

# Values Engagement and the Schools

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## I. INTRODUCTION

According to recent national surveys, 65% of American high school students would cheat on an important examination if given the opportunity,<sup>1</sup> and 59% of middle school students believe that a male has the right to sexual intercourse without a female's consent.<sup>2</sup> On the other hand, only 38% of young people surveyed reported that they had volunteered for any type of community activities during the previous year.<sup>3</sup> Attitudes and behavior such as these have led many commentators to conclude that there is a values crisis in modern America and that "modern individualism seems to be producing a way of life that is neither individually nor socially viable."<sup>4</sup>

Much of the perceived values crisis in modern society is related to the decline of traditional religious, communal and familial values-creating institutions. Fewer Americans today see the church, their communities, or even their families as sources of the basic values by which they live.<sup>5</sup> The loss of influence of these traditional values-creating institutions has caused many

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<sup>1</sup> Girl Scouts' Survey on the Benefits and Moral Values of America's Children, Executive Summary 6 (1989).

<sup>2</sup> Survey of 1,700 students in grades 6-10 conducted in 1988 by the Rhode Island Rape Crisis Center, reported in Nazario, Right and Wrong: Teaching Values Makes a Comeback as Schools See a Need to Fill a Moral Vacuum, Wall Street Journal, Sept. 10, 1979, at B6.

<sup>3</sup> People for the American Way, Democracy's Next Generation: A Study of Youth and Teachers 154 (1989).

<sup>4</sup> R. Bellah, R. Madsen, W. Sullivan, A. Swidler & S. Tipton, Habits of the Heart: Individualism and Commitment in American Life 144 (1986).

<sup>5</sup> See, e.g., G. Gallup & D. Poling, The Search for America's Faith, Appendix J (1980); C. Lasch, Haven in a Heartless World: The Family Besieged (1970); R. Nisbet, Twilight of Authority (1975).

people to look toward the schools to fill this need: "In an age when the home and church play a diminishing role in shaping the character and value judgments of the young, a heavier responsibility falls upon the schools."<sup>6</sup>

The schools do not, however, appear to be adequately meeting this challenge. A perceived lack of inculcation of "high moral standards" has been one of the major public criticisms of contemporary schools.<sup>7</sup> In one recent survey, only 29% of PTA presidents and delegates thought their local public schools' efforts to teach values were sufficient.<sup>8</sup>

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<sup>6</sup> Goss v. Lopez, 419 U.S. 565, 593 (Powell, J., dissenting) (1975). In a recent Gallup survey, 43% of adults thought values and ethical behavior should be taught in public schools, compared to 36% who stated that values should be left to parents and churches. Graham, Values Lessons Return to the Classroom, Wall Street Journal, Sept. 26, 1988, at 29.

<sup>7</sup> Gallup, Eighth Annual Gallup Poll of Public's Attitudes Towards Schools, 58 Phi Delta Kappan 187 (1976).

<sup>8</sup> Task Force on Values Education and Ethical Behavior of the Baltimore County Public Schools, 1984 and Beyond: A Reaffirmation of Values (1983).

The schools, of course, are not immune from the same forces that have impaired the ability of churches, families and other communal institutions to carry out their traditional values-inculcating roles. The relentless thrust toward change in pursuit of progress which lies at the core of modern western culture has affected all traditional social structures. The erosion of traditional values has gone so far that some believe that today "the very idea of moral responsibility has become problematic."<sup>9</sup> In American society, an ethic of rights-based individualism renders attempts to approach political or social issues from the perspective of the common good especially problematic.<sup>10</sup> In this environment, the functioning of basic communal institutions, including the schools, has become difficult to sustain.

Is there then any way that communal institutions can function effectively in a modern, individualistic, multicultural society? Regarding the schools in particular, can contemporary educational institutions carry out in any meaningful way their

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<sup>9</sup> M. Harrington, *The Politics at God's Funeral: The Spiritual Crisis of Western Civilization* 19 (1983); see also A. MacIntyre, *After Virtue* 10 (1981) (our society's moral discourse is made up of a "melange of ill-assorted [cultural fragments]").

<sup>10</sup> See generally M. Glendon, *Rights Talk: The Impoverishment of Political Discourse* (1991); A. Etzioni, *The Spirit of Community* (1993).

traditional role of identifying common values and transmitting them to the next generation?

The answer to these questions is a qualified "yes." Communal institutions, and especially the schools, can still carry out a significant values-inculcating role. To do so, however, their traditional functions must be adapted to accommodate significant twentieth-century needs. Primarily this means that in promoting the common good, ways also must be found to respect important individual rights. In short, community can succeed in modern America if a method can be found that "combines community with a commitment to basic liberal values."<sup>11</sup>

Among contemporary social institutions, the schools provide an especially receptive setting for attempts to create such a "liberal community." The centrality of education for individual achievement in our competitive, technological society renders the schools important arenas for the assertion of individual rights. At the same time, America's unique pattern of local school board governance of education has maintained a rare participatory democratic structure which has significant communal decision-making implications.

This article will propose a method, called "values engagement," for creating dynamic liberal communities in the schools. Values engagement strengthens communal decision-making procedures by incorporating into them the very individual rights assertion and cultural diversity factors that have often been blamed for undermining the schools' traditional values-inculcating role. Before describing values engagement in detail, however, it is necessary to review briefly the schools' traditional values-inculcating role and the challenge posed to it by rights assertion and cultural diversity.

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<sup>11</sup>A. Gutmann, *Communitarian Critics of Liberalism*, 14 *Phil. and Pub. Aff.* 308, 320 (1985).

