FIVE QUESTIONS

Public policy interviews with leaders from around the South

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FIVE QUESTIONS WITH DEAN ED RUBIN

In our June 2006 FIVE QUESTIONS interview, Vanderbilt Law School Dean Ed Rubin offers a wide-ranging and probing look at education, fear in politics, income inequality and metropolitan government. Media organizations are encouraged to reprint the interview in full or part.

BETTER SOUTH: In your recent William and Mary law review entitled "Sex, Politics and Morality," you review two behavioral organizing structures offered by political linguist George Lakoff. Basically, he says there are two kinds of folks -- people who have a Strict Father view of the world and those with a Nurturant Parent morality. The former tend to be politically conservative and generally oppose spending on social programs, while the latter tend to be more progressive and empathetic. Understanding people have different ways of approaching moral and political issues, what should progressives do to bring Strict Father people into their camp and shift the world view of Strict Father Southerners?

ED RUBIN, dean of the Vanderbilt University Law School: There's a one-word answer to this excellent question -- education. Unfortunately, it's only a long-term solution. In short term situations, what we sometimes describe as education is really nothing more than information. Information is a good thing, but it rarely produces changes in people's belief systems. Instead, people's belief systems cause them to process information in a way that simply confirms their existing beliefs.

What is needed is education -- and I mean real education, not indoctrination. Education produces open-mindedness, tolerance and empathy, some of the basic qualities that characterize the Nurturant Parent. It does so by providing people with a broad knowledge base, encouraging them to think critically, and exposing them to different modes of thought. At present, the state of public elementary and secondary schools throughout much of the South remains deplorable, while many Southern universities, particularly public ones, devote more resources to football than to teaching. The case for improving education is an easy one to make, because education offers everyone instrumental benefits -- better job opportunities for individuals, a more robust economy for localities and states. But with education also comes a shift in worldview,

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away from the fearful, narrow-minded mentality of the Strict Father and toward the thoughtfulness and maturity of the Nurturant Parent.

In the short run, I would guess that the best strategy is to emphasize the costs of the Strict Father morality and its politics of anger. Just as the Strict Father himself often produces a resentful, alienated child, his public policy analogue yields counterproductive consequences. The war in Iraq produces body bags and shattered lives, excessive incarceration causes wildly spiraling expenditures, environmental insensitivity leads to global warming, banning stem cell research leaves disease unchecked while hobbling our knowledge-based economy.

Progressives are unlikely to convince others that their moral values are wrong; only long-term education will change basic belief systems. But repeated demonstrations that fear and narrow-mindedness yield results that everyone regards as undesirable may produce some softening of the Strict Father mentality. The come-back will always be an effort to appeal to people's fears -- a depiction of the world as filled with terrorists, criminals, and moral degenerates. This world view can't be changed in the short run, but progressive can point out the ill effects of panic-stricken responses to it.

BETTER SOUTH: What you've highlighted above is a real communications problem. Fear is always easier to sell in the media than reason. The South has a long history of relying on fear to move the populace to support various regressive public measures. So what should Southern progressives do - - continue to use unsuccessful reason-based tactics to thwart panic-stricken responses or be more bold and adopt some of the same tactics others are successfully using? (Quite frankly, neither sounds like the answer.)

RUBIN: Fear has definitely been a political weapon deployed by regressive forces, particularly in the South. I think it would be counterproductive for progressives to play the same game, but starry-eyed for them to deny its appeal. Trying to compromise between these two unattractive options is more likely to suffer from the disadvantages of each than to escape these disadvantages. Instead, progressives need to construct a new political discourse that frames fear-generating issues in a different way, one that points toward thoughtful solutions rather

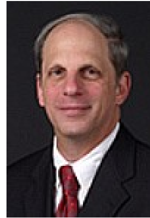
ABOUT DEAN ED RUBIN

Edward L. Rubin joined Vanderbilt Law School as dean and the first John Wade–Kent Syverud Professor of Law in July 2005. A distinguished and erudite scholar who has addressed a broad range of topics, Rubin is the author of numerous books, articles and chapters, including two volumes published in 2005, *Beyond Camelot: Rethinking Politics and Law for the Modern State* (Princeton University Press) and *Federalism: A Theoretical Inquiry*, co-authored with long-time collaborator Malcolm Feeley.

Rubin previously served as the Theodore K. Warner, Jr. Professor of Law at the University of Pennsylvania Law School, where he taught administrative law, commercial law and seminars on topics ranging from administrative policy to law and technology, human rights and punishment theory. He joined the law faculty at Pennsylvania in 1998 from the Boalt Hall School of Law at the University of California, Berkeley, where he had taught since 1982 and served as an associate dean for three years.

After earning his law degree from Yale University in 1979, Rubin clerked for Judge Jon O. Newman of the U.S. Second Circuit Court of Appeals and was an associate with the law firm of Paul, Weiss, Rifkind, Wharton & Garrison in New York, where he practiced entertainment law. Early in his career, he served as a curriculum planner with the New York City Board of Education.

than panicked reactions. This discourse must acknowledge and incorporate people's fears, but condemn reflexive or simplistic solutions to these fears and offer more constructive and creative alternatives.


