

Wits Centre for Ethics (WiCE)

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Talk and main speakers' introduction

by

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* I am grateful to my law clerk Dr Nick Ferreira for his help in drafting these remarks.

Good evening ladies and gentlemen. It is a great honour to be able to speak at the launch of the Wits Centre for Ethics. I am also proud to be able to introduce first Archbishop Emeritus Njongonkulu Ndungane and then later Baroness Onora O'Neill. In their careers and lives they have both given effective leadership in ethics. I shall say more about each of them later.

But first a very few remarks to follow up Mark Leon's exposition of the thinking behind WiCE.

And indeed some of you may wonder why Wits has invited a lawyer to participate in the launch of a centre devoted to ethics. Chief Justice Rehnquist of the United States told how he used to start his speeches with a joke involving a caricature of a vicious, grasping unethical lawyer. But he gradually realised that lawyers in the audience didn't think the jokes were funny – and the non-lawyers didn't think they were jokes.

Despite my profession's sometimes questionable engagement with ethics, I am happy to affirm that there is a real need for this Centre, and that its establishment is timely and hopeful. We join tonight in commending Wits University and the Department of Philosophy on their vision.

Indeed, the need for the Centre seems obvious. Breyten Breytenbach, self-exiled author and poet, recently described South Africa as a failed state morally. Even discounting for the fact that Breytenbach is a serial whinger, it is undeniable that –

- our country has a staggeringly high rate of criminal deprecation (including repugnant offences such as child rape),
- our politicians and bureaucrats are often accused of corruption,
- racism of many kinds continues to permeate our dealings with each other, and
- material inequality and dispossession are extreme and seem to be getting worse.

What country (and which city) could possibly need a centre for ethics more than ours?

But the practical solutions to these problems are perhaps not the proper focus of the Centre's work. Amending patterns of human behaviour and reforming social institutions are perhaps not most effectively undertaken by philosophers (or by indeed lawyers).

But there is a problem the Centre is I think uniquely suited to address – and that is the poverty (or indeed absence) of a common ethical culture and language in our country.

For many complex interrelated reasons, South Africa, more even it seems than other multicultural, pluralistic democracies, lacks an ethical lingua franca. Too often when we disagree on fundamental ethical questions, we seem incapable of having reasoned discussions with each other.

Many factors distort our ethical discourse. I will mention three, whose genesis is closely inter-related – our apartheid past, racism and continuing inequality.

The first is the poisonous legacy of apartheid. In terms purely of blood shed and lives lost, apartheid was not the worst human rights atrocity on the African continent. By those measures, the tragedies of Biafra, Burundi and Rwanda far outstripped it. But it

was uniquely pernicious in ways that have perhaps proved more enduring in our human engagements, namely its inversion of the fundamental values of equality and human dignity. In this it severely injured our capacity to see one another as moral equals. For seeing each other as moral equals is a precondition for entering into respectful relationships. It is also a requisite for engaging each other as moral agents. We have not yet walked free from apartheid's long legacy.

Second is that legacy's most profuse fruit, namely race. It is such a loaded and emotional part of our identity that too often it impedes South Africans from engaging one another on the merits of ethical and political questions. When ethical criticisms are made, often-instant invocations of race obtrude. This allows two currents of poison to continue to flow – the continuing prevalence of racist behaviour on the part of whites, and the bogus invocation of race to blunt, stifle and intimidate warranted criticism and to disenfranchise some from the ethical debate.

Third, this history and its present poisons are overlaid and reinforced by debilitating and degrading economic inequality.

These and other factors have combined to impede the development of a common culture of ethical reasoning. They need the Centre's devout attention.

In *Justice as Fairness*, John Rawls wrote that “An essential feature of a well-ordered society is that its public conception of political justice establishes a shared basis for citizens to justify to one another their political judgments: each cooperates, politically and socially, with the rest on terms all can endorse as just. That is the meaning of public justification.”

Rawls sought something more ambitious than the common culture of reasoning I have mentioned. He pursued the notion of a political conception of justice sufficiently neutral across different conceptions of the good to be capable of sustaining consensus in a pluralistic society.

That may be an ultimate goal, but its indispensable prerequisite is something more elementary: the establishment of a culture and a language of ethical and political discourse in which reasons are primary – and in which treating others as unequals, or depriving them of material conditions that permit their substantive participation in debate, or smothering debate by expedient accusations of racism, are seen as unacceptable.

In such a culture, engaging with another's views occurs through reasons and arguments.