## II. THE SCHOOLS' TRADITIONAL VALUES-INCULCATING ROLE

Since the early Colonial period, schools have had a more significant role in American society than in any of the Old World cultures from which the colonists emigrated.<sup>12</sup> The move to the New World dislodged traditional cultural moorings, and education became less of a private family responsibility and more of a broad communal function.<sup>13</sup> The "clean slate" of the New World environment raised the question of which aspects of traditional culture should be, and could be, successfully conveyed to the young, and which new values should be fostered. Because the colonists needed consciously to consider how values should be transmitted, schools began, for the first time, to take on a deliberate socialization function.<sup>14</sup>

Given the religious motivation that brought many of the colonists to the New World and the reality that many of the colonies were religiously diverse, the core parental concern was to assure that their offspring would adhere to the familial faith. The transmission of sectarian religious values therefore became one of the prime functions of the schools.<sup>15</sup>

With the advent of the American Revolution, many of the leaders of the new republic saw a broader, national purpose for the schools. Schools could assist in building the new nation by

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<sup>12</sup>In traditional European society, a grammar school level of education was primarily the responsibility of the patriarchal family, and home education was the assumed natural educational mode. See Musgrove, *The Decline of the Educative Family*, *Universitas* Q. 377, 391-92 (1969). This central family role was complemented by the local community and the church, which reinforced the established values transmitted primarily through the family, thereby creating "an integrated, unified culture" based on continuing traditions. See B. Bailyn, *Education in the Forming of American Society* 21 (1961).

<sup>13</sup>L. Cremin, *American Education: The Colonial Experience, 1607-1783*, at 193 (1970).

<sup>14</sup>B. Bailyn, supra n. 12 at 21.

<sup>15</sup>Id.

the "deliberate fashioning of a new republican character, rooted in the American soil . . . and committed to the promise of an American culture."<sup>16</sup> The ideals of "republican schooling," though forcefully pressed by advocates such as Thomas Jefferson and Benjamin Rush, were not widely adopted at the end of the eighteenth century, largely, it seems, because of the state legislatures' unwillingness to vote the taxes necessary to fund such systemic schooling.<sup>17</sup>

By the 1830s, however, accumulated economic and political developments required a new approach to schooling, and the seeds of the concept of republican schooling planted half a century earlier began to take root. Rapid industrialization and geographic expansion gave immediacy to the notion of forging a common citizenry with inspirational "republican" values. The growing numbers of new immigrants from diverse backgrounds gave further impetus to the effort to inculcate common American values. The resurgent fervor for a nationalistic republicanism was accompanied by an evangelical revival which "assumed an inextricable link between Protestantism and patriotism . . . it saw the new nation incarnating the aspirations of God and the hopes of mankind for a purified society that would live according to the dictates of the Scriptures."<sup>18</sup>

This intermixture of patriotic/religious ideals and economic expansion came together in the middle of the nineteenth century to forge the common school movement. As its name implies, the common school movement was an attempt to bring together all children living in a

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<sup>16</sup>L. Cremin, *American Education: The National Experience, 1783-1876*, at 3 (1980). Benjamin Rush, for example, spoke of converting youth into "Republican machines." B. Rush, *A Plan for the Establishment of Public Schools and the Diffusion of Knowledge in Pennsylvania*, in *Essays on Education in the Early Republic* 17 (F. Rudolph ed. 1985).

<sup>17</sup>C. Kaestle, *Pillars of the Republic: Common Schools and American Society, 1780-1860*, at 9 (1983). See also E. Cubberley, *Public Education in the United States* 129-39 (1919) (discussion of movements for tax reform in early common school period).

<sup>18</sup>L. Cremin, supra n. 16 at 57.

particular geographic area, whatever their class or ethnic background. Democratic values would be enhanced by integrating under one roof, and inculcating with one common patriotic creed, the rich and the poor, the long-settled and the immigrant, the religious and the irreligious.

Centralized administration under the auspices of a single education department in each state, improved instruction, and the spread of literacy were important aims of the common school movement, but there can be little doubt that "morality was the most important goal of common education."<sup>19</sup> The moral values that the common schools sought to inculcate consisted in the first instance of traditional virtues such as honesty, generosity and charity. To these classic character traits were added attributes suited to distinctive American needs, such as individualism and self-reliance.

A second set of values were the attributes of discipline, self-control, industriousness and obedience, which were considered necessary qualities for success both in school and in the work world of a rapidly industrializing society.<sup>20</sup> The third set of values the common schools sought to convey were the political values of patriotism, democracy and civic responsibility. A universal, state-supported public school system would realize and expand upon Jefferson's vision of educating the citizenry to be "the ultimate guardians of their own liberty."<sup>21</sup> Finally, the common

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<sup>19</sup>C. Kaestle, supra n. 17 at 96.

<sup>20</sup>S. Bowles & H. Gintis, *Schooling in Capitalist America* (1976), argue that the common school movement primarily served the interests of an exploitative, capitalist class. Even if one equates the inculcation of discipline and industriousness with preparation for the factory assembly line, this position improperly subordinates the other goals of the common school movement, discussed in the text. Nevertheless, it is clear that the common schools and later related developments such as the widespread adoption of the "Lancaster model" (by which a single master working with student apprentices could operate a school for 500 children) were significant factors in the preparation of workers for the industrial economy. See also T. Petersen, *The Politics of School Reform, 1870-1940* (1985); D. Tyack, *The One Best System* (1974).

<sup>21</sup>Jefferson, *Notes on Virginia*, in *Four Works of Thomas*

schools were also expected to convey fundamental spiritual values of love of God, piety and respect for religious institutions. Common school advocates expected there to be "daily reading of the Bible, devotional exercises, and the constant inculcation of the precepts of Christian morality in all the public schools."<sup>22</sup>

The kinds of values conveyed by the nineteenth-century common schools were reflected in the McGuffey readers, the widely used elementary school primer which sold more than 122 million copies between 1836 and 1920, and which, by one estimate, guided the minds of four-fifths of the nation's schoolchildren in that era.<sup>23</sup> McGuffey's primary aim was to teach children moral virtues, and, as one commentator notes, "children learned moral virtues best . . . through real-life human interest stories that were read aloud and memorized."<sup>24</sup> Through passages with titles such as "The Greedy Girl," "Advantages of Industry," "George and the Hatchet" and "Religion, the Only Basis of Society," the McGuffey readers conveyed well the basic set of character, discipline, democratic and religious values of "middle class, conventional"

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Jefferson 60-65 (1904).

