RACIAL IDENTITY IN CONTEXT

THE LEGACY OF
KENNETH B. CLARK

EDITED BY
GINA PHILOGÈNE

12

Interobjectivity and the Enigma of Third-Order Change

Fathali M. Moghaddam

Each generation of scholar-activists seeking to change society toward greater justice is confronted by the particular challenges inherent in their historical era. The type of societal change possible is circumscribed by the characteristics of the context, ranging from a context that fully supports equality of opportunities to a context that fully supports inequalities. Kenneth Clark and his generation of scholar-activists struggled to level the playing field in the context of *first-order change,* in which intergroup inequalities were justified by both formal law and the informal normative system. Their monumental efforts transformed the context to one allowing for *second-order change,* in which formal law has been reformed to ban inequality of opportunities on the basis of group membership, but the informal normative system still allows and in some cases even supports unequal treatment. The contemporary and future challenge is to create the context of *third-order change,* in which equal treatment is supported in both formal law and the informal normative system and a true meritocracy thrives (my classification of change builds on that of Watzlawick, Weakland, & Fisch, 1974). Thus, third-order change represents an ideal, not yet realized by major societies, in which both formal and informal law support equality of opportunity for all individuals.

Violent revolutions, massive collective movements, enormous educational programs—so far even seemingly monumental efforts to create the context for third-order change have failed. Twenty-five hundred years after Plato outlined a meritocratic society in *The Republic,* the enigma of third-order change still confronts scholar-activists (clearly, I see Plato's *Republic* as more open than do some of its critics, such as Popper, 1945/1966). Our actual situation is still far closer to the perpetual and universal inequalities postulated by Pareto (1935) than to fulfilling true meritocracy. Given that Clark and his generation helped to reform *black-letter law,* the formal laws of the land, why has it proved so difficult to also reform the normative system that regulates behavior in everyday life? Why is it so difficult to implement the law and put meritocracy into practice? My objective in this chapter is to take an albeit modest step toward addressing this issue and thus help to better understand the enigma of third-order change.

As part of my assessment, I introduce the concept of *interobjectivity*, the understandings that are shared within and between groups about social reality (Moghaddam, 2003), an example being understandings shared within and between African American and White American groups. Part of such understandings are stereotypes, values, and the like. Interobjectivity serves as a context for interpersonal relationships and the understandings individuals have of one another. Relations between individual African Americans and individual White Americans are shaped by interobjectivity, both what the groups share and how they differ in terms of objectifications of the world.

I begin by highlighting the continuing gap between formal black-letter law and the normative system, particularly in the treatment of minorities. Next, I distinguish between two fundamentally different types of psychology, and why traditional psychology has failed to address third-order change. Then, in the longest section, I argue that on the one hand, psychology is extremely well positioned to contribute to progress toward great justice and third-order change. This is because some fundamental human rights are psychological prior to being reflected in formal law. On the other hand, in practice psychology has not been able to contribute to progress toward third-order change because of the historic biases and limitations in psychological research. Finally, I refer to a new cultural theory of societal change to help better understand the enigma of third-order change.

Although Clark's work and this discussion are set in the context of North America, the enigma of third-order change confronts all human societies. The exportation of Western psychology to non-Western societies (Moghaddam, 1990), and the more recent growth of indigenous psychological research in non-Western societies (Carr & Schumaker, 1996), have raised expectations that psychology should contribute to national and international progress (Moghaddam, Bianchi. Daniels, & Harré, 1999), and particularly the equal treatment of minorities (Moghaddam, 1999; Moghaddam & Crystal, 1997). As with Clark's struggle, this discussion should be seen in the world context rather than just the U.S. context.

A note of caution is required at the outset. As part of their attempts to maintain the status quo and derail reform efforts, segregationists argued against Clark's position during the course of the *Brown* trial to the effect that it is useless to change formal law, because informal behaviors will remain the same (Jackson, 2001). This is obviously an excuse to prevent needed reforms. However, a central theme of my argument is that the reform of formal law is necessary but not sufficient, and that it is also essential to transform the informal ways of doing things and interobjectivity, the worldviews that people share within and across groups.

The Persisting Gap Between Black-Letter Law and Actual Behavior

Kenneth Clark and his generation of scholar-activists helped to reform black-letter law, so that legally, at least, all U.S. citizens now enjoy equality of opportunity in most domains. However, in many instances actual behavior has

not been changed in line with black-letter law. Unfortunately, one does not have to look far to find examples of this gap in the United States. A few such cases, such as the Rodney King beating in Los Angeles and the Abner Louima torture in a Brooklyn police station, gain media attention and become widely known. But far less attention is given to more systematic institutionalized violations of black-letter law in the United States (Lott & Maluso, 1995), such as the use of the Astun belt, through which correctional officers can inflict a 50,000 volt shock to prisoners through remote activation from hundreds of feet away. Commenting on the increasing use of stun belts in the United States, the Executive Director of Amnesty International USA has argued, "Zapping a prisoner wearing a stun belt . . . is no less cruel, inhuman or degrading than sodomizing a suspect with a stick inside a police station" (Amnesty International USA, 1999). The stun belt is part of a new high-tech prison industry, holding about 2 million prisoners, disproportionally made up of ethnic minorities, which is becoming more privatized in some U.S. states. Private investors have found that the expanding U.S. prison system yields high returns, and a question comes to mind about conflicts of interest: Will the profit motive lead investors to push for a tougher "war on crime" so that the prisons they have invested in remain fully occupied? Even if we neglect such more subtle injustices, the more blatant ones stare us in the face in the U.S. justice system, such as the systematic abuse and execution of minorities (e.g., see Amnesty International, 1998; Bright, 1995).

