negro from getting an equal education?

The second point in the segregation problem which may begin with a value statement but soon reverts to a factual controversy is the "self-determination" issue: the right of each state to deal with its own race relations problems as it sees fit—the states' rights doctrine. The southerner argues this position because he believes that most southerners are violently opposed to desegregation. Some integrationists have questioned this assumption, asserting that in fact many southern moderates would prefer integration to breaking the law but are intimidated and forced to remain silent by more vocal extremists. Whether or not the majority of southerners would prefer to comply with the Supreme Court's decision of 1954 or the Civil Rights Act of 1964 is, of course, an empirical, or factual, question.

It is on the basis of factual questions such as these that political disputes can perhaps best be initiated. Unless solid evidence exists that the description of the situation by an "injured" party is to some extent accurate, there is little sound basis for extended debate.
We are not suggesting, however, that once the problem situation is accurately described the factual issues are resolved. More probably the argument will proceed through alternating cycles among the various issues. For example, the controversy may well begin with an "atrocity story" describing a situation in which an individual or group is allegedly being treated unjustly. Implicit but obvious is the assumption that an important value is violated. The argument may turn from emphasis on the violation of the value to the question of whether or not the atrocity story is true or representative of a larger class of situations. (Are the poor educational facilities provided for Negroes in rural Mississippi representative of all segregated Negro facilities?) The factual discussion will often reveal a wide spectrum of degrees of justice and injustice.

The alternating-cycle concept in argument analysis has direct implications for teaching. Teachers commonly comment that students must know the "facts" before they can get into issues of public policy, which inevitably involve "opinions" or values. This is a somewhat simplistic way of stating the problem. A critical pedagogical objective is teaching the student to select those factual claims (not facts) which, if their validity were known, would have an important bearing on the controversy. To teach the student the "relevant background information" before the argument begins short-circuits the opportunity for the student to evaluate the relevance of facts needed to argue policy questions intelligently. This is not to say that the student should start discussing an issue with no background whatsoever. It does contend that the student should learn to accumulate information as he sees its bearing on the central legal and ethical issues surrounding a public question.

Pattern 2. Establishing the Point at Which a Value Is Violated: The Emphasis Upon Evaluative Clarification

We may now look at the problem of clarifying the hypothetical point at which a value is violated, e.g., when liberty becomes license; when equal opportunity becomes enforced mediocrity. Extreme violations of American social and political values are generally obvious to the large majority of citizens. Such violations create special problems for political decision-making when they are suppressed or ignored by an uninterested majority or when they can be justified by facts indicating that other equally important values are thereby maintained, e.g., censorship in wartime. In the center of the value continuum, however, is that vague area in which the citizen may not know whether an abuse being perpetrated is sufficiently important to require governmental action or governmental coercion.

For example, to what extent would the policy of separate-but-equal, actually enforced, be a violation of "equal protection under the law"? The history of the separate-but-equal doctrine is itself a study of conflicting interpretations of the point at which justice or dignity is sufficiently violated so that the Supreme Court feels
obligated to interfere with the rights of the states. This kind of conflict cannot immediately be resolved or clarified with facts. There is often agreement on the facts. One person describes segregation as a badge of slavery and therefore a violation of equal protection. The other person describes segregation as protecting the cultural integrity of two distinct racial groups and sees no violation of constitutional rights.

The Use of Analogy in the Process of Ethical Clarification. One approach to the clarification of this type of conflict is the use of comparative cases or analogies. The case in question is analyzed by comparing and contrasting it with an array of real or hypothetical situations in which are embedded the same value conflict. We then ask ourselves which of the comparative cases are violations of an important value and how similar these cases are to the one in question.

Let us again take the example of racial segregation in the public schools. Suppose we compare and contrast this with segregation by sex in the public schools in areas such as the practical arts or physical education. Boys and girls are normally given separate facilities and training for physical education. If each group has equally good instruction and equipment, is our idea of equality violated? Probably not. We might rationalize our position by saying that there are good reasons for segregating the sexes in physical education. It is commonly assumed that girls are not physically equal to boys. They have different interests. Boys and girls are somewhat self-conscious and modest in the presence of one another, especially in gym suits. But would these arguments not apply as well to racial segregation? Perhaps girls could achieve the same physical prowess as boys if they did not have a negative self-image concerning their ability to perform athletic feats.

