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Articles

Sources of Commitment to Social Justice

Dorothy E. Roberts*

Several years ago I pinned a cartoon on my wall to remind me of the possibilities and the failures in the quest for social justice. The cartoon depicts a Black mother sitting next to her daughter who is tucked in bed in a dilapidated apartment.¹ The mother reads aloud from a book entitled "Fairy Tales:"

"Golly, let's do it!," the President told the National Commission on Children. "If we can finance a Persian Gulf War, we can find the money to make every child in America healthy and secure!"

Now, nearly a decade later, as the cartoon has curled at the edges and turned yellow, the prospect that the fairy tale will come true has grown even dimmer. In August 1996, the *liberal* President Clinton signed into law a sweeping welfare reform measure that ended the New Deal federal guarantee of cash assistance for

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1. Kevin Siers, *Charlotte Observer* (June 26, 1991), at 10A.

American children living in poverty.² By that point the mainstream debate on welfare had completely excluded any consideration of *enhancing* aid to the poor. It is easy to forget that America's welfare system even before the new law was passed already stood out among Western nations for its stinginess and limited social programs.³

Of course, welfare is not the only institution that needs to be fixed to create a just society—a society in which all citizens are treated with equal respect and dignity. I realize many readers will disagree with me about what that Nirvana would look like. But, putting that question aside for a moment, I want to address in this essay how we go about getting there.⁴

Social activists and scholars have struggled with the question of how to persuade people with different backgrounds and conflicting interests to unite in an effort to achieve social justice. In researching welfare reform activism, I have noticed two major appeals that appear to make opposite assumptions about human nature. One strategy is to show people that helping others is actually in their own self-interest. This approach assumes that human beings are primarily motivated to take actions that will benefit themselves. The second strategy is to try to convince people to have empathy toward others—to imagine themselves in the shoes of less fortunate Americans and, being moved by their new appreciation of others' situation, to offer to help. This approach assumes that human beings are sometimes motivated to act on behalf of others because they care about others, even when they realize no direct benefit. In this essay, I want to evaluate these two appeals,

2. See Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (1996); see also Joel F. Handler & Yeheskel Hasenfeld, *We the Poor People* 5-11 (1997) (summarizing the Act, welfare reform and its effect on poverty).

3. See generally Linda Gordon, *Pitied But Not Entitled* (1994) (discussing the history and modern problems of welfare); Joel F. Handler & Yeheskel Hasenfeld, *The Moral Construction of Poverty: Welfare Reform in America* (Judith L. Hunter ed., 1991) (discussing the ideology and structure of the American welfare state and its modern reforms).

4. Of course, one's notion of the ideal society and assumptions about human nature will help to determine one's view of strategies proposed to achieve social justice. I want to focus in this essay on a preliminary evaluation of some of the strengths and weaknesses of dominant strategies. I leave for another day a more detailed assessment of the effectiveness of particular strategies for achieving particular visions of justice.

especially in light of the special difficulties posed by racism, and then suggest an alternative.

I. *Self-Interest*

I will begin with self-interest because it is commonly thought to be the more natural motivation for human action. This is the accepted view of human nature in liberal thinking and dominant explanations of political life.⁵ In Charles Dickens's *Hard Times*, Bitzer reminds his hard-nosed teacher Mr. Gradgrind of this feature of human nature when Gradgrind shows an uncharacteristic belief in altruism: "I beg your pardon for interrupting you, sir' . . . 'but I am sure you know that the whole social system is a question of self-interest. What you must always appeal to, is a person's self-interest. It's your only hold. We are so constituted . . .'"⁶ If we are constituted only to act according to our self-interest, then any successful effort to achieve social change must demonstrate to new recruits that the proposed change will benefit them.

Classical liberalism finds justice in institutional structures that permit individuals to seek their own selfish ends in their own way, regardless of resulting inequalities in the actual welfare of persons.⁷ This view of justice is grounded in an understanding of human motivation or moral attitudes; it is, in the words of John Rawls, "a theory of the moral sentiments."⁸ Liberal notions of justice infer that people are motivated primarily by self-interest. They "assume a limit on the strength of social and altruistic motivation and suppose that, while individuals are prepared to act justly, they are not prepared to abandon their interests."⁹ Even contemporary liberal theorists who show greater concern for equality than classical ones, such as Rawls and Ronald Dworkin, rely on a model of self-insurance to construct their vision of a just soci-

5. See generally Jane J. Mansbridge, *The Rise and Fall of Self-Interest in the Explanation of Political Life*, in *Beyond Self-Interest* 3 (Jane J. Mansbridge ed., 1990) (describing the evolution of the theory of "adversary" democracy based on self-interest) [hereinafter *Beyond Self-Interest*].

6. Martha C. Nussbaum, *Poetic Justice: The Literary Imagination and Public Life* 24 (1995) (quoting Charles Dickens, *Hard Times* 63 (David Craig ed., 1969)).

7. See Evan Simpson, *Socialist Justice*, 87 *Ethics* 1, 1 (1976).

8. John Rawls, *A Theory of Justice* 51 (1971).

9. Simpson, *supra* note 7, at 6.

ety.¹⁰ Rawls, for example, posits an original position in which we, as rational, autonomous beings, agree to governing principles based on what we think would be in our own interest.

The preeminence of self-interest as the basis for justice has justified the perpetuation of inequalities of race, gender and wealth. Protecting the liberty of members of powerful groups to promote their own interests typically takes precedence over efforts to equalize the distribution of wealth and power in America.¹¹ America's progressive social movements have been particularly stymied by a racist ideology that pits white people's interests against those of Blacks.

Critical race theorist Derrick Bell makes a compelling case that Black Americans' "at risk status" is created by society's willingness to "sacrifice black rights, black interests, and even black lives to enhance the status, further the profits, and settle differences among whites."¹² According to Bell, all civil rights gains have been animated by the principle of "interest convergence," which posits that "[t]he interest of blacks in achieving racial equality will be accommodated only when it converges with the interests of whites."¹³ He points out, for example, that elementary school desegregation in the 1950s and the more recent admission of minorities in higher education occurred only when these efforts became advantageous for whites, and did not threaten white supremacy.¹⁴

10. See Rawls, *supra* note 8, at 54-60; Ronald Dworkin, *What is Equality? Part 2: Equality of Resources*, 10 Phil. & Pub. Aff. 283, 315 (1981).

11. See Dorothy E. Roberts, *The Priority Paradigm: Private Choices and the Limits of Equality*, 57 U. Pitt. L. Rev. 363 (1996); see also Richard Delgado, *Rodrigo's Bookbag: Brimelow, Bork, Heinstejn, Murray, and D'Sousa—Recent Conservative Thought and the End of Equality*, 50 Stan. L. Rev. 1929, 1944 (1998) (book review) (arguing that America's commitment to equality is inherently unstable in light of the inconsistent embrace of economic liberty; "because free market economics causes inequality to accelerate over time, we are compelled to assign more and more traits of hopeless inferiority to the losers in our midst").

12. Derrick Bell, *Black History and America's Future*, 29 Val. U. L. Rev. 1179, 1179 (1995).

13. Derrick A. Bell, Jr., *Brown v. Board of Education and The Interest-Convergence Dilemma*, 93 Harv. L. Rev. 518, 523 (1980).