As the only world superpower, the United States has more opportunities than any other country to influence intergroup relations and justice globally, whether it be by setting an example for others to follow or by directly applying political and economic pressure on other countries. More efforts need to be made to succeed using the first strategy, so that by improving its domestic justice record the United States can set a better example. Psychologists can contribute to this effort by examining and highlighting the experiences of those segments of U.S. society that experience violations of black-letter law. But a central characteristic of traditional psychology has limited the impact of psychological research in the justice arena. Next, I elaborate on this point by clarifying between two fundamentally different traditions in psychology, and the dominance of a research tradition that leads to the neglect of third-order change.

The Psychologies of Performance Capacity and Performance Style

From its beginning, scientific psychology has incorporated two fundamentally different traditions, each focused on two very different types of performance: *performance capacity*, how well isolated individuals do things based on their biological makeup, and *performance style*, the ways in which behavior is carried out through interactions with others and the meanings ascribed to phenomena. The dominant tradition in psychology has been concerned with performance capacity; performance style has received scant attention. This is in large part because of the model of science adopted in psychology, a positivist model that

seeks to establish causal relations (Moghaddam & Harré, 1995). Indeed, behavior in the realm of performance capacity is best explained through a causal model: Biological characteristics causally determine aspects of behavior. For example, in the case of the patient H.M., neurosurgery removed parts of his hippocampus and associated regions, leading to an inability to add new information to his long-term store (see Milner, 1966). The lesion caused a change in memory functioning.

The tradition of research on performance capacity is strongly associated with the experimental laboratory; studies are conducted under controlled conditions, and independent variables (causes) are manipulated to test their impact on dependent variables (effects). The classic paradigm for such research was established in the 19th century (see Thorne & Henley, 2001), by Wundt (1832–1920) in thought and imagery, Fechner (1801–1887) in psychophysics, Ebbinghaus (1850–1908) in memory, among others, and focused on the performance of isolated individuals. For example, although Ebbinghaus used himself as the main participant in his research, creating more than 2,300 nonsense syllables to study his own remembering and forgetting, it was still his performance as an isolated person, and not in interactions with others, that remained his focus. Also, and very important, Ebbinghaus attempted to exclude meaning from his studies, and his use of nonsense syllables, rather than meaningful words, was one means of achieving this goal (subsequent research showed that people ascribe meaning to nonsense syllables, thus rendering them meaningful).

Research in the performance capacity tradition has given us valuable information about the range of abilities of individuals. For example, young adults can see light waves ranging from about 400 to 700 nanometers (nm) and have a short-term memory of about seven plus or minus two bits of information (Kalat, 2002). Information about performance capacity is particularly important in applied psychology, such as in the areas of education, health, and industry. However, performance capacity tells us nothing important about the meaning people ascribe to life experiences, such as those in the domain of justice.

Behavior in the realm of performance style, on the other hand, is best explained through a normative model and with reference to interobjectivity: Individuals behave appropriately according to one normative system rather than others. For example, in the domain of justice, it is performance style and interobjectivity that has primacy. Even when behavior in the realm of justice looks as if it is based on rigid cognitive mechanisms within isolated individuals, on closer examination the role of dynamic, socially constructed and collaboratively upheld meanings is revealed to be central. Consider, for example, Steele's research program on stereotype threat (Steele, 1997; see also chap. 4, this volume). The basic paradigm involves individuals being tested in the exam tradition under two conditions: In Condition 1 a detrimental stereotype is introduced pertaining to a particular group of participants (e.g., Women are not good at mathematics), but this stereotype is absent in Condition 2. The findings show that the presence of a stereotype detrimentally affects the performance of the participants belonging to the target threatened group (e.g., women) in Condition 1. How are we to explain this finding?

It is incorrect to interpret Steele's findings in terms of performance capacity and a causal model: Stereotype threats did not causally determine behavior, at least not in the sense of what Aristotle refers to as efficient causation, wherein the cause precedes the effect it produces. Participants in Steele's study, as in all studies in the realm of performance style, can and do sometimes behave differently, following alternative normative systems. Thus, not all of them are influenced by stereotype threat in the same manner.

Stereotypes are collaboratively constructed and collectively upheld; they are part of a shared meaning system "in the air," external to the individual. They are part of interobjectivity, based on collective processes. Stereotypes existed before the arrival of an individual and continue to exist after an individual has departed. Although stereotypes can and often are appropriated by individuals, their survival does not depend on particular individuals. They survive in discourse and communications generally, and that is in part why they are so powerful.

Like all aspects of performance style, stereotypes concern meaning and are integral to meaning systems in the larger society. Through such meaning systems, individuals may come to unconsciously hold negative views of ethnic minorities, and such negative evaluations could be correlated with higher activities in certain parts of the brain, such as the amygdala (see Phelps et al., 2000). However, it would obviously be a mistake to view the role of the brain in this case as causal, because stereotypes about groups are socially constructed and collectively sustained.

