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### Punishment Most Cruel

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## MIDWEEK PERSPECTIVES

ELLEN GOODMAN

### Chill out, Hillary

Don't be everything to everyone

BOSTON

OK, so you should have been a brain surgeon. Up in the morning, out on the job. The White House limo drops you at the hospital. You open up a few craniums and you're home for dinner.

This is the kind of health-care involvement nobody would criticize. It's the kind of two-career family everybody would understand.

But here you are, lawyer, public-policy junkie, health-care honcho, full-time volunteer, first lady, stuck in the center of the Whitewater controversy. The headlines are calling Hillary to the pillory.

The pundits are talking ominously — again — about the dangers of having someone in power who can't be fired, just divorced. And you have to listen to Alfonso D'Amato — *Alfonso D'Amato!* — questioning your ethics.

If you haven't entirely lost your sense of humor, there must be a good belly laugh in the stories about the tarnishing of the halo around your head. Just when was that hallowed halo time?

Was it back in 1992, when you answered the first questions about Whitewater by saying that you could have stayed home and baked cookies? The whole world came down on your head. (I'm telling you, brain surgery was the ticket, not cookie baking.)

Was it during the Republican National Convention when you were the Feminist from Hell? Or during the "Billary" humor-fest?

It must have been when you went to Capitol Hill last fall and the senators fell into a state of shock that you "were effortlessly answering complex questions in great detail." Why, one even suggested you were smart enough to go on "Jeopardy."

There's even more black humor in words of the feminists-comerately. Not a few opponents and commentators insist that they are merely treating you as an equal — showing respect for your power, intelligence and status as one of America's 100 Best Lawyers and a certifiable New Woman. Why, by accusing you of sleazy, greedy behavior and coverups, they are actually taking you seriously!

And if this were not enough, too many women have put too much stock in your one basket. There is a chorus of friends and enemies who seem to agree that the advancement of women — nay, the entire women's movement — is riding on your success.

Well, let me offer words of advice.

Take a good long look at what's on your plate. In the past year, your father died, your mother-in-law died and one of your best friends committed suicide. You've got a widowed mother, a teen-age daughter, a job and a role and a husband with the weight of the world on his shoulders.

On top of that you have an overdeveloped sense of responsibility and a gritty, sometimes grim, determination to prove that you can handle it all.

What should you do? First of all, stand up like a big girl and answer the questions about Whitewater all by yourself. When that's done and it will be, cut loose from the day-to-day internecine warfare of the White House. Step back from the wrangles over appointments and the strategy sessions and the power struggles.

Treat health-care reform as what it is — a tough job, but your job. Go to it in the morning. Get an office out of the White House if you have to. Work hard. Do your best. Go home at night.

When you get there, kick back, put on the slippers and the sweats. If you don't have to go downstairs to some state dinner, get something out of the refrigerator, check Chelsea's homework, invite a friend over, put a video on. Let go.

Remember that there are two things you don't have to be: You don't have to be a co-president. You don't have to be everything to everyone. Even to every woman.

Ellen Goodman is a syndicated columnist for *The Boston Globe*.

BRUCE LEDEWITZ

### Punishment most cruel

This society believes that a murderer is garbage and the death penalty is a garbage disposal

Once again conservatives wish to avoid a discussion of whether the death penalty is a cruel and unusual punishment.

Recently, U.S. Supreme Court Justice Harry Blackmun wrote in a dissent that the death penalty is prohibited by the Eighth Amendment because it is always a cruel and unusual punishment. In response, Justice Antonin Scalia wrote, and in the pages of the *Post-Gazette* columnist George F. Will repeated, that the death penalty could not be a cruel and unusual punishment because of a reference in the Fifth Amendment to deprivations of "life" ("Blackmun's Wrong," *Perspectives*, March 3). The framers of the Bill of Rights assumed that the death penalty was a valid punishment.

The framers probably did assume that the death penalty was valid. Now in that very same Fifth Amendment, in the double-jeopardy clause, there is a reference to being subject to the loss of a "limb" in the context of a criminal trial. The framers of the Bill of Rights assumed not only that a prisoner could be executed but also that he could have a limb cut off. But the Supreme Court does not allow government to reinstate ear cropping or nose gouging or cutting off hands for theft. If conservatives were intellectually honest, they would criticize these interpretations of cruel and unusual punishment as well. But, of course, neither Scalia nor Will, nor anyone, doubts that cutting off a limb is cruel and unusual punishment.

The Supreme Court once before, in perhaps its greatest moment, faced a grave moral question in a legal context. The issue was segregation and the case was *Brown vs. Board of Education*.