14. See Derrick A. Bell, Jr., *Bakke, Minority Admissions, and the Usual Price of Racial Remedies*, 67 Cal. L. Rev. 3, 14-16 (1979); see also Mary L. Dudziak, *Desegregation as a Cold War Imperative*, 41 Stan. L. Rev. 61, 62-63 (1988) (confirming Bell's hypothesis by demonstrating that U.S. officials pursued desegregation during the Cold War because it aided the U.S. in its competition with the Soviet Union over the Third World); Mary L. Dudziak, *The Little Rock Crisis and Foreign Af-*

Some sociologists attribute the plight of America's inner cities to Blacks' at risk status.¹⁵ Because urban centers are filled with Black people, and secluded from white communities, white Americans can simply write them off. As Margaret Weir explained, "[t]his geographic separation of blacks has important political consequences: it transforms the problems of living in cities into 'black' problems, making it easier for politicians to solve urban problems at the expense of poor black residents."¹⁶ Many whites find it difficult to see the cities' fate as a shared interest because improving the lives of thousands of Black-urban poor does not seem to be in their self-interest.

The focus on self-interest influences the way we understand social problems and their solutions in other ways. This mode of thinking supports the view that each individual is responsible for her own situation alone. Therefore, self-interest prefers *private* remedies for individuals' problems to *collective* responsibility for social conditions. According to this view, public remedies should be reserved for publicly-caused problems; citizens must rely on private means to solve problems they created. Tax money actually goes to many redistributive programs—social security, farm subsidies and corporate bailouts, to name a few. But many Americans reserve a special condemnation for welfare that redistributes income to poor people because they blame the poor for poverty. Welfare reform proposals increasingly resort to private measures such as work programs, collection of child support and insurance models to solve the problem of poverty. Social Security retains its political popularity because it appeals to Americans' individual self-interest: Americans perceive it as an insurance program in which beneficiaries recoup what they contributed.

Following this course, strategizing to expand the welfare state has involved devising ways to convince Americans that helping

fairs: Race, Resistance, and the Image of American Democracy, 70 S. Cal. L. Rev. 1641 (1997) (exploring how the federal government's response to the Little Rock crisis was shaped by Cold War concerns about the negative impact of race discrimination on U.S. foreign relations).

15. See, e.g., Loic J. D. Wacquant & William Julius Wilson, *The Cost of Racial and Class Exclusion in the Inner City*, 501 Annals Am. Acad. Pol. & Soc. Sci. 8 (1989) (attributing the "underclass" to the unprecedented social, economic and spatial marginalization of poor Blacks).

16. Margaret Weir, *From Equal Opportunity to "The New Social Contract": Race and the Politics of the American "Underclass,"* in Racism, The City and the State 93, 104 (Malcolm Cross & Michael Keith eds., 1993).

others is in their self-interest. Some welfare advocates seek to avoid the problem of interest convergence that Professor Bell identified by soliciting white support for programs that benefit *all* citizens. I will call this strategy the universalist solution.¹⁷

Progressive welfare reformers have noted the “political vulnerability of targeted”¹⁸ welfare policies—programs that are means-tested or designed to benefit a disadvantaged group, such as Blacks.¹⁹ Targeted programs that have a high proportion of Black beneficiaries, such as subsidized housing, are stigmatized and easily deleted from the budget when opposed by white taxpayers. An alternative strategy appeals to self-interest by advocating programs that base eligibility on universal criteria. Because people who *benefit* from welfare *support* welfare, historian Linda Gordon argues, “a bigger welfare state is likely to be a more popular one.”²⁰

The well-known Black sociologist William Julius Wilson advocated a similar strategy of enhancing the political viability of welfare programs by downplaying their benefits to poor Blacks.²¹ As he explained it, “[t]he hidden agenda is to improve the life chances of groups such as the ghetto underclass by emphasizing programs in which the more advantaged groups of all races can positively relate.”²² These universalists reason that an array of race-neutral programs, which help everyone, can garner far more support from white Americans than the current vilified system that the public associates with Black people.

Joel Handler and Yeheskel Hasenfeld recently renewed the debate over universalism versus targeted programs in their book *We the Poor People*, which advocates helping welfare recipients by reducing poverty through policies addressed to the working poor.²³ Handler and Hasenfeld describe their proposal as targeted universalism, because although the labor-market reforms they suggest

17. For an elaboration on the following critique of universalist appeals, see Dorothy E. Roberts, *Welfare and the Problem of Black Citizenship*, 105 *Yale L.J.* 1563, 1588-92 (1996) (reviewing Linda Gordon, *Pitied But Not Entitled: Single Mothers and the History of Welfare* (1994)); Jill Quadagno, *The Color of Welfare: How Racism Undermined the War on Poverty* (1994).

18. Quadagno, *supra* note 17, at 155.

19. See, e.g., Gordon, *supra* note 3, at 305 (critiquing targeted welfare).

20. *Id.*

21. See William Julius Wilson, *The Truly Disadvantaged* 120 (1987).

22. *Id.*

23. See Handler & Hasenfeld, *supra* note 2, at 218-25.

are targeted at the working poor, these programs apply far more universally than programs aimed only at welfare recipients. They argue that the current welfare system stigmatizes recipients, and diverts attention away from the poverty issues of the working poor. Their universalist approach, on the other hand, avoids dividing the poor into deserving and stigmatized categories. Rather, “[b]y moving into the paid labor force in greater numbers, single mothers join in common cause with the rest of the working poor, especially working mothers, rather than remaining a separate class suffering additional discrimination.”²⁴

I have less faith in the power of universalism. Although universal programs would constitute a significant improvement over the current inadequate system, reliance on these programs underestimates the degree of white Americans’ unwillingness to accept Blacks as full citizens. I endorse the campaign to reduce poverty through labor market reforms, and to institute needed social programs, such as child care and health insurance, for all citizens. But I do not believe that these universal programs, which citizens’ self-interest supports, can correct institutional inequalities. Universalism attempts to solve the problem of racial inequality with programs that paper over, rather than uproot, the social forces that structure the current racially-stratified system and that perpetuate racial injustice.

More specifically, universal programs are inadequate for three reasons. First, it is doubtful that universal programs alone can guarantee that the poor will receive sufficient aid. The focus on self-interest that animates these programs will ultimately serve best the most powerful members of society. Universal programs have a “trickle up” effect.²⁵ Programs designed to benefit all citizens are likely to most benefit the most privileged citizens because they have greater political and economic resources to structure programs to their advantage. At the very least, universal benefits must be supplemented with programs based on need to ensure that those at the bottom actually receive adequate aid. Benefits that provide the necessities for a decent life—housing, nutrition, adequate income and jobs for unskilled workers—must be administered directly to those who need them, or the very poor risk falling

24. *Id.* at 220-21.

25. I am grateful to Iris Marion Young for suggesting this phrase.

below the minimal level of welfare. We will need to appeal to something other than self-interest to convince wealthier Americans to support programs that will *only* benefit poor people or minorities.

Stephen Sugarman's proposal to provide child assurance support through the Social Security system illustrates the limits of self-interested universalism.²⁶ The new program would operate in the same way that Social Security operates, except that it would provide aid to children whose fathers abandoned them as well as children whose fathers died. This plan to tie child support to Social Security rejects any collective responsibility for children, and instead appeals to fathers' self-interest to ensure the security of their own children. It takes advantage of the powerful appeal offered by two popular models of social provision: the insurance model, which views public assistance as an exercise of self-insurance, and the child-support model, which relies on fathers' wages to provide for children's economic well-being. It has the advantage of blurring the distinction between welfare and social insurance by moving more children into the latter category. In addition, most of the children who would be eligible for Social Security benefits under the new plan would receive larger benefits than they currently do under state-welfare programs.