Similarly, human rights and duties are part of performance style, intricately interwoven in the way we do things and the meanings we give to different aspects of the world. I argue that some elementary human rights and duties are derived from universal features of human social relations. Such social relations are particularly important from a psychological perspective, because they suggest that at least some basic human rights and duties are psychological prior to being formalized in black-letter law.

Exploring the Psychological Roots of Human Rights

A major proposition of this chapter is that the political and legal concepts of some fundamental rights, as well as some fundamental duties, have their origins in certain psychological characteristics of human beings, and more specifically in *primitive social relations,* or the social relations that have to be present for even a rudimentary human society to function (Moghaddam, 2000). I elaborate on this proposition by discussing examples of primitive social relations, the cultural interpretation of such relations as rights and duties, the cultural transmission of normative rights and duties, and the evolution of legislated rights and duties.

Although I focus primarily on the psychological nature of primitive social relations, it is important to point out that they are both social and psychological. Primitive social relations are social in the sense that they are part of the normative system of norms, rules, values, and so on that inform individuals

about how they should behave. Thus, for example, the norm in most societies is to generally behave in a trustworthy rather than an untrustworthy manner; this is taken to be the correct way of doing things. Primitive social relations are integral to interobjectivity and exist prior to the arrival of an individual, and they persist after an individual leaves the social scene. However, primitive social relations are psychological in that they become appropriated by individuals, accepted by most people in most situations as the way things should be done, and fundamentally influence thinking and action. For example, rules regulating trust are appropriated by individuals and come to influence thought and action in the details of daily life. In this way primitive social relations are psychological and integral to individual thought and action.

Primitive Social Relations

During the course of human evolution, biological and cultural factors have interacted to influence human survival. My focus here is on certain cultural factors, primitive social relations, which undoubtedly appeared early (Megany, 1995) and well before the beginnings of language about 150,000 years ago. Primitive social relations include styles of perceiving the world, such as the social categorization processes through which we group the social world, in ways such as "us and them," "young and old," "men and women," "Black and White," and so on. Experimental evidence suggests that there are certain continuities between how we categorize the nonsocial world and the social world, one such continuity being the tendency for between-groups differentiation and within-group homogeneity to follow categorization (see Moghaddam, 2002, chap. 4). That is, once a set of items are placed in two categories, X and Y, then there is a tendency for perceivers to exaggerate differences between X and Y and to minimize differences within X and Y. This occurs irrespective of whether the items categorized are social (people) or nonsocial (e.g., lines of different lengths). This implies that the act of categorization takes place, at least in some respects, at a superordinate level that embraces the relationships we have with both social and nonsocial phenomena.

Another example of primitive social relations is status hierarchies, which have been found to be inherent in most human societies, although the degree to which, and the basis of, status differentiation differs markedly across cultures. Although there are cultures in which the concept of group leader as it exists in modern societies does not exist (see Middleton & Tait, 1958), differential evaluation of group members and the ascription of unequal status on that basis, albeit in an informal manner, is found even in "communal" societies.

The objective of this chapter is not to conduct an exhaustive survey of possible primitive social relations but to explore in a more in-depth manner two specific examples of such phenomena: turn-taking and trust. The main reason for focusing on these two examples is that they have particularly central roles in all human social life, and it is difficult to conceive of any other primitive social relations that might be more important, either in contemporary societies or in the long evolution of human life. In what follows, I argue that trust and turn-taking have been absolutely essential to human survival. Of course, I am

not equating sur
a group to surviv
of junk bonds, cr
multiply in give
sent progress.

Turn-Taking

Turn-taking is a
and nonverbal co
interactions. Res
the pervasivenes
"rules of politene
Eibesfeldt, 1989
helped by the u
speech to regulat
surprising, becau
would not be pos

One way to
to examine the r
that are central t
and duties more
traditional cultu
favors, and band
of mutual depend
(Yang, 1994, p.
primacy and bin
meeting the need
a company empl
hard-to-find med
finally after 3 d
house. The empl
The power of Gu
in doing favors:
a series of excha
much larger.

Interobjectiv
relationships au
personal wishes
person being tric
meet their dutie
who is tricked in
a request for tim
off because of th
official ways of d
in a turn-taking

Of course, I
associated with

not equating survival with progress; just because some aspect of culture helps a group to survive does not imply improvement. Television evangelists, floaters of junk bonds, creators of violent video-games, and many others can thrive and multiply in given ecological conditions, but this does not necessarily represent progress.

Turn-Taking

Turn-taking is an integral feature of human social relations, not only verbal and nonverbal communications but also all forms of activities involving social interactions. Researchers from diverse scientific backgrounds have highlighted the pervasiveness of turn-taking and the transmission of appropriate cultural "rules of politeness" to infants and young children (e.g., DeLong, 1977; Eibl-Eibesfeldt, 1989). Nursing infants learn to take turns in sucking and resting, helped by the use mothers make of the infants' sensitivity to categories of speech to regulate behavior (Eimas, 1985). The centrality of turn-taking is not surprising, because without some basic level of turn-taking, communications would not be possible and group functioning would become less efficient.