<sup>22</sup>H. Mann, *Eleventh Annual Report of the Secretary of the Board 90-91 (1848)*, quoted in C. Glenn, *The Myth of the Common School* 166 (1988). The movement's leaders did not, however, want the common schools to engage in the type of sectarian, religious indoctrination that had prevailed in the local community/church schools they sought to replace. On the contrary, they saw as one of their major reforms the common schools' nondenominational orientation, emphasizing "natural theology" and an explicit rejection of liturgical practices and sectarian doctrines. The nondenominational goal, as stated by Unitarian minister Charles Brooks in 1837, was that "[t]he primary schools should be Christian, but neither Protestant nor Catholic. They should not lean to any particular form of worship nor teach any positive dogmas; but should be of that kind that Jews might attend them without inconvenience to their faith." C. Glenn, supra at 38.

<sup>23</sup>See R. Mosier, *Making the American Mind: Social and Moral Ideas in the McGuffey Readers* 168-69 (1947). See also H. Minnich & W. Holmes, *McGuffey and His Readers* 19-40 (1936).

<sup>24</sup>J. Westerhoff, *McGuffey and His Readers* 45 (1978).

nineteenth-century America.<sup>25</sup>

Little objection was raised to the character, discipline and political values conveyed by the nineteenth-century common schools. The transmission of religious values, however, brought immediate objection from many orthodox Protestants, who decried the emphasis on nondenominational natural theology, divorced from ritual and the teachings of revelation. Even more substantial opposition came from Catholic leaders, as large-scale immigration of Catholics began to mount in the mid- to late-nineteenth century.<sup>26</sup> They saw the common school curriculum, and especially the "nondenominational" readings from the King James version of the Bible, as serious threats to the integrity of their faith. A number of attempts were made to negotiate methods that might allow public schools with Catholic majorities to use different Bibles or otherwise assert their own religious perspectives, but these proved abortive. Consequently, Catholic leaders decided to establish a separate parochial school system.<sup>27</sup>

The result of the Catholic/Protestant schooling split of the mid-nineteenth century was to postpone for future resolution the fundamental values clash at the root of the confrontation. Purged of their largest and most vociferous minority faction, the public schools continued to implement and develop a majoritarian common school credo, while Catholics and other dissenters withdrew and pursued their own separate values agendas.<sup>28</sup>

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<sup>25</sup>Commager, Foreword to McGuffey's Fifth Eclectic Reader, at x (6th ed. 1962).

<sup>26</sup>In 1790, Catholics comprised only 1% of the total American population; by the 1880s, they comprised 12%, and by the 1980s, over 28%. J. Hunter, *Culture Wars: The Struggle to Define America* 69-72 (1991).

<sup>27</sup>Some state legislatures originally had authorized public funding for separate Catholic schools, but these experiments were soon abandoned. For discussions of the origins of the separate Catholic school system in New York City and California, see D. Ravitch, *The Great School Wars* (1974); D. Tyack, *Turning Points in American History* 90-91 (1967).

<sup>28</sup>This split schooling compromise was later given

Over the course of the past century, the broad values consensus reflected in the McGuffey readers has disintegrated. Contemporary textbooks do not seek to instill didactic moral

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constitutional imprimatur by the United States Supreme Court in Pierce v. Society of Sisters, 268 U.S. 510 (1925). Pierce upheld the right of parents to send their children to private schools, at their own expense.

lessons; on the contrary, they tend to avoid serious consideration of values issues.<sup>29</sup>

Much of the schools' reluctance to address substantive values issues today stems from the fact that modern school districts bring together an unprecedented range of diversity in student population. In contrast to the broad values consensus reflected in nineteenth-century school curricula, twentieth-century schools are marked by pervasive values clashes, resulting from an ethic of aggressive individualism and ethnic group assertiveness:

An old consensus which established non-denominational and non-dogmatic Protestantism as the country's dominant value system, has broken down under the weight of real social diversity . . . . Classroom teachers feel these conflicts keenly in their efforts to deal with questions of value and moral choice in this pluralistic context. Even those who teach in relatively homogeneous classrooms . . . must ask how they can treat the variety of cultural heritages, values and moral expectations encountered in daily experience without encouraging either amoral indifference or aggressive zeal.<sup>30</sup>

Potential values clashes induce many schools to avoid taking stands on controversial issues. As one principal put it: "Schools cannot impose duties on the students. Students come from different backgrounds."<sup>31</sup> The result of this value-neutral approach to education, according to some critics, is that the schools have become "bland, homogenized, ethically numb. . . In this marketplace of ideas, the shelves are stocked mostly with pabulum."<sup>32</sup>

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<sup>29</sup>See, e.g., F. FitzGerald, *America Revised: History Schoolbooks in the Twentieth Century* (1979); Patrick, *Political Socialization and Political Education in Schools*, in *Handbook of Political Socialization* 203 (S. Renshon ed. 1977) ("conflicts about values . . . have been omitted or treated superficially").

<sup>30</sup>Lovin, *The School and the Articulation of Values*, 96 *American Journal of Education* 143 (1988).

<sup>31</sup>Townsend, *Not Just Read and Write, but Right and Wrong*, *The Washington Monthly*, Jan. 1990 at p. 30.

<sup>32</sup>Arons, *The Myths of Value-Neutral Schooling*, *Education Week*, Nov. 7, 1984, at p. 24.