But think about all the children this proposal leaves out—all children whose fathers did not work long enough to be insured for Social Security purposes. Many more children would receive only minimal benefits because their fathers worked at low wage jobs, only sporadically, or over a short period of time.²⁷ Furthermore, some unmarried mothers would be unable to claim benefits because of complications in proving paternity. The children whom this model would exclude, or who would receive reduced benefits are disproportionately Black; meanwhile, the children whom this model would most benefit are disproportionately white. This is be-

26. See Stephen D. Sugarman, *Financial Support of Children and The End of Welfare As We Know It*, 81 Va. L. Rev. 2523, 2561-69 (1995). For a more elaborate critique of Sugarman's proposal, see Dorothy E. Roberts, *Irrationality and Sacrifice in The Welfare Reform Consensus*, 81 Va. L. Rev. 2607 (1995).

27. For social security eligibility requirements, see Eric R. Kingson & Edward D. Berkowitz, *Social Security and Medicare: A Policy Primer* 57-59 (1993). See generally Karl E. Klare, *Toward New Strategies for Low-Wage Workers*, 4 Pub. Int. L.J. 245 (1995) (discussing the ways to bridge the gap between low-wage workers and organized labor).

cause white mothers are more likely to become poor as a result of separation from the father, and white fathers are more likely to earn the wages necessary to ensure adequate child assurance benefits.²⁸

The limited success of efforts to collect child support further proves that a scheme which relies on fathers' self-interest will probably provide inadequate care for many children. The idea of turning to child support as a method of reducing children's poverty is not new. For more than two decades, Congress and states have enacted increasingly tough measures designed to recoup welfare costs by collecting child support.²⁹ Yet these campaigns to improve child support collection have failed either to lower the poverty rate for children, or to make a significant dent in the number of children on welfare.³⁰

The second problem with the universalist solution is that it deliberately avoids an attempt to dismantle racist social structures as the price of appealing to whites' self-interest. Instead universalists rely on the universal distribution of benefits to relieve the problems these structures create. Universal programs are subject to Iris Marion Young's criticism of the distributive definition of justice: by focusing attention on the allocation of material goods, Young argues, the distributive paradigm fails to scrutinize the institutional context that helps to determine distributive patterns.³¹ Creating programs that maneuver around racism to make them more palatable to white Americans is likely to weaken their power to eradicate systemic oppression.

Ultimately, universalist solutions are flawed by their very appeal to the public's self-interest. White supremacy complicates the persuasive power of arguments based on self-interest. The assumption that universal programs are intrinsically attractive be-

28. See, e.g., Andrew Hacker, *Two Nations: Black and White, Separate, Hostile, Unequal* 94 (1992) (comparing earnings of black and white men); Mary Jo Bane, *Household Composition and Poverty: Which Comes First?*, in *Fighting Poverty: What Works and What Doesn't* 209, 227-28, 231 tbl. 9.6 (Sheldon H. Danziger & Daniel H. Weinberg eds., 1986) (indicating that 22% of poor Black and 49% of poor white single mothers became poor at the time they established a single-mother household).

29. See Marsha Garrison, *Child Support and Children's Poverty*, 28 *Fam. L.Q.* 475, 476 (1994) (book review).

30. See *id.* at 502.

31. See Iris Marion Young, *Justice and the Politics of Difference* 15-33 (1990).

cause they benefit everyone crumbles under racism. Racism creates more than *disinterest* in advancing the welfare of Black Americans. Many white Americans see helping everyone as *contrary* to their self-interest because they perceive Black people's social position in opposition to their own. Under American racist ideology, universal programs that benefit Blacks are *necessarily* antithetical to white interests because Blacks' social advancement diminishes white superiority. For this reason, many white Americans have been unwilling to pay for subsidies and engage in other social reforms perceived to benefit primarily Blacks, even if these reforms would also benefit whites. Six decades ago, W.E. B. Du-Bois observed that white workers resisted labor reform during Reconstruction because, "while they received a low wage, [they] were compensated in part by a sort of public and psychological wage."³² Such whites believe that they *gain* from continued social and economic disparities that leave Blacks at the bottom.

Professor Richard McAdams recently explained this interpretation of white self-interest with an economic theory that takes into account group status, arguing that "[g]roups use intra-group status rewards as a non-material means of gaining material sacrifice from members"³³ The degree of loyalty among whites and white hostility toward Blacks contradicts what rational self-interest would seem to dictate. The importance to whites of maintaining their privileged group status explains why selfish white individuals are willing to engage in costly racial discrimination. Discrimination against Blacks is a means of producing a valuable status gain for whites. Whites' calculation of their self-interest includes not only the material benefits that universal programs would produce for everyone, but also this powerful desire for esteem and status. For many whites, the cost of foregoing the benefits of universal programs may be a worthwhile investment in the preservation of their superior social position. Establishing universal programs, on the other hand, fails to compensate white Americans for their loss of racial privilege.

Indeed, the popularity of so-called "universal" social insurance programs has hinged on their formal or effective exclusion of Black people. New Deal reformers could promote Social Security as a

32. W.E. Burghardt Du Bois, *Black Reconstruction in America* 700 (1963).

33. Richard H. McAdams, *Cooperation and Conflict: The Economics of Group Status Production and Race Discrimination*, 108 Harv. L. Rev. 1005, 1007 (1995).

universal program designed to benefit all classes only by first disqualifying Black workers. "Instead of a 'universal' welfare state that could create solidarity among workers," sociologist Jill Quadagno notes, "the New Deal welfare state instituted a regime that reinforced racial inequality."³⁴ Ironically while universal programs are advocated as a pragmatic means of racial inclusion, their implementation realistically may depend on racial exclusion. My quarrel is not with universal programs themselves, but with the faith in these programs as a way of overcoming white Americans' resistance to Blacks' economic and political equality.

Although self-interest is an effective motivation, it is a limited one. It is unlikely that appeals to the self-interest will persuade people to relinquish the privileges they now enjoy. The ideology of racism in America presents a particularly tough obstacle for appeals to self-interest to overcome. I do not mean to suggest that persuading white people to share their resources is the primary means of achieving social justice or that it is the only strategy susceptible to the pitfalls of self-interest. Yet the difficulties inherent in basing welfare reform on whites' self-interest illustrate that self-interest alone cannot motivate the kinds of sacrifices for others that social justice requires.

II. *Empathy*

If self-interest will fail to produce social justice in America, where can we turn? Many social activists have proposed cultivating Americans' empathy for others as an alternative.³⁵ Some feminists, for example, have developed an ethic of caring that contrasts starkly with the liberal ethic of autonomy and self-reliance. The ethic of caring, in the words of one ecofeminist, "makes a central place for values of care, love, friendship, trust, and appropriate reciprocity—values that presuppose that our relationships to others are central to our understanding of who we are."³⁶ This approach posits two distinct conceptions of morality: one is based on respect for persons as autonomous moral equals; the other is based on

34. Quadagno, *supra* note 17, at 19.

35. See generally *Beyond Self Interest*, *supra* note 5 (rejecting a narrow self-interest theory, and focusing on individuals' commitment to others and to their own moral principles).