One way to highlight the central role of turn-taking in social relations is to examine the rules, norms, and other aspects of informal normative systems that are central to interobjectivity and regulate social relationships, and rights and duties more specifically. An example is a practice that is pervasive in many traditional cultures, and known in China as *Guanxixue*, "the exchange of gifts, favors, and banquets; the cultivation of personal relationships and networks of mutual dependence; and the manufacturing of obligations and indebtedness" (Yang, 1994, p. 6). The centrality of Guanxixue practices derives from "the primacy and binding power of personal relationships and their importance in meeting the needs and desires of everyday life" (Yang, 1994, p. 6). For instance, a company employee learns that the son of his boss is ill and needs a certain hard-to-find medication. The employee scours the city and nearby areas and finally after 3 days he finds the needed medicine and takes it to his boss's house. The employee has now created an obligation that the boss must repay. The power of Guanxixue is in the necessity Chinese people feel to take turns in doing favors: Once an obligation has been created, it acts as a first step in a series of exchanges, with the network of those involved possibly becoming much larger.

Interobjectivity implies that those who become involved in Guanxixue relationships automatically acquire duties and rights, independent of their personal wishes. Yang (1994) and others have cited numerous examples of a person being tricked into accepting a favor or gift, but nevertheless having to meet their duties based on obligations associated with Guanxixue. The boss who is tricked into accepting a gift from an employee is duty-bound to approve a request for time off, just as the employee acquires a right to ask for the time off because of the obligations created. In this way, Guanxixue cuts through official ways of doing things and enmeshes people belonging to all status levels in a turn-taking process.

Of course, I am not suggesting that turn-taking is always or even often associated with democratic processes. We have known for some time that those

who enjoy higher status tend to initiate and to end conversations (Brown, 1966). Inequalities of power characterize all major societies, and the more powerful typically are more in control of communications processes and outcomes. However, even when relationships are unequal, turn-taking has to be present at a basic level. Consider, for example, a teacher talking with a 6-year-old first-grader. The teacher will tend to initiate, direct, and end the conversation. However, the 6-year-old will still enjoy turns at saying things, otherwise the conversation would break down, and the child would typically be very quick to protest "It's my turn to speak!"

Although Guanxixue relationships are fairly malleable, in some societies systems of obligations are created that are far more stable, but still have turn-taking at their center. For example, Grinker's (1994) study of the Lese and the Efe (Pygmy) peoples in northeastern Zaire explores life-long partnerships between two people with seemingly very different characteristics, a "union of opposites." The Lese are farmers, the Efe are foragers and hunters; they speak distinct but mutually intelligible languages and have customs and rituals that are in major ways different. However, a sufficient level of interobjectivity allows for reciprocal relations. Through partnerships, which are for the most part hereditary ("a Lese man inherits the son of his father's Efe partner as his own," Grinker, 1994, p. 1), Lese and Efe men collaborate with one another in a wide range of activities: For example, the Lese give farm products and iron to the Efe, and the Efe give meat, honey, and other forest goods to the Lese. But exchanges go far beyond the material domain. Indeed, it would be a fundamental mistake to see turn-taking as simply the reciprocal exchange of material objects and services. For example, the Efe protect Lese villages from witchcraft; not to do so would be more than just abandoning "their turn" in doing things, it would be to step out of mutually upheld beliefs about how the world works. Constant across all the different domains of activities binding the Efe and the Lese are collaboratively upheld duties and rights, and socially enforced rules of turn-taking in activities.

Trust

Trust is another fundamental feature of primitive social relations. A characteristic of human societies that are functional is that members generally trust one another, although this trend is always broken by some individuals who others learn to distrust (Moghaddam, 1998, p. 9). Of course, there are fundamental cross-cultural differences in what we trust others with. For example, among a number of South American tribes, such as the Yanomamo (Chagnon, 1997, p. 20) and the Nambikwara (Lévi-Strauss, 1972, p. 270), the public use of proper names for people is insulting. Thus, for example, it would be an act of trust for a member of the Yanomamo to tell an outsider his real name, because it would mean the outsider has been placed in a position in which he now has the power to insult the Yanomamo individual by publicly using his name. But the fact remains that within the Yanomamo village, individuals do trust one another with such vital information, on faith that it will not be used against them.

The claim that trust is essential for the functioning of any human society is bolstered by studies that explore situations in which trust has broken down. One of the most exhaustive and best conducted of such studies is by Turnbull (1972), which focuses on the Ike, a traditionally nomadic group now forced to settle in northern Uganda, in a mountainous region bordering on Kenya to the east and Sudan to the north. The Ike were hunter-gatherers who lived a life that seems precarious from the outside but actually affords considerable security, as Turnbull pointed out, "For the farmer the results of a year's work may be destroyed overnight, whereas the most the hunter can lose is what he can replace tomorrow" (p. 21). The establishment of modern nation states, national boundaries, game reserves, national parks, and the like have forced many nomadic groups, including the Ike, to stay put in one location. The result for the Ike has been disastrous, because they have failed to adapt to a stationary life, farming proving virtually impossible in the land they now occupy, and their main sources of food have become cattle raids, prostitution, and such activities. The intense competition for survival has broken down all healthy social relationships and trust in particular, so that children do not trust parents, siblings lack trust for one another. The result is that all cooperative efforts have virtually ceased. Without trust, an extreme and maladaptive form of individualism has become pervasive in Ike society. But this is an extreme example, and for most societies people are socialized to trust one another.

