dentiality will lead clients to confide fully in attorneys. And, often, as in this case, the concrete trumps the abstract, even though the latter may have important and long-lasting significance.

The Supreme Court explicitly rejected such a balancing approach in 1996 with respect to the psychotherapist-patient privilege in *Jaffe* v. *Redmond.* There the court explained, "Making the promise of confidentiality contingent upon a trial judge's later evaluation of the relative importance of the patient's interest in privacy and the evidentiary need for disclosure would eviscerate the effectiveness of the privilege." Starr insists, and Judge Williams agreed, that the privilege gives way when there is a great "need" for the information at issue. This ignores a simple but important point: Courts will often find the "need" for otherwise privileged information greatest in just those situations where clients are most likely to be concerned the information remain confidential—and therefore to withhold information from their attorneys where confidentiality is not assured. Surely the privilege does not exist only to protect inconsequential information.

Hard cases make bad law, of course, but politically charged cases do, too. We would all like to know what secrets Vincent Foster took with him to his grave. But the fact that Foster consulted with his attorney before he died should not make this fact-finding any easier. This is one privilege battle Kenneth Starr should lose.

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THE HARD QUESTIONS

UNECONOMICAL

By Glenn C. Loury

Economists have tremendous influence over policy these days, and, as an economist, that generally makes me proud. But, precisely because of my discipline's considerable clout, it is important to understand its limitations. When it comes to the particulars of governing in a democracy, the economist's view of the world can be narrow and reductive. As University of Virginia political scientist Steven Rhoads has pointed out (in a book aptly titled *The Economist's View of the World*), the single-minded attention to incentives and the pursuit of self-interest that characterizes economic analysis can be a great strength—but it can also be a fatal flaw.

What Rhoads is getting at becomes clearer when one considers that policymaking is not simply about providing technical solutions to the problems of governance. It is also about taking symbolic actions that express the people's values and beliefs. A policy's costs and benefits may pale next to its communicative impact, as any good politician instinctively knows. Yet, what might be called the expressive content of public action—the message to the political community conveyed by the letter of a law, the behavior of a bureaucracy, or the public utterances of a political leader—has no place in the conventional economic model.

For example, we punish criminals not simply to deter crime but also to signal our collective abhorrence of their offending acts. And, conversely, we sometimes mitigate or forgo punishment—even though doing so might blunt the deterrent effect—in order to show mercy or to do justice. Whatever one may think of capital punishment (and I oppose it), the political viability of this practice will never hinge on whether, in fact, it deters murder. The more compelling argument against the state-sanctioned killing of criminal offenders begins by asking, "What manner of people are we, who destroy human life in public rituals of revenge?" This, most decidedly, is not a question about incentives.

Or, to take another example, consider the rightward drift of the welfare debate that ended with Congress passing, and President Clinton signing, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This shift was driven primarily by the desire of many Americans to state, in unequivocal terms, what society can require of public assistance recipients. For most people, such beliefs—about who deserves to be helped and how we should separate public from private responsibilities—have very little to do with analytical judgments. Indeed, even among experienced analysts, one often finds the influence running in exactly the opposite direction—from basic value commitments to conclusions about cause and effect.

Another political scientist, Lawrence Mead of New York University, has raised a complementary argument that warrants mention here. In *Beyond Entitlement*, which appeared over a decade ago, Mead made a persuasive case that many dependent people are too dysfunctional to become self-reliant without substantial and authoritative government intervention in their lives. He has recently edited a collection, called *The New Paternalism: Supervisory Approaches to Poverty*, where a number of social scientists examine how the authoritative approach might be made to work in areas ranging from teen pregnancy to illicit drug use. This book is full of innovative policy ideas that deserve further attention—and not one of these eleven essays makes any use of economic analysis.

The reason for this seeming anomaly is clear. Economics starts from the assumption that individual preferences are given. The "new paternalism," on the other hand, makes it a principal objective of policy to alter individuals' views about how to live their lives. Most economists, and many others besides, are uncomfortable with this sort of thinking. This is understandable, and caution is in order whenever government fiat threatens to usurp individual autonomy. Yet, given the array of social maladies in this country, some usurpation is unavoidable. That is, the expressive content of public action can also serve a pedagogic function—by showing disadvantaged citizens how better to lead their lives. This, too, is a consideration that is missing from the economist's conceptual tool kit.