Much of the schools' difficulty in dealing with rights assertion and cultural diversity is that they are operating in an environment of diminished "social capital."<sup>33</sup> In the past, extensive parental involvement in the schools and the support of other communal institutions reinforced the values which the schools sought to instill. Today, however, the diverse institutions that comprise the local community sometimes challenge, but more often simply ignore, any attempts by the schools to deal with values issues. Most parents now work outside the home and devote substantially less time and energy to school-related activities; even when parents do seek to reinforce schooling mores, their own diminished authority reduces the value of that assistance.<sup>34</sup>

Aware of the difficulty of teaching values in this environment, but recognizing nonetheless that "schools cannot be ethical bystanders at a time when our society is in deep moral trouble,"<sup>35</sup> educators in recent years have tried a number of new approaches to values education. The three primary techniques implemented to date have been values clarification,<sup>36</sup> cognitive moral development,<sup>37</sup> and character education.<sup>38</sup> Putting aside the extensive controversies

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<sup>33</sup>The concept of "social capital," an analogue to financial, physical and human capital, has been formulated by James Coleman. He defines it as "the strength of social relations that make available to the person the resources of others." J. Coleman, *Policy Perspective: Parental Involvement in Education* 8 (U.S. Dept. of Ed., OERI 1991); see also J. Coleman, *Foundations of Social Theory*, Ch. 12 (1990); J. Coleman and T. Hoffer, *Public and Private High Schools: The Impact of Communities*, Ch. 8 (1987).

<sup>34</sup>Coleman, *Policy Perspective*, supra n. 33 at 15. Coleman also notes that "The reduced consensus brought about by the absence of social capital in the community, frees deviant parents to contest the schools' authority without inhibition." Ibid.

<sup>35</sup>T. Lickona, *Education for Character: How Our Schools Can Teach Respect and Responsibility* 5 (1991).

<sup>36</sup>See, e.g., L. Rath, M. Harmin and S. Simon, *Values and Teaching: Working with Values in the Classroom* (1961).

<sup>37</sup>See, e.g., L. Kohlberg, *The Psychology of Moral Development* (1984).

<sup>38</sup>See, e.g., Wynne, *The Great Tradition in Education:*

among educators concerning the pedagogical validity of each of these approaches,<sup>39</sup> none of them meet the essential challenge, because none of them directly address the core question of how common values can be articulated and transmitted in a diverse, heterogeneous society.

If school communities today are to formulate and inculcate a viable set of substantive values, the realities of the changed institutional environment in which schools now operate must be confronted. Substantive values can only be transmitted in an individualistic, multicultural society through a communal structure that can build social capital by embracing, rather than rejecting, rights assertion and cultural diversity. A new kind of school community must be created by directly engaging students, parents and educators -- and, indeed, representatives of local businesses, churches and civic groups, and other concerned citizens -- in an intensive commitment to forge

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Transmitting Moral Values, 43 *Educ. Leadership* 4 (1985/86); T. Lickona, *supra* n. 35; W. Kilpatrick, *Why Johnny Can't Tell Right from Wrong: Moral Illiteracy and the Case for Character Education* (1992).

<sup>39</sup>Values clarification has been criticized for merely manipulating subjective desires and promoting self-gratification instead of conveying substantive values to students. Critics of Kohlberg's approach have questioned his empirical data base and his failure to reflect a full range of cognitive approaches to moral understanding, and specifically his failure to include feminist values. The basic premise of character education, its assumption that all Americans can readily agree on the desirability of certain core values, tends not to withstand probing scrutiny of assumed consensus values and has no answer for the critical question of which values should prevail when various values come into conflict. The pros and cons of these three approaches to values education are discussed in more detail in *Rebell, Schools, Values and the Courts*, 7 *Yale Law and Pol'y Review* 275, 284-289 (1989).

acceptable common positions on the very controversial issues that appear to divide them.

### III. VALUES ENGAGEMENT AND THE BUILDING OF A NEW SCHOOL COMMUNITY

#### A. Contemporary Concepts of Community

The key challenge for a contemporary values engagement approach is how to combine a serious commitment to the common good with continuing respect for individual rights and cultural diversity. The need, therefore, is for a new liberal concept of community which promotes relationships of solidarity without raising the specter of repression of differences often associated with traditional notions of community.<sup>40</sup>

Historically, "community" connoted an organically interrelated social setting, marked by intimacy, social cohesion and continuity, in which people shared their entire existence.<sup>41</sup> Modern western culture is, to a large extent, a reaction against the constraints that communal structures imposed on free-spirited intellectual exploration and wide-ranging economic activity.<sup>42</sup> Many contemporary political and social theorists believe, however, that this reaction to the constraints of traditional social structures has gone too far. They assert that the atomistic individual posited

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<sup>40</sup>Achieving such a "liberal community" is an aspect of the broader issue posed by John Rawls at the outset of his recent book, *Political Liberalism* (1993): "How is it possible that there may exist over time a stable and just society of free and equal citizens profoundly divided by reasonable though incompatible religious, philosophical and moral doctrines?" J. Rawls, *Id.* at xviii.

<sup>41</sup>The distinction between the organic solidarity of the traditional community and the individualism of modern society was clearly delineated in F. Tonnies, *Gemeinschaft und Gesellschaft* (1887), translated as *Community and Society*; C. Loomis, trans. 1957. For further definitional analyses of the concept of traditional community, see C. Cochran, *Character, Community and Politics* 36-38 (1982); and P. Selznick, *The Moral Commonwealth: Social Theory and the Promise of Community* 358-359 (1992).

<sup>42</sup>See generally C. Lasch, *The True and Only Heaven: Progress and Its Critics*, ch. 4 (1991); and R. Nisbet, *The Twilight of Authority* (1975).

by contemporary liberal theory cannot continue to function in any purposeful way without the communal roots which, in essence, define the human self.<sup>43</sup> From this perspective, some modicum of basic communal structure is necessary for the institutional stability of society and for the development of the individual personality.