The notion of trust as normative may appear strange from the perspective of an increasingly competitive capitalist world. However, without some level of trust, free-market capitalism could not survive because the everyday actions of participants in the marketplace would become impossible. Consider, for example, the following case of living without a norm of trust: John follows a stockbroker's advice and gives her his savings to buy shares in Company X, because she predicts prices will go up. A month later, John again follows her advice to sell all his shares in Company X, because she says prices will decrease. All this time John's mind is plagued by questions: Did his broker purposely mislead him? Did she really buy when he asked her to? Did she really sell? Perhaps she will wait until prices hit rock bottom and then sell, causing John's ruin? Will she walk away with his savings? Clearly, even though our minds may be plagued with such questions when dealing with some individuals, in most cases we do trust others and for good reason: Without doing so, life would become impossible. A minimum level of trust-based cooperation is essential for survival.

This idea matches extensions of Dawkins' (1976) "selfish gene" thesis into the social domain (e.g., Ridley, 1997). Optimum strategies for survival are proposed to involve a balance between cooperation and self-sacrifice on the one hand, and competitiveness and self-serving behavior on the other. Too much self-sacrifice will lead others to exploit an individual, but too much self-serving behavior will result in noncooperation on the part of others.

Primitive social relations such as turn-taking and trust evolved out of common practical challenges confronting human groups in their everyday lives and represent at least a functional level of interobjectivity. Primitive social relations evolved as public, as shared, and as part of collective life. Each newcomer to the group was taught the skills associated with primitive social

relations and became integrated into the web of group life. Primitive social relations already existed in social practices before the arrival of a new infant, and such relations continued to rely on shared skills and accepted ways of doing things, and not just the private minds of individuals, after the infant developed, aged, and passed away.

Duty-Based and Rights-Based Tendencies in Societies

Primitive social relations, then, represent particular styles of functional behavior, constructed in the face of similar ecological challenges common to human societies. The evolution of primitive social relations took hundreds of thousands of years and began well before the appearance of language. But was it possible for primitive social relations to be transmitted across generations prior to human language skills? Research on chimpanzees supports the proposition that this is possible (Whiten et al., 1999), because chimpanzees living in different ecological conditions have been found to have different behavioral styles, indicating that some form of cultural transmission has been taking place across generations without human language skills. Even several million years ago, well before the appearance of language, humans were already far more advanced than chimps (bipedalism evolved among our ancestors about 4½ million years ago) and certainly capable of passing on behavioral styles, including primitive social relations. With the emergence of language, there was greater capacity for transmitting different interpretations of primitive social relations.

Primitive social relations can be interpreted in different ways with respect to rights and duties. Consider as an example the case of turn-taking in communications. During their conversation, Persons A and B can be said to have rights and duties. One interpretation is as follows: Person A has a right to speak and express her opinions, but she also has a duty to stop speaking so as to give Person B an opportunity to speak. While Person A is speaking, Person B has a duty to listen, but he also has a right to have his turn to speak. In interpreting this simple interaction, variations in cultural conditions and interobjectivity could lead to different levels of priority being given to the right of persons to speak, or not to speak, or the duty of persons to listen, or not to listen.

The interpretation of primitive social relations as rights and duties took place in different cultural conditions, associated with variations in interobjectivity, and is much more recent. Such interpretation was initially informal and tacit but acted as a first step toward the development of formal legal systems incorporating rights and duties. Across time and within cultures, the extent to which rights and duties were emphasized changed as societies went through historical transformations, such as a change experienced in Western societies from being duty-based in the Middle Ages to rights-based in the age of capitalism. At any given time, there emerged differences in interpretations of, and priority given to, rights and duties. For example, whereas individual rights are highlighted in the United States, duties to the collectivity are given greater emphasis in Islamic societies.

This is reflected particularly in legal procedures. For example, Rosen's (1989) study of procedures in Moroccan courtrooms highlights the role of normative systems at the community level in determining right and wrong. Truth and justice are not treated as abstract and detached, but as contextualized and arising from particular social relationships,

> unlike many complex legal systems that propel investigation and decision-making up to the higher reaches of the legal order, in Morocco the process of adjudication pushes matters down and away from the quadi [judge]— down to the level where local custom and circumstance can become more significant. (Rosen, 1989, p. 310)

Not only are local customs and standards given central place in the process of adjudication, but there is recognition that "shifts in the balance of obligations among people are indeed the normal course of things and that such alterations should be given judicial sanction" (Rosen, 1989, p. 311). Thus, the normative system shared by a collectivity and the duties binding people are not seen as static and abstract but as changing, concrete, and realized at the local level. This contrasts with Western legal traditions that place greater emphasis on general principles and the rights of individuals independent of local communities and contexts.

The Emergence of Legislated Rights and Duties

Whereas normative "informal" rights and duties evolved over hundreds of thousands of years, primarily as a means for the better functioning of small nomadic groups, formal rights and duties, as reflected in human rights declarations as well as formal written law, are relatively very recent and associated with large and complex societies. Among the factors leading to the emergence of formal rights and duties are the inadequacy of normative rights in large and more complex societies and a need felt to better defend people from increasingly powerful central authorities.

With the emergence of larger, more complex urban centers over the last few thousand years, and particularly since rapid industrialization from the 18th century onward, normative rights and duties proved inappropriate for the new social conditions. With industrialization came greater social and geographical mobility and more rapid change at all levels. Populations became increasingly concentrated in expanding urban centers, where most other people were strangers, and where a diversity of justice norms functioned side by side. Group differences and a low level of interobjectivity between groups posed potential problems. A need arose for a common set of rules for regulating rights and duties in relationships.