As in the death-penalty context, conservatives pointed out then that the framers of the equal protection clause assumed that segregated schools would continue. Indeed, the framers created segregated schools in the District of Columbia. Conservatives also pointed out that there was no national consensus against segregation. Seventeen states required it by law and many people sympathized with it. Conservative voices then, as now, drew the conclusion that a decision condemning segregation would be mere personal preference by the justices.

Fortunately, the court ignored these voices and outlawed segregation. Neither Scalia nor Will would today condemn the court's decision. But what the justices did then, these conservatives deny the right to



Justice Harry Blackmun  
He's right

do today. For *Brown* was based on interpretation. The justices were not able to interpret the phrase "equal protection" in a way that comported with segregation. Law is an endeavor of meaning. And its concepts must be intelligible. Despite history and consensus, the justices had to interpret "equal protection" and the only interpretation that made sense to them was one prohibiting segregation.

Before the court now is another phrase — "cruel and unusual punishment." It does no good, indeed it is abhorrent to the legal tradition, to assert that the death penalty cannot be cruel. Rather, conservatives must do the hard work of interpretation. What explanation can they bring to us in which the death penalty can be understood as not cruel? In other words, either condemn *Brown* and allow ear-cropping or tell us what cruelty means.

Justice Blackmun has given his answer to that question. The death penalty is cruel, he says, because it cannot be administered fairly. Rich people do not receive it. Good defense attorneys can normally avoid it.

Bad attorneys are all too common. Killers of whites are executed vastly disproportionately and so forth. Perhaps this is not good account of why a punishment is cruel. But I have not heard a convincing rebuttal of these facts.

Justice Scalia's opinion does contain a morsel of an account of cruelty. He criticizes Justice Blackmun for not focusing on a worse case than a simple murder. Justice Scalia wants us to consider a murderer who tortures a little girl to death. This account suggests that giving people what they deserve is not cruel.

But such a murderer would not deserve simply to be killed. Obviously he would deserve, at least in some popular sense, to be tortured to death himself. But everyone would admit, I think, that a torture execution would be a cruel punishment. All Justice Scalia has shown is that this murderer was cruel; but we are still commanded not to be.

For me, the cruelty of the death penalty resides in its denial of the humanity of the criminal. This society believes that the murderer is garbage and the death penalty is a garbage disposal. We execute him because we do not want to feed him. And because, as something less than human, there is not any reason not to kill him.

By this account, the cruelty of the death penalty resides in our attitude rather than in the act itself. In ancient Jewish law, for example, the consequence of the execution was expiation of the sin. The judges fasted on the day of the execution. Out of their respect for all human life, they took the execution of even the worst criminal with great seriousness and awe. And in a sense hard for us to grasp, the execution was for the sake of the condemned criminal.

I could be wrong about this society's violent hatred for its murderers. Some people claim that we are treating them as members of the community by holding them ultimately to account. I think such people are fooling themselves. I doubt our justices are fasting. Nor our governors. Certainly not our voters. There is no awe for human life in this culture. There is, instead, callousness. And a great willingness to see others as less than human. The punishment that expresses this attitude — the death penalty — is indeed a cruel punishment.

Bruce Ledewitz is a professor of law at Duquesne University.

FIRST PERSON

LIZ ODOROFF

### Life as a numbskull

What's wrong with you! Are you suffering from brain damage?" my colleague snarled as I walked down the hall toward her. I'd asked what I thought was a simple and direct question, "What are you teaching this term?" Judging from her unexpected response, I realized I'd probably hit a vulnerable spot, but little did she know, I might be suffering from brain damage.

A few years ago when I read that a news director called burned children "crispy critters," I wondered what he'd call people like me. Maybe "fathead" because fat from my left thigh was used to fill the hole in my skull where my meningioma (a benign brain tumor) had been removed in 1989.

Before Dr. Laligam Sekhar, formerly of Presbyterian-University Hospital, explained it to me, I assumed that the space the tumor had invaded would return to the way it was before — the way sand fills in holes on the beach when the waves wash in. Not so. The space in my head remained empty, and body fat was packed into it to fill the void.

The news director also might have called me a numbskull because the left side of my head is numb from the surgery. Sometimes when I bump that side, I'm surprised by the sound. It's the same hollow sound that used to make my brother and me laugh when we were kids and we opened our mouths and

knocked the top of our heads with our knuckles.

Some of the many new sensations I've experienced, I'd trade with no argument. What I won't trade is the feeling that if the news director calls me fathead or numbskull or my colleague snarls about my having brain damage, it's their problem.