36. Karen J. Warren, *The Power and the Promise of Ecological Feminism*, 12 *Envtl. Ethics* 125, 143 (1990).

compassion for others because we care about them.³⁷ Some advocates of the ethic of care identify the opposite centrality of the atomistic self as a male or patriarchal way of thinking.³⁸ Political scientists, economists, biologists and psychologists have recently marshalled empirical evidence and logical argument refuting the claim that human beings are governed by self-interest alone.³⁹ Their studies confirm the feminist intuition that people's behavior is often based on concern for justice, a desire to cooperate with others, and love.

Perhaps we are constituted to care about and rely on others just as much as we are naturally selfish. It is easy to conjure up countless examples where people act spontaneously for unselfish reasons. A homeless woman reaches out her hand, and you reach in your pocket and give her a dollar—not because it is in your self-interest, but because you care. A town is hit by a flash flood, destroying the residents' homes; people from neighboring towns gather together clothes and relief supplies to take to the washed-out town—not because it is in their self-interest, but because they care. A child wanders off in the woods during a family outing; within hours a group of rescuers gather, searching throughout the cold night with flashlights until the lost child is found—not because it is in their self-interest, but because they care.

People may act in these situations because they can empathize with those in need. They may think, to borrow the words of President Clinton, "I feel your pain."⁴⁰ Adam Smith explained that we

37. See Robin S. Dillon, *Respect and Care: Toward Moral Integration*, 22 Can. J. Phil. 105, 106 (1992).

38. See, e.g., Carol Gilligan, *In A Different Voice: Psychological Theory and Women's Development* (1982) (characterizing the different modes of thought associated with the male and female voice); Nel Noddings, *Caring: A Feminine Approach to Ethics & Moral Education* (1984) (discussing the ethics of caring from a female perspective); Sara Ruddick, *Maternal Thinking: Toward a Politics of Peace* (1989) (supporting a feminist and maternal approach to politics); Robin West, *Jurisprudence and Gender*, 55 U. Chi. L. Rev. 1 (1988) (discussing the definition of human being in terms of feminine jurisprudence as contrasted to a masculine legal theory).

39. See, e.g., Robert Boyd & Peter J. Richerson, *Culture and Cooperation*, in *Beyond Self-Interest*, *supra* note 5, at 111 (explaining an evolutionary model of human cooperation); Amartya K. Sen, *Rational Fools: A Critique of the Behavioral Foundations of Economic Theory*, in *Beyond Self-Interest*, *supra* note 5, at 25 (critiquing economic models based on egoism).

40. Mary Leonard, *Mrs. Clinton, Subdued, Signals a Steady Loyalty*, Boston Globe, Aug. 19, 1998, at A1, available in 1998 WL 9149083.

are concerned about others' welfare because we recognize others as human beings like ourselves, who share the same hopes, joys and suffering as we experience.⁴¹ In *Legality and Empathy*, Lynne Henderson identifies three stages of empathic capacity: perceiving others as having one's own goals, interests and affects; imagining the situation of others; and responding by feeling the distress of others, which may (or may not) lead to action to relieve the suffering of others.⁴² Unlike the Dickensian student who learned that human beings are constituted to be self-interested, Rousseau's young Emile learned the lesson of compassion. "Make him understand clearly,' the teacher is told, 'that the fate of the unhappy can be his own, that all their ills are beneath his feet, that a thousand unforeseen and unavoidable events can plunge him into those ills at every moment.'"⁴³ We reach out to help others in need because we know that, as mere human beings, we are not infallible. We share this human condition that makes each of us vulnerable to unexpected suffering and deprivation.

People who advocate empathy tend to characterize their project as an appeal to our emotions. Some frame the distinction between their approach and the focus on self-interest as a distinction between emotion and reason. The term "empathy" is derived from "Einfuhlung," a German word literally translated as "feeling into."⁴⁴ Our legal and political institutions are modeled on liberal political philosophy that assumes that we are free, autonomous, self-reliant individuals who operate only in our own self-interest. That is an abstract notion that exists only in our heads, but our hearts tell a different story. In our hearts, we long for connection with others and we know instinctively that each of us is needy and vulnerable.

In *Poetic Justice*, legal philosopher Martha Nussbaum explores the literary imagination as a way of facilitating empathy in

41. See Adam Smith, *The Theory of Moral Sentiments* 1-69 (Liberty Classics 1976) (1759).

42. Lynne N. Henderson, *Legality and Empathy*, 85 Mich. L. Rev. 1574, 1579-82 (1987); see also Alfie Kohn, *The Brighter Side of Human Nature: Altruism & Empathy in Everyday Life* 102 (1990) (identifying a similar three-stage process involved in empathy).

43. Martha C. Nussbaum, *Social Justice and Universalism: In Defense of an Aristotelian Account of Human Functioning*, *Modern Philosophy* S46, S70 (1993) (quoting Jean-Jacques Rousseau, *Emile* 243 (1974)).

44. Carrie Menkel-Meadow, *Is Altruism Possible in Lawyering?*, 8 Ga. St. U. L. Rev. 385, 389 (1992).

public moral reasoning.⁴⁵ Nussbaum argues that imagination and emotion are critical to, although not sufficient for, constructing moral theory and developing our moral capacities.⁴⁶ Literature plays an important role in this process because it promotes identification and sympathy in the reader.⁴⁷ Nussbaum defends the literary imagination as “an essential ingredient of an ethical stance that asks us to concern ourselves with the good of other people whose lives are distant from our own.”⁴⁸ Other recent books, as well, such as James Wilson’s *The Moral Sense*,⁴⁹ advocate a more prominent role for emotion in moral reasoning. Empathy is also a guiding force behind the legal storytelling movement. This body of scholarship explores the use of stories in legal reasoning to take better account of the concrete lives of the people whom the law affects.⁵⁰

The problem I have with this call to empathize with others is that it so often turns out to be an appeal to self-interest. First, empathy is often interpreted as finding oneself in others. I must look for features in my neighbor that remind me of myself, and then I will be moved to act on her behalf. This exercise easily transforms into ignoring our differences, and figuring out how we are really the same. Empathy becomes a projection of myself. In the end, I may only appreciate and unite with others to the extent they are like me.

For a long time, white feminists’ efforts to find commonalities among women ended up erasing the identity and experiences of women of color.⁵¹ Searching for a common oppression implied not only a universal and essential gender identity common to all women (that minority women are just white women with color), but also that white, middle-class women have no racial and class identity. This way of empathizing, writes Elizabeth Spelman in *Inessential Woman*, “invites me to take what I understand to be true of me ‘as a woman’ for some golden nugget of womanness all women

45. See Nussbaum, *supra* note 6.

46. See *id.* at xvi.

47. See *id.* at xviii-xix.

48. *Id.* at xvi.

49. James Q. Wilson, *The Moral Sense* (1993).

50. See Toni M. Massaro, *Empathy, Legal Storytelling, and the Rule of Law: New Words, Old Wounds?*, 87 Mich. L. Rev. 2099, 2099 (1989).