In response to these philosophical challenges, a number of scholars have formulated specific theories which attempt to reconcile individual autonomy and communal commitment. Thus, historians have reinterpreted the constitutional roots of the American political system to emphasize the importance to the founding fathers of classical republican concepts such as participatory democracy, in addition to individualistic liberal values.<sup>44</sup> Sociologists have modified definitions of community to include not only the traditional, all-encompassing communal structure, but also partial communities, layers of communities and "crisscrossing" communities which allow people to develop significant shared experiences with others, but on limited, variable and intersecting bases.<sup>45</sup> John Rawls has modified his well-known political theory of justice to include the concept of an "overlapping consensus" on common political

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<sup>43</sup> See, e.g., M. Sandel, *Liberalism and the Limits of Justice* (1982); Cochran, *supra* n. 41; MacIntyre, *supra* n. 9 at 32-33.

<sup>44</sup> See, e.g., G. Wood, *The Creation of the American Republic 1776-1787* (1969); G. Wills, *Inventing America: Jefferson's Declaration of Independence* (1987); W. Sullivan, *Reconstructing Public Philosophy* 209-29 (1982); see also Michelman, *Law's Republic* 97 *Yale L. J.* 1493 (1988); Sunstein, *Beyond the Republic Revival* 97 *Yale L. J.* 1539 (1988).

<sup>45</sup> See Etzioni, *supra* n. 10 at 32. See also R. Fowler, *The Dance with Community: The Contemporary Debate in American Political Thought*, Ch. 9 (1991) (articulating a notion of "existential community" which inspires individuals to work together in concrete ways at the local level to achieve their ideals). I have proposed elsewhere a tripartite perspective on contemporary legal approaches to issues of community, which differentiates issues involving the national community, the local community and the particularistic community. *Rebell, Schools, Community and the Courts, The Responsive Community* (forthcoming).

institutions among individuals who otherwise believe in a wide variety of separate, comprehensive doctrines on the meaning and purposes of life.<sup>46</sup>

A theme common to many of the new liberal communitarian perspectives is an emphasis on discussion and deliberation as means for reconciling communal and individual goals. Much of the contemporary political, sociological and legal literature dealing with questions of the individual and the community emphasizes the importance of "public dialogue"<sup>47</sup> and the "dialogic community."<sup>48</sup> In such dialogues,

Citizens put their moral beliefs to the test of public deliberation and strengthen their convictions or change their minds in response to arguments in which they engage under conditions governed by the principals of accommodation.<sup>49</sup>

Christopher Lasch describes the importance of such ongoing dialogues for contemporary communitarianism as follows:

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<sup>46</sup>Rawls, supra n. 40, Lecture IV. Much of contemporary feminist writing also seeks to reconcile individualism and community in new ways. See, e.g., C. Gilligan, *In a Different Voice* (1982); M. Belenky, et al., *Women's Ways of Knowing: The Development of Self, Voice and Mind* (1986); Scales, *The Emergence of Feminist Jurisprudence: An Essay* 95 *Yale L. J.* 1376 (1986).

<sup>47</sup>See R. Bellah, et al., *Habits of the Heart*, supra n. 4 at 218.

<sup>48</sup>J. Handler, *Dependent People, the State and the Modern/Post-Modern Search for the Dialogic Community* 35 *UCLA L. Rev.* 990 (1988).

<sup>49</sup>A. Gutmann and D. Thompson, *Moral Conflict and Political Consensus* 101 *Ethics* 64, 86-87 (1990). Will Kymlicka describes how the atomistic individual of classical liberal theory can be seen from a dialogic perspective as an individual who continually questions his or her current values and seeks broader commitments and relationships, which may lead to a change of his or her original views. Thus, according to Kymlicka, the pursuit of meaningful commitments and relationships, and not freedom of choice per se, is the reason that liberals emphasize individual freedom. W. Kymlicka, *Liberalism, Community and Culture* 49 (1989).

[W]e have to modify many of our received ideas about the problems of individualism and community. Social solidarity does not rest on shared values or ideological consensus, let alone on an identity of interest; it rests on public conversation. It rests on social and political arrangements that serve to encourage debate instead of foreclosing it; and to encourage debate, moreover, not

just about conflicting economic interests but about morality and religion,  
the ultimate human concerns.<sup>50</sup>

Jurgen Habermas has gone even further in this direction, formulating a theory of "discourse ethics" which, he believes, can establish moral norms which are similar to the truth of traditional faith propositions.<sup>51</sup>

Ultimately, then, the possibilities for liberal community appear to depend on whether the kind of dialogic community discussed by these theorists can be sustained in practice and whether dialogic experiences can in fact reconcile individualism and community. If such a dialogic community can actually be established, the local school district would appear to be its most likely locale.

The local school district remains one of the few places in contemporary America where individual citizens can deliberate face-to-face on issues of profound public significance.<sup>52</sup> The school setting is one that is institutionally committed to rational discourse. The ideal of education inspires optimistic hopes for progress and renewal, and concern for the welfare of the community's children can motivate parents, teachers and other local citizens of diverse backgrounds to moderate their personal interests and political differences in the pursuit of

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<sup>50</sup>C. Lasch, *The Communitarian Critique of Liberalism*, in *Community in America: The Challenge of Habits of the Heart* 178, C. Reynolds and R. Norman, eds. (1988).

<sup>51</sup>J. Habermas, *Moral Consciousness and Communicative Action* 43-115 (C. Lenhardt and S. Nicholsen, translators, 1990). Comp. W. Galston, *Pluralism and Social Unity* 99 *Ethics* 711, 725-6 (1989) (raising question of whether liberal interpretations of the essence of the culture can substitute for the "ultimate wellsprings of our deep beliefs and values").