Now let us take a second comparative situation. Would segregation by social class be a violation of equal protection? Suppose the population were divided into thirds according to income, and three separate school systems for these groups were established. Most Americans, including racial segregationists, would probably oppose this kind of segregation (although many schools in fact condone and promote it). But wouldn't the protection of the cultural integrity of various social classes apply as an argument for this kind of segregation, as well as for racial segregation? (One might even say that the lower classes provide a kind of uninhibited response to life which invigorates the culture; efforts should therefore be made to preserve its integrity.)

We thus have three situations, each violating with increasing intensity the common use of the equal protection concept. Americans in general appear to have no great stake in the inequalities brought about by sexual segregation or discrimination in physical education. Racial segregation is subject to much controversy: Is it or is it not a violation of equal protection? Undoubtedly, most Americans would be horrified if social class segregation were legalized and enforced in the public schools.
The use of analogous cases allows us to broaden the context of discussion by developing a series of points along the continuum of equality-inequality, and thus to clarify the depth of our own commitment to a particular value. It does not, however, solve the problem of how to determine which particular case provides the critical point at which equality must have priority over cultural self-determination. This point is determined by each individual, although all may agree that a common legal standard should exist.

The use of analogous cases not only clarifies the range of situations we might consider as violations and non-violations of a particular value but also impels us to seek criteria which will distinguish one situation from another. For example, the person who sees sexual segregation as legitimate but racial and social class segregation as wrong may say that the basic difference is that men and women, boys and girls, are really considered social equals in the society, whereas Negroes and members of the lower-class families are not. (This, of course, may be subject to question.) On the other hand, the person who sees sexual segregation and racial segregation as similar but who sees social class segregation as the violation might assert that, while many lower-class people want to be like middle-class people and live near them, girls do not want to participate in sports with boys and the great majority of Negroes do not want to live among or go to school with whites.

The Return to Factual Problems. Once we begin to categorize one group of cases as a "violation of equality" and another group as a "non-violation," we again move from our intuitive judgment of "rights" in the controversial situation to questions of fact. In this situation we might ask: Do women and girls really feel equal to men and boys, or do they envy them as social superiors? Do most Negroes really want to move from a segregated way of life to closer association with whites? The analogy thus leads us to identify characteristics in several similar situations which differentiate those that violate a value from those that apparently do not. Analogy thus becomes a powerful instrument of rational ethical clarification.

The use of analogy in teaching issues of public controversy deserves comment on two counts. In logical terms, teachers tend to be suspicious of the analogy as a method of "false reasoning," or at least one of questionable validity. We would point out, first, that proving a factual point by the use of analogy is quite different from presenting an array of analogous situations to clarify and rationalize decisions on public policy. Attempting to differentiate among seemingly similar cases is, in fact, a fundamental element of legal reasoning.

Second, the use of analogy is probably the most effective way to test the consistency of a student's policy stand and to show him that the major problem of justification is rationalizing inconsistency rather than learning how to be consistent. (Americans do believe in segregation under certain circumstances.) Moreover, "good" analogies, i.e., analogies which require more than a trivial rebuttal, are often difficult to come by. They may be hypothetical situations or real cases.
In the planning of a controversial discussion, therefore, it is usually important to anticipate what issues will come up, what inconsistencies should be illustrated, and what analogies can serve this purpose...

Pattern 3. The Clarification of Value Conflicts

In dealing with public controversy probably the most important type of issue revolves around a value conflict or political dilemma. A political dilemma occurs when we are faced with a choice in which any of the available alternatives will enhance one value at the expense or violation of another. Dilemmas are commonly handled in two ways: We either deny, distort, or repress the negative consequences which attend our actions so that the value violation remains below the level of consciousness; or we maintain that the value we are preserving is more important than the value we are violating—we assign static priorities to values. The latter strategy deserves more extensive comment.

The usual static value priority approach, which was discussed at some length... asserts that the value given the higher priority is more important because it more closely approximates our conception of human freedom and dignity or the conditions necessary to preserve dignity. The school desegregation situation, for example, has been characterized by assertions from both sides that the values each upholds are more closely associated with "human freedom." The southern white generally selects two values to support his position: local control or states' rights and the individual freedom of the parent to protect his child's cultural integrity. The first argument, of course, has a constitutional basis. The northern liberal bases his argument on the value of equal opportunity, which enjoys constitutional support in the equal protection clause of the Fourteenth Amendment. Within the framework of a value priority position, it is possible to argue that the "higher" value is inviolable and then refuse to consider the "facts" of the case. The "conservative" stand on desegregation illustrates such a position: Constitutionally guaranteed states' rights and local control must be supported, although we know that the races are given unequal educational opportunity within certain states; the federal government has simply never been delegated constitutional power to deal with the problem of education, including racial inequality in the public schools. Constitutionalism must be upheld because it is the basis of freedom and justice, even to the point of tolerating temporary injustice.