Rubin

Consider first the issue of terrorism, on which Americans are currently most vulnerable to fear. A truly progressive, long-term response, fully consistent with Lakoff's image of Nurturant Parent morality, would suggest that the danger will remain as long as the United States is seen as an arrogant, self-interested oppressor, hoarding world resources and exempting itself from international agreements. But in its airy altruism, this response represents political as well as pragmatic suicide, because it fails to offer us protection in the here and now. A better response is to present a program that will make us truly safe, a program focused on genuine security, rather than on symbolic gestures.

We need a national government that can plan comprehensively and competently, that will work collegially with our allies, with moderate Arabs and with third world neutrals, and that will demand cooperation from private firms, even if this requires that expenses be imposed on them. The conservative demand that we offer up our civil liberties as a sacrifice to security will only serve to remove necessary, well-designed restraints on our forces of order, tempting them to wander off in pursuit of those they dislike rather than those who pose genuine threats. The conservative tropism to lash out against individuals or nations who share nothing but an ethnicity with our attackers will only serve to squander our resources and alienate our allies.

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Now consider the issue of gay marriage, a subject of intense current controversy, and regarded by many progressives as a source of political vulnerability. Moral condemnation, rather than fear, would appear to motivate conservative or regressive opinion on this issue, but this condemnation, as I discussed in my article, is often propelled by fear of moral decline and social anarchy. Here too, progressive positions championing love over tradition, or propounding each individual's right to sexual fulfillment, are not likely to persuade those who are not persuaded at the outset.

What is needed, I think, is a more aggressive discourse of pluralism. The same fear and condemnation that is now directed toward gays has been directed in the past toward Mormons, as polygamists, toward Jews, as Christ-killers, toward Catholics, as Popists and disloyal citizens, toward Methodists and Baptists, as non-traditional, over-emotional fanatics, to Presbyterians and Lutherans as apostates from the true church, and so forth.

The glory of America is that it is such a comfortable place for these previously feared, despised and persecuted groups to live. It demonstrates that all these groups that generated the same fears that gays do now, and whose enemies thought would produce the same moral decline and social anarchy, can live in harmony. It is this pluralist vision that should be strongly invoked in response to the all-too-familiar politics of fear and hate.

BETTER SOUTH: Across the South, the average income tends to be lower than the national average. Additionally, there is a growing split in two other areas - - the rich are getting richer and poor are getting poorer; and people who live in rural areas are being left behind compared to folks in suburbs and urban areas. Besides improving people's educational opportunities, what can Southern leaders do to narrow the growing income gaps?

RUBIN: Income disparities are, in my view, an increasingly serious problem in this country. At present, the top quintile of the population receives over 50 percent of the nation's annual income, while the bottom quintile receives around 3.5 percent. The percent of total national income has declined over the past quarter century for all four bottom quintiles (the second from the top only slightly) -- while the share of the top 20 percent has steadily increased. As a result, we are approaching the income disparity levels of a third world country.

We can contrast this with the situation in Japan, another industrialized, capitalist, entrepreneurial nation. There, the top quintile earns barely a third of the total, while the bottom earns 10 percent. A few decades ago, many people were urging the U.S. to emulate the Japanese business model because of high growth rate it had achieved, and now the bloom is off that particular rose. The fact remains, however, Japan is an extremely wealthy country, and it has reached that status despite its lack of energy or agricultural resources and its virtually complete destruction in World War II. So it would be hard to argue that flatter income distributions have a deleterious effect on the assiduousness or workers or the creativity of entrepreneurs.

Those who comment on America's income disparity often speak in terms of social stress. If these disparities continue, they suggest, we are likely to suffer from widespread demoralization or increasing levels of class conflict. This seems to me to be an unpromising discursive strategy, not only because there is no empirical evidence that it's occurring, but also because of its implicit, if strongly suppressed suggestion that the poor and middle class ought to become more rebellious, something that would probably do no one very much good. I think the theme that should be sounded is that the present distribution of income is simply unfair. Most of the adults in those lower four quintiles, even the ones in the lowest, work for a living, and most of them work hard, as hard as the people in the top quintile.

The reason for our income disparity is not that the people in the top quintile deserve so much more money, but that we have a regressive tax system, excessive tax loopholes for the wealthy, unmonitored corporate compensation, and a defective public educational system that limits social mobility and the ability of people who can't afford private school to develop their talents. The image of the lazy, unmotivated poor is largely a myth, and certainly doesn't apply to three-fifths or four-fifths of our population. Most people are working hard; the problem is that our system is tilted against them.

BETTER SOUTH: OK, so what do we do to get rid of the income inequality? Raise the minimum wage? Or are there other strategies for Southern leaders?