51. See Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 Stan. L. Rev. 581, 585-86 (1990).

have as women . . . [h]ow lovely: the many turn out to be one, and the one that they are is me."⁵²

Suppose you cannot imagine yourself in the other person's place? There are some people with whom it is downright difficult to empathize. I have devoted a good deal of energy defending the dignity of women who smoked crack during pregnancy.⁵³ In the process, I have discovered that it is virtually impossible to persuade many people to empathize with these women, even in the face of evidence that the government has treated them unjustly. Lynn Paltrow, an attorney who has represented pregnant addicts both as defendants in criminal cases and as plaintiffs in a civil rights action, has devised strategies to divert attention away from her unpopular clients by focusing on harms that prosecution of these women inflicts on others.⁵⁴

Efforts to convince a jury to empathize with these clients was an utter failure. Paltrow and her co-counsel brought a federal class action on behalf of poor, Black women in Charleston, South Carolina. These women were the subjects of a hospital policy that threatened prosecution to pregnant patients who tested positive for drugs, but did not complete drug treatment.⁵⁵ Some of the patients had been tested without consent; were arrested within hours after giving birth; and taken to jail in hand cuffs and leg shackles.⁵⁶ The complaint alleged that they were subjected to illegal search and seizure, and to racially discriminatory and abusive prosecution. Despite proof that this policy was enforced only at a hospital serving predominantly Black patients, the jury ruled

52. Elizabeth V. Spelman, *Inessential Woman* 159 (1988).

53. See, e.g., Dorothy E. Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty* 150-201 (1997) (discussing the recent trend to prosecute substance abusing mothers for child abuse, distribution of drugs to a minor, or lesser offenses) [hereinafter Roberts, *Killing the Black Body*]; Dorothy E. Roberts, *Punishing Drug Addicts Who Have Babies: Women of Color, Equality, and the Right of Privacy*, 104 Harv. L. Rev. 1419 (1991) (arguing that prosecuting women who give birth to babies who test positive for drugs violates the mothers' constitutional rights to equal protection and privacy regarding reproductive decisions) [hereinafter Roberts, *Punishing Drug Addicts*].

54. See Dorothy E. Roberts, *Unshackling Black Motherhood*, 95 Mich. L. Rev. 938, 955-56 (1997).

55. See *id.* at 959-60; see also *Ferguson v. City of Charleston*, No. 2:93-2624-2 (D.S.C. filed Oct. 5, 1993) (complaint alleging hospital drug testing policy violated constitutional rights of pregnant patients).

56. See Roberts, *Killing the Black Body*, *supra* note 53, at 166.

against the plaintiffs.⁵⁷ One of the plaintiffs' attorneys told me that she believes she lost the case because the jurors could not bring themselves to grant a monetary award to women who made such pitiful mothers.⁵⁸ Perhaps the trial did not provide enough training to cultivate the jurors' compassion toward the plaintiffs. Still, it seems to me that these devalued plaintiffs could have used a healthy dose of abstract Kantian respect for their intrinsic moral worth.⁵⁹

Is it not rather arrogant to assume that I can truly imagine what it is like to be you? Can a white person really imagine what it is to be Black, to live in a culture that presumes your looks, your intellect, and your morals are inherently inferior? Can a man really imagine what it is to be a woman; to know for example, the pervasive fear of sexual assault or the expectation that you will be a mother? Can a straight person really imagine what it is to be gay; to be considered deviant according to the official policy of every institution in society? And is it possible that, not being able to really imagine it, I conclude that your situation might not be so bad, afterall?

Some advocates of racial empathy are offended by this suggestion. It hinders cross-racial understanding to claim a unique cultural experience that only group members can comprehend. This perspective, they contend, threatens civic unity by denying the possibility of inter-ethnic empathy. Federal appellate Judge J. Harvie Wilkinson III warns:

To speak of the inaccessible racial experience is to surrender to the somber role of race in human history and to foreclose a future based on the productive potential inherent in individual diversity. Belief in the notion of inaccessible racial cultures simply elevates the supposed racial differences in the human persona above all else.⁶⁰

Judge Wilkinson offers the Civil Rights Act, drafted by white Congressmen, as an example of interracial empathy: "They had not

57. See *South Carolina Jury Rejects Claims that Hospital Policy Violated Rights of Pregnant Women*, *Reprod. Freedom News*, Jan. 17, 1997, at 4.

58. See *Conversation with Susan Dunn*, plaintiffs' attorney in *Ferguson v. City of Charleston*, in Charleston, S.C. (March 21, 1998).

59. See Immanuel Kant, *Political Writings* 61 (Hans Reiss ed. & H.B. Nisbet trans., 2d ed. 1991).

60. J. Harvie Wilkinson III, *The Law of Civil Rights and the Dangers of Separatism in Multicultural America*, 47 *Stan. L. Rev.* 993, 1006 (1995).

personally experienced what it was like to be denied service at a restaurant or to be rejected for employment, only because of one's race. Yet they understood the injustice involved; they could empathize."⁶¹

According to this view, the notion of distinct racial or cultural perspectives prevents human interaction that transcends our differences. Placing undue weight on distinct racial experiences, the worry goes, blocks channels of mutual understanding. Judge Wilkinson contends that "[t]o accept the inaccessibility of racial experience is also to deny the value of empathy."⁶² This conclusion parallels Martha Nussbaum's fear that by "conceding that a morally arbitrary boundary such as the boundary of the nation has a deep and formative role in our deliberations, we seem to be depriving ourselves of any principled way of arguing to citizens that they should in fact join hands" across the "boundaries of ethnicity and class and gender and race."⁶³ Denying the possibility of inter-ethnic empathy prevents progress toward racial harmony.

But what reason do we have to believe that cultural appreciation has much effect on political arrangements? The relationship between Black live-in domestics and their white employers reminds me of how easily unequal power arrangements can block any instinct toward empathy. Studies show that even contemporary relationships between domestic servants and their female employers are often characterized by rituals of deference that symbolically reinforce the domestic's inferiority and enhance the employer's ego.⁶⁴ Most employers prefer to disregard the personal needs of the hired help. As one contemporary West Indian employee expressed it, "It's O.K. for them to ask me to stay extra

61. *Id.*

62. *Id.*

63. Martha Nussbaum, *Patriotism and Cosmopolitanism*, Boston Rev. 3, 19 (1994).

64. See, e.g., Phyllis Palmer, *Domesticity and Dirt: Housewives and Domestic Servants in the United States, 1920-1945* (Ronnie J. Steinberg ed., Temple Univ. Press 1989) (1946) (juxtaposing the romantic image of housewifery with the low value social institutions attach to housework and personal services); Judith Rollins, *Between Women: Domesticity and Their Employers* (1985) (analyzing the relationship between black female domestic servants and their white female employers).

time because they have their family together, but what about me? . . . They don't think that I have my family waiting for me."⁶⁵

Judith Rollins writes about the invisibility she experienced during her field work as a domestic in white homes. Rollins discovered that white employers treated her as though she were not there: they talked openly in her presence about private matters, turned down the heat when they left the house, and locked her in the house without a key. Rollins explained: "These gestures of ignoring my presence were not, I think, intended as insults; they were expressions of the employers' ability to annihilate the humanness and even, at times, the very existence of me, a servant and a black woman."⁶⁶ Here we have two women who lived together in the same home; who experienced intimate details of each other's lives; who shared the commonalities of gender and motherhood. Yet the inequalities of race and class made it impossible for the mistress to *see* her servant, much less empathize with her.

Another problem with empathy is that it is sometimes interpreted to mean joining with people whom we can understand and love. The family seems to have been designated as the exclusive setting for caring relations between people. We look to the family alone to provide our economic as well as emotional needs. According to sociologist Stephanie Coontz, society's empathy extends only to people "whom we can imagine as potential lovers or family members."⁶⁷ We are told, for example, to support gay rights because there is probably someone gay in our family. American society's embrace of the private family as its model for social accountability is particularly devastating for Black people. America's legacy of racial separation makes it especially difficult—if not impossible—for most white Americans to imagine Black people as part of their family. I suppose this is not a criticism of empathy itself, but of the narrow circle drawn around the appropriate objects of empathy.