I've worked for five years to accept that I won't ever be the same as I was before my surgery, that who I am now is different, but still OK. The challenge has been learning to live with the "small sacrifices" I chose to exchange for my life. The surgery was the easy part of it all. In the gifted hands of Dr. Sekhar, I got back my life.

Just as important, I carry in my heart the strength he and his nurse, Lois Burkhart, helped me find for what has been the difficult part — learning to live with and accept the new me — learning to like the woman with a numb skull and numb face, with wobbly balance and a deaf left ear, with an undependable left eye that has a deep indentation next to it, with a quarter of her head bald, with a muscle from her lower back grafted onto the back of her head. These small sacrifices are large changes for me to learn to live with.

I see puzzled looks on peoples' faces when I ignore conversation they think they

are having with me because they are speaking to my deaf ear. I find that when I'm open, honest and direct about the deafness in my left ear, people are very supportive. It is the courage to accept my own disabilities that is hardest. Others are very supportive when I give them a chance.

"I'm not saying your tumor was a good thing, Mom — and I hope this doesn't upset you and sound too weird — but from your tumor, I've learned I have the strength to survive," my 22-year-old son told me recently. Both he and my daughter saw their mom go in and out of the hospital for eight months.

Kissing is one of the most difficult losses for me. At first, I kept trying to express and feel the affection I'd felt prior to surgery, but I was literally, physically numb. I felt a constant sadness at the distance my numbsness put between me and those I love.

Creating new ways to express my feelings and satisfy my needs has been most difficult for me to learn because, for a long time, I resisted and kept trying to "be the person I was." I'm slowly learning to be different — and, to my surprise, I'm even liking the unexpected challenges it brings.

Liz Odoroff teaches courses in composition and detective novels at the University of Pittsburgh.

ANDREW M. GREELEY

### Pity the Irish

Research shows that they are the best educated and the most financially successful gentile ethnic group in America

St. Patrick's Day draws near and the Irish, thought by many to be a pitiable and pathetic people if ever there were one, will swarm into the streets and bars to celebrate their own mediocrity and disturb the peace of respectable citizens with their noisy, drunken songs.

Alone of all the immigrant groups, the Irish never seem quite to have made it in America. Their religious superstitions, their contentiousness, their perverted love of wordplay, their romance with the drink, their oppressive family structures — all have combined to keep the Irish in the working and lower middle class.

Recently a prominent New York editor turned down a book because, while it was "fascinating," it was about the Irish and the community was deemed too small to interest readers. Such books might be published if they were about WASPs or Jews, I guess, but not about the Irish. Who cares about them? What are they good at except politics, and normally corrupt politics at that?

True? You gotta be kidding! In fact,

unassailable and unassailed (but ignored) research evidence shows that the Irish are the best educated and the most financially successful gentile ethnic group in America, even if they haven't lost what others think are their perversities — an obsession with words, legal and political skills, incorrigible Catholicism and their strange blend of fatalism and hope.

When do you think the Irish caught up with the average college attendance rate of the country? The 1970s? the 1960s? The 1950s? In fact, the Irish rate of college attendance surpassed the national average in the nineteen-aughts (first decade of the century) and has remained above the national average ever since.

Moreover, whether East Coast media bigots believe it or not, on almost every political and social issue in the country the Irish come down on the liberal side. They even tie with Jewish men for second place in their pro-feminist attitudes (Jewish women taking first place, but not by much). There is a story about Mrs. Joseph

Kennedy long ago leaving a tea attended by prominent establishment types and wondering, "When will they ever accept us?" The answer, of course, is that "they" never will and to hell with "them."

The Irish can laugh all the way to their commodity brokers (who are also probably Irish). They are the invisible American success story. What counts to people whose country was occupied by a foreign power for seven centuries is the success and not the visibility.

But are the Irish really not respectable? Is it only in places like Harvard and Dutton publishing that social geography consigns the Irish to the lower depths?

At the slightest hint that we have become respectable, we Irish will be deprived of one of our precious privileges: the right, the time-honored and sacred right, to feel sorry for ourselves. I fear the day has come when that right must be challenged.

Two nice Irish boys from the University of California at Berkeley named Michael Hout and Joshua Goldstein have written an

article for the current issue of the *American Sociological Review* in which they establish that there were 4 million Irish immigrants to this country.

Taking into account the "natural" population increase, this should mean that there are 14 million Irish-Americans who will celebrate the holy day tomorrow. However, Hout and Goldstein cite census data to prove that there are 40 million Americans who claim to be Irish.