While the initial statement of such a position appears irrefutable, the persuasiveness of the argument depends partly on the extent to which there is in fact a gross violation of the value which is given second priority—in this case equal educational opportunity. If one can demonstrate that the Negroes in a particular southern state have been getting few or no educational privileges compared to white children, the states' rights argument becomes somewhat hollow,
And if the dogmatic states' rights advocate maintains that extreme violations of equal educational opportunity is irrelevant to the argument, he is forced to ignore or deny a fundamental value of the Creed. As Myrdal pointed out, since most Americans have internalized the whole Creed, this becomes a difficult position to maintain.

In general, appeal to one value as "more basic" than another operates effectively in political controversy only when the "less basic" value is not under extreme violation. This is why the separate-but-equal position, assuming that it has been fairly implemented, is so persuasive. While imposing a system of race relations on the majority of people within a state is clearly an extreme violation of the concept of local control and states' rights (especially when no such powers have been expressly delegated to the federal government), separate-but-equal does not appear to be so extreme a violation of the value of equality. Only when we see overwhelming factual evidence indicating that although separate-but-equal is a legal fact it is, in reality, a myth, or that it is inherently impossible because of its damaging psychological effects on young Negro children, does the integrationist's argument gain force.

So while initially simply giving one value permanent priority over another appears to be a secure political position in the face of conflicting values, the position loses force when there is a major violation of the "secondary" value. The basic values of the Creed are usually so important to people that they cannot simply be ignored.

As we have already indicated in Pattern 2, analogies are particularly useful to clarify value issues and especially to underline the fact that there is a real conflict over values which cannot be obscured by the rhetoric of a static value priority argument. Situations analogous to an initial problem case can be suggested from which one can abstract the same values as those in the problem case. In each of two situations—the problem case and the analogy—one value is being supported at the expense of another. Yet one situation may be judged "good" and the other "bad," although both involve the support of one value and the violation of another. The problem is to clarify the reasons and accept the inconsistency. The following example illustrates this process:

Between 1763 and 1776 the British became increasingly restrictive on the rights of self-government which American colonists had come to assume were theirs. Finally, some colonists considered the restrictions an unbearable loss of freedom. In pursuit of greater freedom they struck out at the British by holding the "Boston Tea Party" and storing arms and ammunition in Concord. Committees of Correspondence were set up to increase agitation against the British. For others it was to gain independence through violent revolution if necessary.

How do most Americans feel about these efforts to gain independence? We celebrate the men who worked toward independence; we celebrate the day on which it occurred as a national holiday.
Now let us look at a similar hypothetical case or analogy.

Some states in the South have traditionally refused to give the Negroes voting privileges and equal educational and job opportunities and have excluded them from the full privileges of citizenship. Suppose Negroes were able to accumulate stores of arms and ammunition and plot a general uprising against such states as Mississippi and Alabama, as well as the United States. The Negro claims he is fighting for some territory in the South which is now largely occupied by Negroes. Should the United States put down such a revolt? Should Mississippi and Alabama put down such a revolt?

It is quite possible that many Americans would admit that the Negro might have some justification for revolting, but probably few would support the revolt. Both situations could be extended by the suggestion that Russia might give arms to the Negroes in their fight for independence just as France gave military aid to the English colonies in America.

Does it not seem as though we have contradicted our stand from the first situation to the second? More precisely, what is the nature of the contradiction? We can begin to answer this question by asking ourselves what values were being defended in the American Revolution. The interests of the American colonies were not represented in the decisions of the King and the English Parliament, the colonists felt; nor were the colonists being given the rights that Englishmen of comparable social class were accorded in England. In order to gain their rights they had to achieve independence, which finally meant fighting a revolution, violating English law, and committing acts of subversion and violence. The hypothetical Negro revolution in America has obvious similarities. The Negro is denied basic rights of citizenship: representation and equal treatment under the law. The American colonist was denied similar rights. The Negro is (in our hypothetical example) resorting to lawlessness and violence to gain his rights. That is what the American actually did in the American Revolution.

The analysis of these two cases illustrates a number of points. A political problem often begins when a specific decision violates an important social value. The problem becomes more complicated when we recognize that the social value given to support our decision in one situation may well be ignored by a second decision we make in a comparable situation. We are thus faced with inconsistent decisions.