Thus, empathy is often interpreted as caring for others because I can imagine myself in their situation. Asking, "How would it feel if it happened to me?" is quite self-centered. It means that I am essentially concerned with my own feelings of joy or pain. This

65. Shellee Colen, "Like a Mother to Them": *Stratified Reproduction and West Indian Childcare Workers and Employers in New York*, in *Conceiving the New World Order* 78, 90 (Faye D. Ginsburg & Rayna Rapp eds., 1995) (quoting source).

66. Rollins, *supra* note 64, at 209.

67. Stephanie Coontz, *The Way We Never Were* 115 (1992).

type of empathy leads me to be willing to share with others only when necessary to protect myself against the risk that I might one day be in their shoes. This is a fickle sort of empathy: it changes with the winds of fortune, easily transmuting into pure self-interest.

A recent *New York Times* headline announced "The Shift Toward Self-Reliance in the Welfare System."⁶⁸ It compared the "one for all and all for one" philosophy popular during the Depression with the current "do-it-yourself" approach "that increasingly requires Americans to make their own way."⁶⁹ Examples include re-vamping Social Security so that workers finance their own retirements rather than those of their elders; the proliferation of 401(K) savings plans in place of guaranteed corporate pensions; the rise of alternative schools that draw students out of public education; and the new welfare reform law that kicks poor people off of welfare after two years.⁷⁰

What has changed since the Depression that produced this philosophical shift? Certainly it is not the eradication of wealth inequality—that has gotten worse. MIT economist Frank Levy attributes the transformation to Americans' form of self-interested empathy.⁷¹ During the Depression, many Americans feared that they would fall into poverty themselves; they therefore supported social programs that they might someday need for themselves. Today prosperous Americans apparently feel more secure about their future. Seeing no personal payoff, they are unwilling to share their prosperity with others.⁷²

Ironically calls for empathy often boil down to appeals to our self-interest; our self-absorption limits empathy. Although it would seem that listening to our hearts would *expand* the amount of caring for one another, it can also narrow our range of concern.

Finally, empathy does not guarantee that our emotions will lead us to act in an ethical or just way.⁷³ At times, claimants com-

68. Louis Uchitelle, *The Shift Toward Self-Reliance in the Welfare System*, N.Y. Times, Jan. 13, 1997, at A15.

69. *Id.*

70. *See id.*

71. *See id.*

72. *See id.*

73. *See* Massaro, *supra* note 50, at 2109 ("The 'empathy' concept does not offer reasons why human distress is something we should alleviate, or criteria for choosing whose distress should trigger our response."); *see also* Robin West, *Law and*

pete for our empathic response to their plight, and we need some principle to determine which one deserves our concern. For example, in reverse discrimination cases the minority applicant, who relies on affirmative action programs to get a job, and the white applicant, who claims that these policies unfairly deny him a position, both demand our empathy. Imagining the suffering of each cannot tell us how to act. As Robin West cautions regarding Nussbaum's claim, "if we are going to read realistic novels to spur us on toward political action, then we should be very careful to pick the right novels."⁷⁴

Indeed, empathy for others may not lead us to act at all. There is no guarantee that the feelings generated by empathy will motivate a response on behalf of others.⁷⁵ Carrie Menkel-Meadow points out that social theorists distinguish the emotional state of empathy from *altruism*, which refers to *acts* of other-directed behavior.⁷⁶ While empathy will assist us to serve people we are committed to serving for ethical reasons, empathy alone may not generate the commitment to serve. Empathy and moral commitment may work together in just the opposite fashion: perhaps we develop an empathic capacity because of our moral duty to sacrifice for others.⁷⁷ For example, consider Nussbaum's argument that reading realistic novels enhances our capacity for sympathetic engagement with others and hence, for moral reflection.⁷⁸ Why is it that some people respond far more emotionally than others to injustices described in fiction? I think the reason I become angered or moved to tears while my teenage son remains unshaken is because I have developed a stronger moral opposition to the real injustices this fiction represents.

Empathy seems too weak a motivation to explain acts of extreme and sustained sacrifice in the quest for social justice. Per-

Fancy, 95 Mich. L. Rev. 1851, 1857-65 (1997) (reviewing Martha C. Nussbaum, *Poetic Justice: The Literary Imagination and Public Life* (1995)) (arguing that empathy toward the suffering of one individual may blind us to competing collective interests).

74. West, *supra* note 73, at 1866.

75. See Kohn, *supra* note 42, at 127; Menkel-Meadow, *supra* note 44, at 389-90.

76. See Menkel-Meadow, *supra* note 44, at 389.

77. Carrie Menkel-Meadow notes social science research suggesting that "helping, when motivated by other reasons, may facilitate empathetic feelings." *Id.* at 390 n.20.

78. See Nussbaum, *supra* note 6, at 53-78.

haps empathy accounts for the acts of charity I presented above—handing a donation to a homeless woman, gathering relief supplies for a town hit by disaster, or searching the woods for a lost child. But what motivates the soldier who spontaneously throws himself on a grenade to save the lives of his comrades? What motivated the abolitionists who risked their lives to smuggle slaves to freedom, and to engage in the broader struggle for Black emancipation?⁷⁹ What motivates both right-to-life activists and abortion-rights advocates to engage in passionate protest for their view of the moral resolution of unwanted pregnancy?⁸⁰ Their moral commitment to a social cause seems far more critical to their actions than their feelings of empathy toward others.

III. *Political Commitment*

I do not think the search for sources of commitment to social justice requires choosing between emotion and reason. This is partly because I am not sure that empathy and self-interest are so easily categorized. Isn't the desire to act in our own self-interest as much an emotion as is the impulse to care for others? And isn't the effort to imagine ourselves in another's position as much a cognitive exercise as an emotional one? I think Martha Nussbaum is right when she argues that we need both emotion and reason in our moral decision making.

The more important question is, why must I be able to see my own self-interest, or imagine myself in someone else's place, to join hands with that person in political solidarity? Self-interest cannot overcome the hurdles that racism puts in the way of social change. Cultural empathy, although better than cultural bigotry, falls short of changing the inferior political position of minority groups. These flaws in both self-interest and empathy as sources of commitment to social justice lead me to conclude that a shared *political* commitment is needed to eradicate systems of domination and to institute more egalitarian ones.

79. See Sarah Bradford, *Harriet Tubman: The Moses of Her People* (1961); Frederick Douglass, *Life and Times of Frederick Douglass* (MacMillan 1962) (1892); Wendell Phillips, *Wendell Phillips on Civil Rights and Freedom* (Louis Filler ed., 1965).

80. See Cynthia Gorney, *Articles of Faith: A Frontline History of the Abortion Wars* (1998).

This political commitment requires people in privileged places to examine their own position far more than that of their neighbor. More important than a white woman imagining she is her Latina nanny; a male executive putting himself in the place of his secretary; or a well-educated Black woman pretending to be a welfare recipient is the recognition that their whiteness, gender and wealth give them a privilege that the others do not have.⁸¹ This task requires *self-examination*, not empathy. The next step requires a willingness to join in political solidarity with their fellow citizens to create more egalitarian institutions that will erode the positions of privilege that they now enjoy.