At the same time, central authorities became increasingly powerful, harnessing the capacities of new technologies and new professional middle classes to wield greater control over populations. Armies of specialists, including academic experts in multitudes of new fields, became available to central authorities. Ever-increasing specialization meant that central authorities and their agents have often been in advantageous positions for influencing and using

the work of specialists scattered across hundreds of subspecialties often with little meaningful communication across subdisciplines (see Moghaddam, 1997). The enormous powers amassed by central authorities gave rise to new possibilities for violations of even minimal rights and duties, so that an elite few could control and abuse millions. Rights and duties enshrined in formal law was one means by which middle classes attempted to curb the abuse of power by elites, as evidenced by the actions of the middle classes in the French and subsequent revolutions (Schama, 1990).

In some respects modern formal law is fundamentally different from the informal systems of rights and duties present in premodern eras; for instance, it is written, and it is enforced by central authorities. But one should not see formal law as divorced from informal normative systems. Indeed, my argument is that the roots of formal law lie in the informal system. This becomes clear when one considers the history of common law:

> The rules of common law are social rules; never remote from life, they serve the rules of a society once feudal and agricultural but now industrial and urban.... Gradually, as social changes have occurred, the law has been adapted by judicial interpretation to meet new conditions. It continues as always to reflect the character of the social order. (Hogue, 1966, p. 3)

An important doctrine in modern law is *due process of law,* and one of the early foundations of this doctrine is taken to be the *Magna Carta,* specifically chapter 39, which states, "No free man shall be taken or imprisoned or dispossessed, or outlawed, or banished, or in any way destroyed, nor will we go upon him, nor send upon him, except by legal judgment of his peers or by the law of the land" (see Hogue, 1966, pp. 50–51). The *Magna Carta* was wrung from King John of England at Runnymede in 1215 by superior military power of the barons, who banded together to get back certain rights they had previously enjoyed. As Strong (1986) pointed out, the *Magna Carta* was preceded by a *Charter of Liberties,* granted by Henry I in 1100, and setting out in 14 clauses the rights and duties of the king in relation to "subjects." The *Charter of Liberties* and the *Magna Carta* formalize a ban on the invasion of "ancient" rights of personal freedoms and feudal property. The language of the *Magna Carta* reveals "the earlier existence of many customary services and payments which are assumed to be so well known and understood that they are given in the Charter without explanation" (Hogue, 1966, p. 183). In agreement with this thesis, Milsom (1985) asserted, referring to the barons who wrestled the *Magna Carta* from King John, "the due process that they used as their instrument, the judgment of peers, was not their creation: it was universally accepted in feudal custom" (p. 222).

Integral to the ancient roots of due process of the law, I argue, is turn-taking and associated rights and duties. The procedures followed in modern courts, particularly concerning the presentation of arguments and cross-examination of witnesses, follow turn-taking procedures that have their roots in the ancient informal system. Similarly, the assumption that individuals are innocent until proven guilty, and that the burden of proof is on the accuser rather than the accused, are founded on the primitive social relation of trust.

Just as huma
activities and
law courts pr
that has to be
One of th
in large part
and is not sol
everyday beh;
how neighbors
discovered tha
putes, such as
neighborliness
followed were
formal law, ar
the establishm

Interim Sum,

Some fundame
social relation
thousands of ye
and trust as tw
by the research
rights and duti
is to examine f
serve the imple
of formal law i;
gap between fo
next turn to dif
ical and legal l

Bridging th

How can we mo
major gaps stil
supportive of th
are in harmony,
in everyday life:
scholar-activist;
saw the import
interobjectivity
that traditional
cause traditiona
on causation an
the rift betwee
effectively throu

Just as human beings evolved to have trust in one another in their everyday activities and to take the trustworthiness of others as normative, the formal law courts proceed on the assumption that it is guilt rather than innocence that has to be proven.

One of the implications of this analysis is that orderly and fair behavior in large part arises from interobjectivity and the informal normative system, and is not solely dependent on formal law and the courts. Detailed studies of everyday behavior support this view. For example, Ellickson (1991) studied how neighbors settle ranching disputes in rural Shasta County, California. He discovered that, with very few exceptions, ranchers and farmers settled disputes, such as cattle going astray and property damage, by invoking norms of neighborliness rather than by "bringing in the law." The norms that people followed were well known by everyone, actually much better known than the formal law, and had evolved from an informal system that existed well before the establishment of formal law courts in that part of the world.

Interim Summary

Some fundamental rights and duties have their origins in certain primitive social relations that began to evolve as part of interobjectivity hundreds of thousands of years before the appearance of formal law. I discussed turn-taking and trust as two examples, but others are available (e.g., imitation is suggested by the research of Meltzoff & Moore, 1999). Given that certain fundamental rights and duties are integral to human social relations, a role for psychologists is to examine how in practice such psychological basis for justice could better serve the implementation of just procedures and outcomes. However, the reform of formal law is necessary but not sufficient because there is almost always a gap between formal law and actual behavior, and as one explanatory factor I next turn to differences in the maximum speeds of change possible at psychological and legal levels.