<sup>52</sup>On the importance of face-to-face interchanges for the functioning of participatory democracy, see R. Bellah, R. Madsen, W. Sullivan, A. Swidler & S. Tipton, *The Good Society* 262-263 (1991); B. Barber, *Strong Democracy: Participatory Democracy for a New Age* 242-251 (1984); J. Mansbridge, *Beyond Adversary Democracy*, Ch. 2 (1983); Walzer, *Civility and Civic Virtue in Contemporary America* 41 *Social Research* 593, 610-611 (1971).

transcendent common goals.

In short, then, in the school setting rational discourse is an acceptable norm, and participants are most highly motivated to consider principles, values and the common good. How precisely can this vision of a school dialogic community be put into practice? That challenge is the subject of the section which follows.<sup>53</sup>

#### B. The Values Engagement Approach

As discussed above, most schools have had difficulty in carrying out their traditional values-inculcating role because the diversity of their student populations has led to moral gridlock. Rather than create controversy that may antagonize some elements of the community, most school boards and school administrators have taken the path of least resistance and avoided any serious involvement with values issues.<sup>54</sup>

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<sup>53</sup>Aside from the schools, the other contemporary institution which is often cited for its "power to shape beliefs and opinions" is the mass media (J. Lichtenberg, Introduction, *Democracy and the Mass Media 6*, J. Lichtenberg, ed., 1990). Television and the other media are not, however, likely to achieve the ideals of the dialogic community because they tend to polarize, rather than promote, effective public discussion:

"The polarization of contemporary discussion is in fact intensified by and institutionalized through the very media by which that discussion takes place. It is through these media that public discourse acquires a life of its own; not only do the categories of public rhetoric become detached from the intentions of the speaker, they also overpower the subtleties of perspective and opinion of the vast majority of citizens who position themselves 'somewhere in the middle' of these debates." J. Hunter, *Culture Wars: The Struggle to Define America* 160 (1991).

<sup>54</sup>This tendency to avoid values controversies may also interfere with the schools' academic mission. Coleman and Hoffer's comparisons of public and private schools found, on average, an academic functioning difference of about one grade level between public schools and private Catholic schools, which they attributed largely to the strong social capital support of

The premise of the values engagement approach is that diversity, differences and controversy must be embraced rather than rejected. The values engagement methodology seeks to motivate parents, teachers, school-board members and the community-at-large to engage in intensive dialogues geared to achieving consensus or, when consensus cannot be achieved, broadly acceptable "working positions" on significant values issues. In order to achieve consensus or broadly-accepted working positions, each individual, although coming to this enterprise with his or her own particular outlooks, goals and priorities, must nevertheless focus on "public reason,"<sup>55</sup> rather than his or her own specific needs. The aim is not to promote a pluralistic compromise of competing interests, but rather to inspire the participants to rethink their initial perspectives and move toward a new common outlook.

On first impression, such an inspired pursuit of the common good may seem utopian. Empirical sociological research has concluded, however, that "when citizens are engaged in thinking about the whole, they find their conceptions of their interests broadened, and their commitment to the search for common good deepens."<sup>56</sup> Open, honest interchange leads to new

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the Catholic schools' functional religiously based community. Coleman and Hoffer, supra n. 33 at 94-95. They also concluded that the values cohesion of the Catholic schools makes them more effective in raising the achievement of students from lower socioeconomic sectors and students coming from less supportive family structures. Id. at 147-148. The values engagement methodology discussed in the main text seeks, in essence, to create analogous conditions of values cohesion and functional community in the public school setting.

<sup>55</sup> Rawls, supra n. 40, Lecture VI.

<sup>56</sup> Bellah, et al., The Good Society, supra n. 52 at 135; see also Selznick, supra n. 41 at 524 ("Civic participation transcends the particularities of history, language, kinship, locality and occupation. It creates new identities and new solidarities"); J. Berry, K. Portney and K. Thompson, The Rebirth of Urban Democracy 210 (1993) (study of community decision-making in five American cities finds that citizen participation builds consensus); J. Cohen, Moral Pluralism and Political Consensus in The Idea of Democracy 270 (D. Copp, J. Hampton, J. Roemar, eds., 1993) (concept of moral pluralism distinguished from cultural pluralism

understandings, not only of the opponent's position, but also of one's own.<sup>57</sup> Often, people discover that competing doctrines contain the same basic values, but differ only in the weights and priorities that they give to certain aspects of these values.<sup>58</sup> Even if a full consensus is not achieved, well-organized community dialogues often result in people finding that they agree on many more issues or aspects of issues than any of them had originally understood, and where disagreement remains, participants often can formulate working positions that all can endorse, or at least accept, without feeling that they have abandoned their own basic beliefs.<sup>59</sup>

Assuming, then, that people have the potential for transcending their particular interests and achieving values consensus or acceptable communal working positions, the critical question becomes how to create an institutional structure that will promote this potential. As Amitai Etzioni has put it, the

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and organizational pluralism).

<sup>57</sup>See Minow, Forward: Justice Engendered 101 Harv. L. Rev. 10, 72 (1987) (discussing need to take perspective of person you have called "different"); see also S. Benhabib, Critique, Norm and Utopia 349 (1986).

<sup>58</sup>Rawls, supra n. 40 at 59. See also J. Kirkpatrick, The Teaching of Democratic Values, American Educator, Spring 1979 at 37 (emphasizing "the possibility of association among people who share some, but not all beliefs and values"); R. Fisher and W. Ury, Getting to Yes: Negotiating Agreement Without Giving In 42 (2d ed., 1991) ("In many negotiations . . . a close examination of the underlying interests will reveal the existence of many more interests that are shared or compatible than ones that are opposed").

<sup>59</sup>See D. Matthews, The Promise of Democracy 44 (1989).

question is not how rational are people, but how rational are the social collectivities in which they function.<sup>60</sup>

Over the past several years, The Center on Values, Education and the Law, Inc., has held a series of pilot values dialogue forums which have experimented with methods for promoting community consensus on controversial values issues. These events included two national symposia at the Yale Law School attended by diverse groupings of federal judges and educators from all parts of the country, a community-wide forum in Harrison, New York, a suburban school district, and a values workshop attended by representatives of ten school communities from the Pittsburgh, Pennsylvania, area. The topics dealt with included school discipline procedures, dress codes, censorship of high school newspapers, selection of school library books, gender equity, bilingual-bicultural education and observance of religious holidays.