In at least one important policy area, evidence is starting to demonstrate that such "authoritative governance" may in reality be more important than the incentives with which economists are typically concerned. In the early 1990s, some welfare analysts developed an enthusiasm for the so-called "family cap." The idea was to withhold incremental benefits from women already on the rolls who had additional children to discourage them from getting pregnant again. The idea was tried on an experimental basis in a number of states. In New Jersey and Arkansas, where systematic evaluations have been undertaken, the results were inconclusive. There were many technical problems with the implementation of these experiments, but at neither site could evidence be found of any impact on pregnancy among the women subject to the family cap provision.

A more authoritative intervention was undertaken in the small, semi-rural community of Elmira, New York. There, in 1977, some 400 mostly low-income expectant mothers were enrolled in an experimental program designed to test the impact on mothers and children of regular home visits by professional nurses. For some of the women, visits occurred weekly for six weeks after their baby was born and then twice each week until the twenty-first postnatal month. The nurses followed a detailed protocol during the 90-minute visits, focusing on personal health and effective parenting concerns. A major objective was to help mothers use a reliable method of contraception, and at this the program succeeded admirably. Compared to a randomly selected control group of similar women, those visited by the nurses had a 42 percent lower pregnancy rate during the four-year period after the delivery of their first child. Beneficial effects from the home visits on both mothers and children were found in a follow-up study conducted in 1992, 15 years after the program had been initiated. Similarly impressive effects of nurse visitations are being observed among inner-city mothers in Memphis, in a still-ongoing study that began in 1990.

The success of home visitation seems to be due to the fact that the nurses got the message across that becoming pregnant again is not desirable. As *The Washington Post* reports: "The old strategy has been to say, 'If you want to avoid a second baby, here's a condom and how to use it.' The directive approach says, 'You shouldn't have another baby, and here are ways to prevent it.'" One thing is clear. You can't get that kind of message across with economic incentives. •

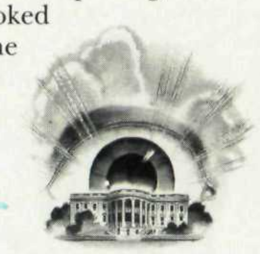
WHITE HOUSE WATCH

BUSINESSMAN

By Dana Milbank

Flying to the Motor City last month for a speech to the Economic Club of Detroit, the vice president could have been forgiven for thinking the economic gods were against him. For six years, Al Gore had toiled in the vineyards of economic policy, pruning bureaucracy and weeding regulations—while President Clinton grabbed all the glory for the nation's prosperity. Business leaders, sore about Gore's energy tax and his call for the demise of the internal combustion engine, still didn't trust him.

And here he was, about to set everything right in his most important economic speech in years—and what happens? Chrysler goes and messes everything up by selling itself to the Germans. The mega-merger, announced the day before his speech, was sure to overshadow Gore's economic coming-out in Detroit. "I don't know who does your scheduling," Gene Sperling, the president's economic policy adviser, joked to the vice president. Sure enough, the only substantial coverage was a *Washington Post* story that noted the businessmen's predictable skepticism and rubbed it in by observing that industrialists are more suspicious of the vice president than of his boss.



But the little-noted speech was an important event in the shaping of Gore's 2000 presidential run, for it offered a blueprint of what will soon become Goronomics—and it signaled how the Clinton administration plans to promote its heir apparent. In a sign of things to come, Clinton, breaking with custom, allowed Gore to announce the monthly Labor Department figures—in this case, the lowest unemployment in 28 years—rather than taking the credit for himself. When Clinton heard that the employment figures would come out on the day of Gore's speech, he told a meeting of advisers, "I want Al to announce them." On the day of the speech, the White House sat on the figures for three hours so Gore could break the news. The Gore speech also made clear that the candidate won't soften his position on free trade in order to pander to labor or to defend himself against the likes of Dick Gephardt.

But, most significantly, the speech indicated how Gore plans to patch up his environmental rift with business—a rift that poses a serious threat to his candidacy. Asked about that very matter at the Detroit speech, Gore, who in 1992 famously called for "completely eliminating the