The notion of justification is central to a culture of reasoned debate. South Africa is in desperate need of a culture of ethical justification in particular. Our law has attempted something along these lines by imposing firm requisites of justification and accountability on those who exercise public power.

But that culture can be sustained only if it spreads beyond the law, into the wider realm of ethics.

In my view, therefore, the Centre's main value will lie in its contribution through advocacy, teaching and research to a shared ethical culture of justification.

This is not to say that philosophers agree, any more than the rest of us, on ethical issues. But this is more about method than outcome. The philosophical approach to ethical questions, which requires defence of positions with reasons and arguments, has the potential to enrich and perhaps ultimately to re-ground our public life.

Philosophy requires one to be open to persuasion. It requires thinking with conceptual clarity, drawing fine distinctions and exercising care before embracing conclusions.

This can ultimately prove invaluable in decision-making. In the United Kingdom philosophers often participate on governmental bodies dealing with the practical implications of ethical questions. Baroness O’Neill, for example, has served on the House of Lords select committee on stem cell research, the Animal Procedures Committee, and the Human Genetics Advisory Committee.¹

It seems important to affirm that an approach to ethics that is more “philosophical” in this sense, in the deliberations of public bodies, in debates on ethical matters in the media, and greater knowledge of ethics among our legal and medical practitioners and other professionals and public servants, would deepen and strengthen our capacity to make wise choices for our society.

Of course there is a danger (one that stalks academic philosophers everywhere) – if a centre of this kind produces *only* work in the highly specialised, technical form of professional academic philosophy, it will barely influence the broader ethical culture. But the founders and members of the Centre are undoubtedly alive to that risk – and the website’s emphasis on teaching and advocacy lays the basis for a practical impact.

Quite apart from these practical ways in which philosophers and philosophy can improve ethical discourse and the quality of decision-making, there is a value to rigorous philosophical research into ethics that outstrips its practical benefits. Ethical research is important for what we should believe, quite apart from the guidance it gives as to what we should do.

G.A. Cohen made this point about political philosophy – and it applies no less to ethics and moral philosophy: if “you think that political philosophy is a branch of philosophy, whose output is consequential for practice, but not limited in significance to its consequences for practice”, you may also think “that the question for political

¹ She is not unique in this regard – consider also the role in public life and debate played by British philosophers like Mary Warnock and Bertrand Russell.

philosophy is not what we should do but what we should think, even when what we should think makes no practical difference.” (*Rescuing Justice and Equality* p310).

All of that to say: the inauguration of the Centre is a reason for celebration.

It is my pleasure to be able to introduce **Baroness Onora O’Neill**. Baroness O’Neill is a highly regarded moral and political philosopher, and her influence in philosophy is tremendous. She has written widely on political philosophy and ethics, international justice, bioethics and the philosophy of Immanuel Kant. Her books include *Towards Justice and Virtue*, *Bounds of Justice*, and most recently, *Rethinking Informed Consent in Bioethics*. In addition she is a crossbench member of the House of Lords, and has served on several public bodies dealing with ethical questions. It would take too long to mention all of the prizes and distinctions she has received in the course of a glittering academic career; and I can think of no more apt philosopher to speak at this event.

(My law clerk, Nick Ferreira, who drafted my comments tonight, adds this: *if we want to critically engage the views of the speakers, Baroness O’Neill is strongly (and wrongly!) sceptical about social and economic human rights, which form such a key part of our constitutional walk away from apartheid’s iniquities; while we could implore the Archbishop to renounce the wrong-headed notion that religions have special or indeed any authority on ethical questions ...*

We are privileged to have with us this evening **Archbishop Emeritus Njongonkulu Ndungane**. Archbishop Ndungane retired as Anglican Archbishop of Cape Town at the end of 2007, and remains actively involved in many issues of public interest. He has been deeply involved in campaigns to abolish debt, combat poverty, tackle HIV/AIDS and promote the Millennium Development Goals. He speaks widely on these issues as well as on rebuilding the new South Africa and theological questions. The Archbishop served a sentence on Robben Island as a political prisoner for his part in organising anti-pass law demonstrations from 1963 to 1966. He was awarded the Order of the Grand Counsellor of the Baobab: Silver by President Thabo Mbeki in

April 2008, who cited his excellent contribution to the struggle against apartheid and striving for a world free of wars, poverty and inequality. This brief summary is inadequate to encompass the life and work of a man who has truly lived by his moral convictions.