I see this motivation to act as distinct from both self-interest and empathy. It arises from my desire to take your side rather than to find myself in you. It requires cultivating the ability to distinguish between my needs and those of others, to see and respect others as free and equal human beings regardless of whether or not they are like me. This approach is closer to what German philosopher Max Scheler calls genuine "Mitgefühl"⁸² or true fellow-feeling, the experience of someone else's joy or sorrow with "no reference to the state of one's own feelings."⁸³ In my mind, we develop the capacity for fellow feeling through a commitment to the basic moral rule that all human beings deserve to be treated with equal respect, not the other way around. I call this a political as well as moral commitment because it can be realized only by transforming unjust relationships of power.

Can people be inspired to act by abstract principles of justice? The moral mandate of respect may be a *reason* to desire more egalitarian institutions, but can it *motivate* people to participate in the struggle needed to create them? What will prevent people from agreeing that establishing a more just society is a commendable goal but then deciding to leave it to others to achieve it? Collective action theorists contend that rational citizens will decline to invest their time and money in joint efforts to change public policies,

81. See, e.g., Martha R. Mahoney, *Whiteness and Women, In Practice and Theory: A Reply to Catharine MacKinnon*, 5 Yale J.L. & Feminism 217, 231-44 (1993) (arguing that white feminists should devote more attention to white privilege).

82. Peter Heath, *Translator's Note to Max Scheler, The Nature of Sympathy* liii (W. Stark ed. & Peter Heath trans., Archon Books 1970) (1954).

83. Scheler, *supra* note 82, at 41. Adam Smith similarly described "fellow feeling" in *The Theory of Moral Sentiments*, *supra* note 41.

preferring to “free-ride” on the contributions of others.⁸⁴ According to this model, individuals’ decision whether to commit their energies to an advocacy group will depend on the net personal benefit they expect to receive from a change in policy minus the personal costs they expect to incur from working toward that change.⁸⁵ Because each individual’s political activity is likely to be relatively costly while having only an incremental effect on public policy at best, few citizens will join the effort.

Charles Ogletree notes this gap between justification and motivation in his exploration of ways to inspire lawyers to become and remain public defenders.⁸⁶ Ogletree argues that the abundant scholarship that focuses on the philosophical or moral justifications for the public defender’s zealous advocacy on behalf of the accused has limited utility for an attorney experiencing “burnout.”⁸⁷ Ogletree contends:

Even if she agrees (as nearly all public defenders do) that vigorous defense of the guilty is morally justified in our adversary system, that lawyer may not zealously represent a criminal defendant absent a sufficiently compelling *motivation*—an impetus to do the work, rather than a theory that merely argues that it is *defensible, excusable, or laudable* for someone to do that work.⁸⁸

However, Ogletree turns to empathy and self-interest—the very strategies I have criticized—to motivate public defenders.

Even if abstract moral principles can provide some incentive to act on behalf of others, will this incentive be enough to overcome the competing inclination to serve oneself? The theologian Reinhold Niebuhr put the problem this way in *Moral Man and Immoral Society*: “If reason projects goals more inclusive, and socially more acceptable, than those which natural impulse prompts, the question arises how an adequate dynamic toward the more inclusive objective is gained.”⁸⁹ Niebuhr feared that human beings’ “egoistic

84. See Russell Hardin, *Collective Action* 6-15 (1982).

85. See Warren L. Ratliff, *The De-Evolution of Environmental Organization*, 17 *J. Land, Resources & Envtl. L.* 45, 51-56 (1997).

86. See Charles J. Ogletree, Jr., *Beyond Justifications: Seeking Motivations to Sustain Public Defenders*, 106 *Harv. L. Rev.* 1239 (1993).

87. *Id.* at 1241-42.

88. *Id.* at 1242.

89. Reinhold Niebuhr, *Moral Man and Immoral Society: A Study in Ethics and Politics* 35 (1960).

impulses" easily co-opt reasons to do good and ultimately generate moral justifications for following one's own interests.⁹⁰ The power of self-interest to overcome moral reason explains the failure of Jeremy Bentham's reform movement premised on the theory that prudent self-interest could be harmonized with broad social goals.⁹¹ "Man, from the very constitution of his nature," Bentham stated in 1822, "prefers his own happiness to that of all other sentient beings put together."⁹²

What, then, can provide the motivation for people to become politically committed, and to live by an ethic more demanding and respectful than self-interest and empathy? Although it is unfashionable to say so, religion is an important motivating force.⁹³

For example, Christian faith relies on obedience—not self-interest or even empathy—to motivate people to act. Christians are to follow the example of Jesus Christ who sacrificed his life for the unrighteous out of obedience to God's will. Christians are to struggle against evil—because it is evil—regardless of how it affects them personally. Religion inspires believers to act on moral commitments: "requiring us to rethink our positions, demanding political accountability, and, most importantly, necessitating a discourse on substantive values and ends in a culture often too instrumentalist for its own good."⁹⁴ By living the Christian life, believers discover a spiritual reward that surpasses self-interested gain or emotional satisfaction.

Niebuhr argued that religious faith might liberate human beings from the grip of egoism because "both the personality and the holiness of God provide the religious man with a reinforcement of

90. *Id.* at 41.

91. *See id.* at 46.

92. *Id.* (quoting 10 Jeremy Bentham, *The Works of Jeremy Bentham* 80 (1962)).

93. Professor Carl Bogus commented after my lecture that religion currently appears to motivate primarily conservative political action, as evidenced by the ascendancy of the religious right. Of course, there are numerous counter-examples, such as the Black church's role in the civil rights movement, the Quakers' abolitionist work, and liberation theology. As noted above in footnote 4 of this article, an exploration of the links between strategy and ideology is an important project that is beyond the scope of this article.

94. Anthony E. Cook, *God-Talk in a Secular World*, 6 *Yale J.L. & Human.* 435, 439 (1994) (reviewing Stephen L. Carter, *The Culture of Disbelief: How American Law and Politics Trivialize Religious Devotion* (1993)).

his moral will and a restraint upon his will-to-power."⁹⁵ Religion turns abstract moral duties into concrete obligations toward the supreme being. Unlike empathy, religious faith promotes love of one's neighbor through its *introspective* character. Religion, Niebuhr contended, has been the most effective means of "making men conscious of the sinfulness of their preoccupation with self."⁹⁶

Religious devotion might be a fruitful focus for research on people's motivations to support social causes. We should tap the power of religious faith to overcome the shortcomings of self-interest and empathy, and explore whether it can provide a guide for non-religious commitments to social justice.

Two researchers set out to learn what motivates some members of affluent churches to give more money to their churches than others do.⁹⁷ They used two theoretical approaches—exchange theory and symbolic interactionism—to examine religious giving, which correspond to two of the approaches I discussed—self-interest and political commitment. According to exchange theory, people are inclined to participate in an action when they believe the benefits of the action outweigh the costs.⁹⁸ This theory would predict that church members who feel that they belong to a special church that serves their needs will be motivated to reciprocate with donations to maintain the church. According to symbolic interactionism, on the other hand, "people sometimes do things which they consider right or meaningful, even when the costs outweigh the benefits."⁹⁹ This theory supports the hypothesis that church members who believe strongly in God, and desire to live according to His commandments, are more likely to donate to their churches as an expression of their faith. The first group donates because of its *benefit* orientation, while the second donates because of its *belief* orientation.

The study discovered that "intrinsic religiosity," which combines elements of both theories, was the most important factor in promoting participation in church life and increasing members'

95. Niebuhr, *supra* note 89, at 54.

96. *Id.*

97. See James D. Davidson & Ralph E. Pyle, *Passing the Plate in Affluent Churches: Why Some Members Give More than Others*, 36 *Rev. Religious Res.* 181 (1994).