Bridging the Gap Between Formal Law and Actual Behavior

How can we move from a context supportive of second-order change, in which major gaps still persist between formal law and normative systems, to one supportive of third-order change, in which formal law and normative systems are in harmony, and justice is not just found "on the books" but is fully practiced in everyday life? This is a major challenge confronting the present generation of scholar-activists who endeavor to follow Kenneth Clark's path. Clark accurately saw the importance of reforming formal law, but the task of transforming interobjectivity and the informal normative system still confronts us. I argue that traditional psychology is not able to effectively tackle this challenge, because traditional psychology focuses on performance capacity, which is focused on causation and the biologically based abilities of isolated individuals, whereas the rift between second-order and third-order change can only be tackled effectively through a focus on performance style, on interobjectivity and the

collaboratively constructed ways of doing things, and meaning systems "out there" in the social world.

One of the important features of performance style is that it is not capable of being controlled through a program that only adopts a "top down" approach, as various materialist and economic based theories might suggest (as an example of such theories, see Taylor & Moghaddam, 1994, chap. 3; Moghaddam, 2002, chap. 2). There are numerous examples of how even in societies in which the central authorities have dictatorial control, such authorities are unable to change everyday behavior according to official plans when they work mainly or exclusively in a "top-down" manner. As examples, consider so-called cultural revolutions in China in the late 1960s and in Iran in the early 1980s (Moghaddam, 2002; Yang, 1994). Both involved the most extreme measures, including the closing down of universities, forced "reeducation" of "antirevolutionary intellectuals," thousands of imprisonments and deaths, and massive propaganda campaigns, with no toleration for opposition voices. By any objective standards, both these top-down campaigns failed in their avowed goals: China has moved steadily away from Maoism and toward capitalism; and despite the rhetoric of fundamentalists, Iran has become even more economically dependent on Western capitalism and less like the "Islamic republic" originally outlined by Khomeini (e.g., Iranian banks and other institutions continue to charge interest for loans, even though this practice was supposed to be abandoned according to so-called "Islamic economics").

In exploring the ineffectiveness of purely top-down approaches to social change, a recent theory of social change has postulated a "micro/macro universal law," proposing that the maximum speed of change at the level of legal, political, and economic systems is faster than the maximum speed of change at the micro level of everyday behavior. Everyday behavior persists along the same lines in part through the influence of *carriers,* these being any means (e.g., a national flag, a stereotype, a speech code) through which cultural meanings and interobjectivity are sustained.

> This simple insight can help us understand why the normal trend for revolutions involves a paradox. On the one hand, a government is overthrown, and rapid and dramatic changes are made in the laws of the land and the economy. On the other hand, an invisible hand seems to pull things back to the way they were, so that soon people feel that nothing has changed. How people actually behave seems to remain the same. Like anchors that refuse to allow a ship to move far from a particular location, carriers sustain old ways of doing things, even though—by law—behavior should have changed. (Moghaddam, 2002, p. 33)

The power of carriers arises in large part through their flexibility; almost anything can be used as a carrier. For example, in much of the Islamic world, a veil is used as a carrier of traditional gender roles, and women are forced to wear the veil as a demonstration of the continuation of Islamic traditions. In the Western world, women are no longer limited by such blatant carriers, but they still face carriers that are perhaps even more subtle: stereotypes.

But carriers also give power to individuals. By ascribing meaning and value to particular things, individuals can help to sustain preferred interobjec-

tivity and ways of life. For example, the Southerner who continues to fly the Confederate flag, the Islamic man who refuses to wear a beard or the Islamic woman who does not wear a traditional veil, the pacifist who displays a "peace" sign at a time of war, these are among countless examples of how individuals sometimes insist on using carriers to try to influence change in a direction that may be against the official policy of the government. This trend is clearly evident in minority movements, when relatively less powerful groups of individuals ascribe meaning to particular carriers as a means of solidifying and focusing their efforts. Examples range from early Christianity facing the enmity of the mighty Roman Empire and the use of the crucifix as a carrier, to modern feminist movements and the use of such carriers as titles (e.g., Ms. replacing Mrs. and Miss).

Carriers are used for convenience and will be retained or discarded depending on how useful they prove to be. For example, for a brief period in the 1960s the bra became a carrier of traditional gender roles, and "bra burning" was adopted among feminists (although in practice it is not clear if there were more than a few "bra burning" events). But this carrier did not prove to be useful and was very soon abandoned. Instead, a number of slogans (e.g., "glass ceiling") have proved to be far more useful carriers for the feminist cause, and persist today.

Implications for Psychology

In this final section I want to highlight a number of implications that my assessment has for psychology, and particularly the role of scholar-activists in tackling the challenge of third-order change. In particular, I point to implications for a need to pay closer attention to performance style and interobjectivity.

First, I have pointed out a fundamental gap between formal black-letter law and informal commonsense law and focused particularly on informal ways of doing things and interobjectivity. Reform of formal law is necessary but not sufficient; it is not possible to create justice in social relations through relying solely on a top-down approach that reforms black-letter law. On paper, all United States citizens are equal, but in practice fundamental inequalities in treatment persist. On paper, according to the Universal Declaration of Human Rights, all citizens of the world have equal rights, but in practice we are a very long way from that. According to a micro/macro universal law (Moghaddam, 2002), formal law can change faster than can actual behavior: A major challenge is to alter behavior to be in line with formal law.