These empirical experiences indicated that students, teachers, parents and other members of the community are eager to engage in serious, extensive discussion of controversial values issues. The discussions, by and large, maintained a significant "common good" focus and almost all participants took their dialogic responsibilities quite seriously. The breadth of interest in pursuing a values engagement approach was indicated by the fact that 83% of the participants in the Pittsburgh forums stated in an evaluative questionnaire that they would like their own communities to pursue a values engagement process (9% said no, and 8% did not respond).

On most issues considered, consensus or virtually unanimous agreement on acceptable working positions was, in fact, achieved. For example, all seventeen participants in the values dialogue in the Harrison, New York, community (which included students, teachers, principals, parents, local businesspeople, a college administrator and a state court judge) concluded that "review and supervision" of student publications was appropriate. Two points upon which the

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<sup>60</sup>A. Etzioni, *The Moral Dimension: Toward a New Economics* 186 (1988).

participants agreed in the course of the discussion probably facilitated the achievement of this consensus. The first was that the phrase "review and supervision" would be used rather than the more highly charged term "censorship"; the second was a general acknowledgment that virtually any topic, no matter how controversial, would be appropriate for inclusion in a student publication, if written about with sensitivity. A working consensus was also achieved in favor of including the widest possible range of library books and curriculum materials, so long as care was taken to ensure that the materials were used in an "appropriate" way.

A skeptic might say that consensus was achieved on these high school newspaper and book selection issues only by qualifying the basic position and creating a range of ambiguity on precisely how the policy would be implemented. Communal consensus often is achieved only through such qualification and ambiguity. But this is a positive, not a negative, aspect of the enterprise. Qualification and ambiguity take the edge off hard controversies and allow individuals with diverse needs and interests to identify with the communal position. As they feel a sense of ownership of and commitment to the newly articulated common view, they find additional ways to align their particular needs and perspectives with the common approach, and they become further motivated to participate in its ongoing formulation and implementation.

These initial empirical experiences of The Center on Values, Education and the Law, Inc.,<sup>61</sup> indicate that four main factors are critical to the success of communal dialogue on

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<sup>61</sup>The Center's initial dialogue sessions were, of course, limited in number and range of participants, and they did not deal with the most highly charged values issues, such as sexual values or religious values. The Center intends to test further the significance of the four factors set forth in the text in a series of more intensive values engagement processes dealing with a broader range of issues in the near future.

Experiences of other organizations which conduct civic education citizen forums, although having different goals and methodologies, are consistent with the four factors discussed in the text. The Kettering Foundation, for example, has established a nationwide network of more than 1,300 civic and educational organizations -- colleges and universities, libraries, services clubs and membership groups -- which is called the National Issues

controversial values issues: (1) broad participation, (2) significant substantive agendas, (3) principled formats and (4) candid interchanges based on mutual respect.

1. Broad Participation.

A communal decision-making process must solicit, engage and respect the views of all individuals and groups in the diverse community. In order to establish the atmosphere of trust necessary for effective communal decision-making, the process from the outset must be perceived as organized to assure that majoritarian preferences will not dominate or stifle minority expressions or important individual rights. The best way to assure that all views and perspectives will be fully respected is to include all elements of the community. In the school setting, this means that not only students, parents, teachers, administrators and school-board members, but also representatives from the civic, religious and business life of the community-at-large, should be represented on the panels, working groups and other vehicles that carry out the dialogic process.

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Forum. Each year, convenors trained by Kettering hold extensive discussions on three major policy issues such as the drug crisis, freedom of speech and health care for the elderly, using issue books and parallel audio and videotape materials. Convenor assessments of the process are contained in Kettering's National Issues Forums Leadership Handbook (1989-90). Other organizations which conduct civic education citizen forums and issue newsletters and other materials describing their activities

include the Council for the Advancement of Citizenship, Washington, D.C., and the Study Circles Resource Center, Pomfret, Connecticut.

2. Carefully Prepared, Substantive Agendas.

Meaningful communal dialogues must forthrightly confront the issues that deeply concern people, although often it is precisely such controversial subjects that educators tend to avoid.<sup>62</sup> Thus, in addition to the character values, political values, authority values and religious values issues with which schools were concerned in the nineteenth century, contemporary school community dialogues must focus on equity issues such as racial integration, gender equality and multicultural education, and on sexual values issues such as sex education, AIDS prevention and condom distribution.

3. Principled Discussion Formats. Participants' ability and motivation to

seek the common good, rather than their own personal interests, can be maximized if controversial values issues are approached through a discussion format that emphasizes the basic principle at stake and not the particular interests of each participant. Objective research findings, and, where appropriate, legal decisions that set forth the competing values issues in objective terms, are particularly useful starting points for such principled discussions.<sup>63</sup> A major factor

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<sup>62</sup> See Berry, Portney and Thompson, supra n. 56 at 44 (unless offered a share of real policy-making authority, citizens do not believe that participation is worth their time); Barber, supra n. 52 at 182 ("Far from being a mere preliminary of democracy, agenda-setting becomes one of its pervasive, defining functions"). See generally G. Graff, *Beyond the Cultural Wars: Teaching the Conflicts Can Revitalize American Education* (1992).

<sup>63</sup> "The great virtue of the law is that it creates an arena of public debate where current problems can be addressed in light of a body of established principles." Bellah, et al., *The Good Society*, supra n. 52 at 126.