It is possible, of course, to give some values such high priority that few value conflicts or inconsistencies are faced. Many Quakers, for example, place so much importance on the values of peace and non-violence that when situations involve the choice of violence or non-violence they usually behave consistently. Most of us, however, are not in this position. We value many of our personal freedoms so much that if we felt they were being taken away unjustly or illegally we would physically injure others to protect them. We would violate one value to protect another when in a particular situation the first value seemed more important.
for the protection of human dignity. For example, Negroes claim the protection of the law and also the right to ignore and violate laws that they do not approve. And the more important point is that we do not consistently violate one value and consistently protect another. We often deal with similar situations in different ways because each has its own unique characteristics which must be taken into account if we wish to protect the basic value of human dignity as each of us may define it.

While inconsistency on the general value level may well be justified in terms of the specifics of the two cases we are comparing, it is often disconcerting to the person who considers consistency an essential criterion of rationality. As the inconsistency begins to impinge upon our consciousness, we may find it easier to pretend that the salient value, the value that is obviously supported in one particular situation, surely leads to the most reasonable decision.

In thinking about the American Revolution, for example, we focus our attention upon the values of political independence and self-government (and the fact that these values were violated by the English) rather than upon the value of remaining within the legal boundaries of English law to effect an orderly, peaceful settlement of disputes. One of the major difficulties in discussing a controversial political situation, then, is forcing antagonists to recognize that they share both of the conflicting values involved in it. (This fact is precisely what provides the basis for a controversial dialogue.)

The American patriot has so often been conditioned to associate the American Revolution with "fighting for freedom," for example, that he cannot see that the phrase upholds one value but violates another important value. The analogy is an effective device by which to expose values "in the shadow of consciousness," as Myrdal puts it, and force an antagonist to admit that a dilemma does, in fact, exist. It serves the function of pointing up a latent value which the person would just as soon play down or ignore.

There is no implication here that by casting the Revolution in an unfavorable light through the use of analogy we can or should teach students to reject the total situation. The point is simply that a political decision and its consequent actions often involve conflicts in value, and by understanding this fact we are in a better position to rationalize our position and consider alternative positions that we might otherwise ignore. In most cases, however, we are forced to accept the fact that the final decision will have some negative consequences. It is better to admit this with honesty and candor and deal with it than to conceal it with euphemistic phrases or a turning of the head.

Pattern 4: Translating a Value Conflict into an Issue of Fact

This strategy for dealing with value conflicts is, of course, commonly associated with pragmatism. As White says, "The important point is that Dewey thinks that judgments of desirability are
simply judgments that something is desired under conditions which have been thoroughly investigated in the way that a scientist checks his test conditions." Commonly the strategy involves initially asking the question "What are the consequences of my value or policy position?" If it turns out that individuals or groups holding differing policy positions based on different values ask this question and arrive at the same consequences, or vice versa, the difference in policy position (and value) theoretically may be resolved by empirically testing whether the assumed relationship between policy and social consequence does in fact hold up. For example, the segregationist often argues that he wants to maintain the cultural integrity of the two races, because it will lead to the greatest mutual respect and harmony in race relations. The integrationist will argue that this violates the "brotherhood of man" doctrine. He believes that all races, creeds, and colors should mingle freely with each other because such interaction fosters mutual respect and harmony. One supports the value of cultural integrity and "freedom of association" by legal safeguards, if necessary; the other supports the value of sharing common experiences and closer association. Both justify their conflicting value positions on the basis of their common concern for peaceful and harmonious relations between the races.

From the pragmatic point of view, the approach to this controversy is, in the broad sense, experimental. We look at particular situations in which one or the other method has been tried and evaluate the extent to which each has contributed to racial peace within the community. Often, however, when either assumption is contradicted by substantial factual evidence, the antagonist on the "wrong" side of the issue reverses the priority of his values and places the instrumental value above the final value. If the evidence indicates that segregation produces more violence and ill will between races, for example, this consequence is justified as a necessary evil to maintain a greater good, cultural integrity. If the evidence indicates that close association between the races produces racial strife, this is looked upon as perhaps a temporary evil that must be endured for the sake of the greater good, practicing brotherhood. But when the controversy is genuinely approached as an experimental problem, it is potentially "solvable."

Obtaining firm and non-controversial data bearing on such problems is, of course, difficult. While broad sociological, historical, and journalistic studies provide the most appropriate kind of data, they are also the most sensitive to contamination by the author's personal biases. And although the behavioral sciences offer a more objective methodology, they usually lack the depth and scope for dealing with complex political issues. Obviously there is no recourse but to use whatever data are available, however variable their quality and relevance. Unfortunately, many factual questions in politics begin as controversial issues and after exhaustive historical or scientific research end up being just as controversial.15