98. *See id.* at 182.

99. *Id.* at 183.

willingness to donate to the church.¹⁰⁰ Intrinsic religiosity describes a "highly personal, yet socially conscious, pattern of faith . . . in which individuals identify the centrality of their religious convictions in relation to the benefits derived from their beliefs about God and their involvement with society."¹⁰¹ The integration of members' self-concept and the benefits derived from their faith are reflected in beliefs such as "My faith turns my attention from my own needs and toward the needs of others" and "I see my work in life as God's work."¹⁰²

This intrinsic orientation to faith links personal belief with human interdependence and individual salvation with social concern. Niebuhr concluded that religion alone will fail "in becoming an instrument and inspiration of social justice"¹⁰³ because it depends on the insights of sensitive individual conscience rather than social consciousness. Although individual devotion might suffice to create intimate religious communities that are just, it cannot bring about broad social change. Intrinsic religiosity suggests a model that connects religion's introspective power to overcome egoism with the social consciousness Niebuhr argued was necessary for broad social transformation.

We should not underestimate the power of abstract notions of justice to motivate non-religious people, as well, to participate in social movements. Researchers have discovered that individuals engage in prosocial acts to benefit others because they have internalized moral principles rather than because they feel caring emotions.¹⁰⁴ Alphonso Pinkney's 1968 study of white Americans who were active in the civil rights movement, *The Committed*, confirms that a sense of moral outrage and responsibility does indeed inspire many people to sacrifice for others.¹⁰⁵

Pinkney asked white civil rights activists: "[w]hat would you say is the single most important thing which made you decide to become active in the struggle for Negro rights?"¹⁰⁶ The most com-

100. *Id.* at 192-93.

101. *Id.* at 184.

102. *Id.*

103. Niebuhr, *supra* note 89, at 80.

104. See Menkel-Meadow, *supra* note 44, at 389-90 (citing Kohn, *supra* note 42, at 127).

105. Alphonso Pinkney, *The Committed: White Activists in the Civil Rights Movement* (1968).

106. *Id.* at 97.

mon answer was that respondents became involved because of ideology and literature about the civil rights movement.¹⁰⁷ Pinkney concluded that comments falling in this category "indicate a kind of ethical and moral conviction which seems to have motivated nearly one-fourth of the activists in the present study to action."¹⁰⁸ Examples of reasons for involvement include: "A deep commitment to the right of the individual to participate freely in the total society;" "[t]he opportunity came for me to make my witness to what I believe;" "[t]he unwavering 'rightness' of the issue;" "I became active in the struggle because I feel it is not right for me to have more advantages in life because I am white;" "[g]rowth of racist resistance to civil and human rights;" "knowledge that racism destroys all democratic institutions;" "[m]oral responsibility;" "[t]he ethical and moral aspects of segregation and the utter contradictions between segregation and our ideology of brotherhood, justice, and democracy;" "[a] philosophical and emotional identification with the oppressed;" "[d]eep-seated sense of outrage at inequality—conflict between what we profess as a nation and what we do in reality;" and "I believe it is wrong for any man to be hated, discriminated against or prejudiced against because of his color. While these things happen I cannot stand by and not be active."¹⁰⁹

These findings were reflected in Dr. Martin Luther King, Jr.'s organizing strategy during the first stage of the civil rights movement. His campaign offers an example of a successful progressive coalition that crossed boundaries of class and race to advocate structural change. Although King acknowledged the practical consideration of appealing to white self-interest, he stressed the greater imperative of making the moral decision. King proclaimed, "[t]hese are practical political considerations all dictating one road. Yet above it all, a greater imperative demands fulfillment. Throughout our history, the moral decision has always been the correct decision."¹¹⁰

107. See *id.* at 98.

108. *Id.* at 100.

109. *Id.* at 98-99.

110. Martin Luther King, Jr., *Bold Design for a New South*, reprinted in *A Testament of Hope: The Essential Writings of Martin Luther King, Jr.* 116 (James Melvin Washington ed., 1986).

Another example of altruism inspired by moral principle are the acts of gentile rescuers of Jews in Europe during the Nazi regime. One study of these rescuers found that they were motivated to act altruistically on behalf of others by their identification with a "globalized" humanity.¹¹¹ Why do I describe this motivation as a moral principle rather than empathy? The rescuers did not have to imagine themselves in the endangered Jews' position to act on the Jews' behalf. Their inspiration did not necessarily involve an emotional connection with the people for whom they sacrificed. Rather, as Menkel-Meadow observed, their identification with others "was a generalized appreciation of the plight of all human beings: it did not seem to require the particularized appreciation of the other commonly associated with empathy."¹¹² This generalized appreciation of humanity derives more from the *moral* imperative to treat others with respect than from a *feeling* of concern about particular individuals.

I do not want to suggest that abstract moral teaching all by itself will suffice to motivate people to act altruistically. Menkel-Meadow also notes that "[s]ome studies indicate that learning to care must be situated in concrete learning rather than in general, abstracted learning."¹¹³ William Simon has also recently advocated replacing the traditional abstract method of teaching legal ethics with an approach that emphasizes the context of lawyers' moral decision making.¹¹⁴ These are important techniques for helping citizens to embrace and understand a political commitment to social justice. Storytelling along the lines proposed by Nussbaum and others can inspire people to act on their moral principles and help them to discern what action is needed. Nevertheless, I am convinced that the fundamental reason why people

111. See Kristen R. Monroe et al., *Altruism and the Theory of Rational Action: Rescuers of Jews in Nazi Europe*, 101 *Ethics* 103 (1990); see also Samuel P. Oliner & Pearl M. Oliner, *The Altruistic Personality: Rescuers of Jews in Nazi Europe* (1988) (discussing the non-Jewish rescuers who helped Jews without regard for harm to themselves or their families due to a connection with humanity as a whole).

112. Menkel-Meadow, *supra* note 44, at 399; see also Christopher Jencks, *Varieties of Altruism*, in *Beyond Self-Interest*, *supra* note 5, at 53 (distinguishing among three sources of unselfishness: empathy, community, and morality).

113. Menkel-Meadow, *supra* note 44, at 416. Menkel-Meadow notes further that "feelings and emotions are relevant to deciding what is just and moral in this world . . ." *Id.* at 417.

114. See William H. Simon, *The Practice of Justice* (1998).

sacrifice their own self-interest to promote the interests of others is a political commitment to justice.

IV. *Conclusion*

Some readers might object that all I have done is set out a lofty ideal that is even less feasible than the two sources of commitment that I have criticized. At least appeals to empathy and self-interest, they might point out, are strategies with some track record that seem grounded in human nature. Perhaps any successful movement for social change, recognizing the complexity of human motivation, must incorporate these approaches to some extent. The task may involve redefining self-interest to encompass a political commitment to social justice. Developing empathy, moreover, can enhance our moral dedication to act on behalf of others.

I hope that I have demonstrated, however, that empathy and self-interest as they are presently conceived cannot provide the motivation needed to achieve social justice, especially given America's roadblock of racism. Although it would be foolish to disregard these sources of human motivation, we should devote more attention to a third basis for action. We need to generate a political commitment—a form of political solidarity—that is derived more from a moral imperative than from narrow self-interest or selfish empathy. This political commitment is based not on the question "What is in it for me?" or "How are you like me?" but "How can I be on your side?"