The Center on Values, Education and the Law, Inc., has published a series of articles which utilize legal cases and other legal materials to present objective, balanced information on educational values issues. See Rebell, *Schools, Values and the Courts*, 7 *Yale L. & Pol'y Rev.* 275 (1989) (political values and authority values); Rebell and Murdaugh, *National Values and Community Values -- Part I: Gender Equity in the Schools*, 21 *Journal of Law & Education* 155 (Spring 1992) and Part II: Equal

which has inhibited aggressive school district involvement in values controversies is fear of the legal implications of actions that might be taken. For example, school administrators are reluctant to impose strong disciplinary actions because of mistaken beliefs concerning the applicable legal constraints. A thorough understanding of the legal mandates which apply in a particular context -- most of which tend to maximize the area for local decision-making within broadly stated parameters -- can therefore ease apprehensions and facilitate a dialogue process leading to an active values stance.<sup>64</sup> For a principled discussion format to succeed, skilled, neutral facilitators, usually from outside the community, are essential.

#### 4. Candid Exchanges Based on Mutual Respect.

For a successful dialogue process on controversial values issues, the participants must be prepared to state candidly their views and to confront those of others in a manner that conveys basic mutual respect.<sup>65</sup> The dialogue process must, therefore, emphasize from the outset the importance of acknowledging the moral status of the opponent's position. Dialogues based on mutual respect become conversations "in which talk is used not to chart

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Educational Opportunity for Limited English-Proficient Students, 21 J. of L. & Edu. 335 (Summer 1992).

<sup>64</sup>A distinction between national values that are mandated by the federal congress, courts and executive agencies on the one hand, and the discretionary sphere left for local communal decision-making on the other, is discussed in *Rebell, Schools, Communities and the Courts, The Responsive Community* (forthcoming).

<sup>65</sup>"In opening forums of political decision-making to a wide range of legitimate moral disagreement and defending practices within these forums that cultivate mutual regard among citizens, mutual respect supports a political process that promotes moral learning." Gutmann and Thompson, *supra* n. 49 at 86. See also D. Gauthier, *Constituting Democracy* 314, 320 in *The Idea of Democracy* (D. Copp, J. Hampton and J. Roener, eds., 1993) (two prime standards for deliberative politics are mutual advantage and equal respect).

distinctions . . . but to explore and create commonalities."<sup>66</sup> In order to promote mutual respect, conversation on highly charged issues usually needs to be initiated early in the development of the controversy, before hard positions have been taken and personal animosities have formed.

Although a well-constructed school community dialogic process will maximize the potential for achieving consensus or acceptable working positions on most issues, in some areas, especially those relating to matters of ultimate moral authority, full agreement of all members of the community is not likely to be achieved. However, if the dialogic process has been conducted to acknowledge the moral status of the dissenters' position, practical arrangements that allow active promulgation of majoritarian values, while nevertheless retaining the integrity of dissenters' views, can be achieved. Under such circumstances, school communities can actively promote values positions even in the absence of consensus or full working positions, so long as the views of those who continue to dissent are sincerely respected. Benjamin Barber describes the outlook of a dissenter in such a situation as follows:

'I am part of the community, I participated in the talk and deliberation leading to the decision, and so I regard myself as bound; but let it be known that I do not think we have made the right decision,' says the dissenter in a strong democracy. He means thus not to change the decision this time, for it has been taken, but to bear witness to another point of view (and thereby to keep the issue on the public agenda).<sup>67</sup>

On an issue such as AIDS prevention, a community in which the majority favors the distribution of condoms in the schools may be able to implement that highly controversial policy, if the sincerely held positions of the dissenters are openly discussed and respected, along with the views of the majority. In such a situation, students would be fully informed of the reasons why a

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<sup>66</sup>Barber, supra n. 52 at 183.

<sup>67</sup>Cf. Barber, supra n. 52 at 192.

majority of decision-makers adopted the policy of condom distribution, but also why conscientious individuals in their community or in other communities reject that view and believe that schools should promote abstinence as the appropriate moral and policy position for countering AIDS. Presenting positions in this way allows communities to take stands on controversial issues, but does so in a manner that emphasizes respect for thoughtful dissent. It also promotes the educational process by allowing each student to formulate his or her own position based on clear understandings of how the local community, including its dissenting members, views the issues.

Whenever possible, opt-out mechanisms for students or parents who are opposed to activities such as condom distribution and sex education classes should be promoted. When such opt-outs occur, the entire class should be encouraged to discuss the meaning of the particular activity and the dissenters' reasons for objecting. In this way, differences of opinion on controversial issues become occasions for moral education, rather than battlegrounds for values clashes.<sup>68</sup>

Ultimately, the atmosphere of commitment and mutual respect created by an effective values engagement process should convey to students an overarching community consensus on a prime value of "active tolerance." Active tolerance motivates individuals to listen empathetically

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<sup>68</sup>There may be occasions, especially on matters involving strongly held positions of fundamentalist religious groups, where acceptable accommodations cannot be reached. See Stolzenberg, "He Drew a Circle That Shut Me Out": Assimilation, Indoctrination and the Paradox of a Liberal Education 106 Harv. L. Rev. 581 (1993). Where this is true, the priority concern for promoting the public schools' values-inculcating role argues for a rethinking of traditional prohibitions on public funding for religious education. In other words, a publicly funded voucher system may be appropriate for the few conscientious religious believers whose views cannot in any way be accommodated in a public school setting. See Rebell, Values Inculcation and the School: The Need for a New Pierce Compromise in Public Values, Private Schools (N. Devins, ed., 1989).

to the needs and concerns of others, in contrast to "functional tolerance," which allows "cooperative but limited contact between members of diverse groups."<sup>69</sup> A community that practices such active tolerance is one that will be able to formulate substantive community values while fully respecting important individual rights. It will thereby have actually become a "liberal community."

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<sup>69</sup> R. Serow, *Schooling for Social Diversity: An Analysis of Policy and Practice* 59 (1983); see also Cochran, supra n. 41 at 145 (describing tolerance not as "mutual indifference but mutual respect and hospitable encounter)."