RUBIN: To begin, raising the minimum wage is probably a good approach, but lowering the maximum wage may be an even better one. Executive compensation has reached stratospheric levels in the U.S., largely because of stock options and other incentive-related payments. This sounded like a wonderful idea at the time it was first

conceived – pay the top executives better if the firm makes higher profits – but it has spiraled out of control. The problem is that the corporate board members who approve these payments are spending the firm's money, not their own – they don't benefit from the firm's profit levels, or suffer if the firm squanders its resources on excessive executive salaries. Their incentive is to compete in an overheated market for the most prestigious managerial luminaries, that is, for people who are already being paid inordinate amounts for their entirely ordinary skills.

A simple calculation suggests that redistributing excessive executive compensation to the workers in a typical Fortune 500 company would yield raises of thousands of dollars per year. Of course, that's not necessarily where the money would go in a competitive market, although the workers might capture some of it through collective bargaining. More likely, it would go to consumers in the form of lower prices for the firm's products, but that would benefit the workers and other ordinary people to the same extent, albeit more diffusely. It would also lower the price of American goods, which would lower our dangerously high trade deficits. Unfortunately, the only way to limit executive compensation is through national regulation, and their does not seem to be much taste for solutions of this sort at present.

The other way to redistribute income is through the tax system. One would imagine that a redistributive tax system would garner widespread popular support; at the very dawn of democratic politics, Aristotle worried that political majorities would ruin the economy through excessive redistribution. But it is a somewhat weird feature of the American mentality that so many people in this country think they have a chance of becoming wealthy, and often identify more closely with the interests of an increasingly remote elite than with their own interests. This is amplified by the continuing reverberations of frontier individualism, the belief that people deserve to keep "their" money, and should not have it taxed away for public purposes.

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For both these problems – excessive corporate compensation and a regressive tax system – I think we need a new political discourse. People need to understand that everyone's money comes from the economic system to which we all contribute. Corporate executives, and even individual entrepreneurs, can only earn the amounts they do because the system provides them with a framework that generates large rewards for those fortunate enough to be located at its crucial junctures. The average American works just as hard, and while talent and training should be appropriately compensated, that compensation should not be so far out of proportion with the rest of society. The economy grows through the efforts of all working Americans, and all should be able to improve our lives as a result of it, not just the top twenty percent of the population.

BETTER SOUTH: You've touched on a lot of things in this interview. Let's end with a broad question: If you were king for a day, what would you do to make life better for people in the South?

RUBIN: For my final answer, I would like to address one specific, but to my mind extremely important issue that not only affects the social equality in the South but

governmental efficiency as well. This is the issue of metro government. A metropolitan area, as is generally known, is a relatively large, relatively dense concentration of people that is surrounded by sparsely populated areas and that functions as an economic unit. Until recently, the South was predominantly rural but at present, according to the definition used by the federal Office of Management and Budget (OMB), it has 17 metropolitan areas with more than one million people: Dallas, Miami, Houston, Atlanta, Tampa, San Antonio, Orlando, Norfolk-Virginia Beach, Charlotte, New Orleans, Nashville, Austin, Memphis, Louisville, Jacksonville, Richmond and Birmingham. This means that fully one third of the nation's 49 metropolitan areas with more than one million people are in the South. When we speak of the "New South," we are often referring to what goes on in these urban centers.

In the South, as in the United States in general, metropolitan areas are generally divided up into a number of local jurisdictions, most typically a center city and its surrounding suburbs, although sometimes there are several cities within a single area. The disadvantages of this arrangement are many, and they are obvious. They include a center city with a declining tax base and a disproportionate number of the metro area's minority people, de facto segregation of the schools, underdeveloped mass transportation, irrational land use policies, a lack of coordinated urban planning, and a less measurable but equally significant decline of community spirit. All these problems can be alleviated by metro government, the incorporation of the entire metropolitan area into a single local jurisdiction.

This is not an unrealistic, pie-in-the-sky idea. At present, there are three metro areas in the South that have instituted metro government – Nashville, Jacksonville and Louisville. Interestingly, these are three of the four metro areas in the nation that have done so, the fourth being Indianapolis. Nashville, where I live, was the first, having united its entire county (Davidson) into a single jurisdiction forty years ago.

The results are evident. Nashville's downtown area is thriving, there is relatively little "white flight," race relations are far better than in most American cities, the economy is booming, and there is a palpably high level of community spirit. Of course, Nashville has its problems, not the least of which is that urban development has now outrun the Davidson County boundaries, and there has not been any further incorporation. Still, the city of Nashville has 547,000 of the metro area's 1,312,000 people (contrast this with Atlanta, where the center city has 419,000 of the metro area's 4,248,000 people). What Nashville has done (and ought to be doing even better) can be done by any Southern city, with equally beneficial results. All that is required is a modicum of public spirit, a willingness to put narrow self-interest aside in favor of longer-range considerations and to work together with one's fellow Americans.

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In the Center for a Better South's **Five Questions** project, staff members to pose challenging questions to Southern leaders for their views on how to deal with public policy issues.

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