There are twice as many Irish as there ought to be, heaven save us all! It would appear that the old saw about there being Irish and those who would like to be Irish has some truth after all. Some of these "converts" to Irishness are the children of ethnically mixed marriages, but intermarriage does not explain the increase in the Irish completely.

It would appear that for a vast number of Americans being Irish is a good thing to be, even if your claim to being a descendant of the Old Erin is tenuous at best. Even

President Clinton (with more than tenuous reason) claims to be Irish!

Perhaps the Hout-Goldstein findings can be kept secret. They certainly will not win the Irish any more respect from the Establishment. People with bigoted social geography in their imaginations like the New York editor will certainly not change their minds. (A large potential Irish audience for books? Heaven forbid!)

The rest of the country seems to respect us too much as it is. So let's hide the facts and cling to our self-pity. It'll be a sad St. Patrick's Day when we can't feel sorry for ourselves. And a sadder one still when, paradoxically, we can't laugh at the fools who think there's really something to be sorry about.

Andrew M. Greeley, a Catholic priest, is professor of social science at the University of Chicago and professor of sociology at the University of Arizona. He also writes popular fiction based on Catholic themes.

MIKE ROYKO

### A prayer answered

But sad end is par for the course

CHICAGO

Maybe you don't believe in miracles, faith or the power of prayer. These are not subjects I write about frequently. In fact, I don't think I ever have.

But I have just heard a story so amazing that I must pass it on to those who have disdain for spiritual life.

I will begin at the beginning. Anne Balzanto, 35, is principal of Our Lady of Lourdes School in Chicago. Ginger Dalton, 54, has been teaching at that school for 24 years.

Every Friday after school, weather permitting, they play golf.

They usually play at a public course in the northwest suburbs. But on a recent Friday, they decided to play somewhere else. That is a significant part of this story.

"That day, we were going to Rob Roy, our favorite course. But I said: 'Let's go to Skokie Playfields instead,'" Anne says.

That is the village-owned golf course in the wealthy suburb of Winnetka.

Anne isn't sure why she decided to switch courses. "It's like we were drawn to that place," she says. "Anyway, we were on the second hole . . ."

Ginger interrupts. "Wait a minute, it starts before that. Before we teed off, a golf attendant tells us some lady lost a diamond bracelet and is frantic, so we said, 'Oh, sure, no big deal.'"

"So we're waiting at the second hole, and there's this beautiful woman in the cart. The man tells us about the lost bracelet. And I tell the woman: 'You should say a prayer to St. Anthony.' And she said: 'I don't have time to deal with that. My husband is going to kill me.' So I said a prayer out loud anyway. I said: 'Dear St. Anthony, we pray, bring it back without delay.'" Ginger says.

Then the beautiful woman rode off, and they teed off, with Ginger plunking her ball in a pesky creek.

Let Anne tell it: "As we were looking in the water, which was real murky, I saw something sparkling. So I yelled, 'We found it, we found it!' And I put my hand in the muck and I pulled out this bracelet."

As Ginger says: "We're talking big! A row of diamonds on heavy gold. Stunning. So we both yell and wave our arms to catch the golf cart with the woman."

Says Anne: "So she comes running over and puts her arms around me and gives me this big hug."

Says Anne: "Then she said she had to get my name and phone number. So I wrote it down for her. And we told her we worked for a Catholic school. And we told her that anything we got would go to the school."

Then the blonde rode off in her golf cart and Ginger and Anne finished their round. And they began waiting.

Anne says: "It was a week. Then two. Ginger kept asking if she called."

Ginger says: "Not even a note." Anne says: "I am a little disappointed. People nowadays don't find diamond bracelets and without hesitation give them back!"

Ginger says: "But our students think it is a cool story. I think the title should be, 'Honesty is its own reward.'"

Anne says: "Maybe she hasn't told her husband yet."

When I heard this story, I was skeptical. It struck me as unlikely that someone would lose a diamond-encrusted gold bracelet in a golf course creek. And that it would be found after a prayer.

But Courtney Miller, a golf pro at the Winnetka municipal course, said: "You mean the lady who lost her bracelet and some Catholic teachers prayed to some saint and they found it? Yeah, it happened here. It's a true, goofy story."

"But they met those two people, and they said a prayer. No sooner had they said it, they found it. It's weird."

So ye of little faith, think about it. And ye rich blondes who lose bracelets on a golf course — come on, send them a check.

Mike Royko is a syndicated columnist for *The Chicago Tribune*.