Toward this goal, psychologists should pay closer attention to those human rights and duties that are already integral to human social relations. I discussed turn-taking and trust as examples of social behavior that have inherent within them the implementation of human rights and duties principles. Better understanding of rights and duties as practices in everyday life, and also the conditions in which their practice breaks down, can help us solve the enigma of third-order change.

A second major implication is that psychology should pay closer attention to performance style and a normative model for explaining human behavior.

This alternative or "second" psychology complements traditional psychology, which focuses on performance capacity and the causal model.

Informal or commonsense justice is part of performance style, as are the carriers, including stereotypes, that help sustain prevailing interobjectivity and particular ways of behaving in the justice arena. Psychological research has highlighted the end-product of the collective processes through which carriers are created and sustained. For example, Steele's research (see chap. 4, this volume) demonstrates how stereotypes can be a powerful and subtle force even in formal testing situations. This is the result of a collective process through which stereotypes are constructed and sustained. There is a need for psychologists to turn research attention to the process itself, and this requires a shift from looking at individuals to collectivities, and from looking at assumed causal mechanisms to normative meaning systems.

References

Amnesty International USA. (1998). *Rights for all.* New York: Author.

Amnesty International USA. (1999). Statement of William F. Schulz, Executive Director, Amnesty International USA. [Press Release, June 8, 1999, Washington DC].

Bright, S. B. (1995). Discrimination, death, and denial: The toleration of racial discrimination in infliction of the death penalty. *Santa Clara Law Review, 35,* 107–113.

Brown, R. (1966). *Social psychology.* New York: Free Press.

Carr, S. C., & Schumaker, J. F. (Eds.). (1996). *Psychology and the developing world.* New York: Praeger.

Chagnon, N. A. (1997). *Yanomamo* (5th ed.). New York: Harcourt Brace College.

Dawkins, R. (1976). *The selfish gene.* New York: Oxford University Press.

DeLong, A. J. (1977). Yielding the floor: The kinesic signals. *Journal of Communication, 27,* 98–103.

Eibl-Eibesfeldt, I. (1989). *Human ethology.* New York: Aldine de Gruyter.

Eimas, A. (1985). The perception of speech in early infancy. *Scientific American. 252.* 46–52.

Ellickson, R. C. (1991). *Order without law: How neighbors settle disputes.* Cambridge, MA: Harvard University Press.

Grinker, R. R. (1994). *Houses in the rainforest: Ethnicity and inequality among farmers and foragers in Central Africa.* Berkeley: University of California Press.

Hogue, A. R. (1966). *Origins of the common law.* Bloomingdale: Indiana University Press.

Jackson, J. P., Jr. (2001). *Social scientists for social justice: Making the case against segregation.* New York: New York University Press.

Kalat, J. W. (2002). *Introduction to psychology* (6th ed.). Pacific Grove, CA: Wadsworth.

Lévi-Strauss, C. (1972). *Tristes Tropiques: An anthropological study of primitive societies in Brazil* (J. Russell, Trans.). New York: Atheneum.

Lott, B., & Maluso, D. (Eds.). (1995). *The social psychology of interpersonal discrimination.* New York: Guilford Press.

Megany, T. (1995). *Society in prehistory: The origins of human culture.* New York: New York University Press.

Meltzoff, A. N., & Moore, M. K. (1999). Persons and representation: Why infant imitation is important for theories of human development. In J. Nadel & G. Butterworth (Eds.), *Imitation in infancy* (pp. 9–35). Cambridge, England: Cambridge University Press.

Middleton, J., & Tait, D. (1958). *Tribes without rulers: Studies in African segmentary systems.* London: Kegan Paul.

Milner, B. (1966). Amnesia following operation on the temporal lobes. In C. W. M. Whitty & O. L. Zangwill (Eds.), *Amnesia* (pp. 109–133). London: Butterworth.

Milsom, S. F. C. (1985). *Studies in the history of the common law.* London: Hambledon Press.

Moghaddam, F. M. (
    psychology in th
Moghaddam, F. M. (
    alism. Westport
Moghaddam, F. M.
    Freeman.
Moghaddam, F. M. (1
Moghaddam, F. M. (2
    312.
Moghaddam, F. M. (
Moghaddam, F. M. (
Moghaddam, F. M., B
    ment. *Psychology
Moghaddam, F. M., &
    change and conti
Moghaddam, F. M., &
    to the study of so
Pareto, V. (1935). *The
Phelps, E. A., O'Conn
    & Banaji, M. R. (2
    activation. *Journa
Popper, K. R. (1966). *7
    work published 19
Ridley, M. (1997). *The
    York: Viking.
Rosen, L. (1989). Islam
    *History and power
Schama, S. (1990). *Cit
Steele, C. M. (1997). A
    mance. *American I
Strong, F. R. (1986). *Su
Taylor, D. M., & Mogha
    *psychological persp
Thorne, B. M., & Henle
    ed.). Boston: Hougl
Turnbull, C. M. (1972).
Watzlawick, P., Weakla
    *problem resolution.
Whiten, A., Goodall, J.,
    Cultures in chimpa
Yang, M. M. (1994). *Gif
    NY: Cornell Univers

Moghaddam, F. M. (1990). Modulative and generative orientations in psychology: Implications for psychology in the third world. *Journal of Social Issues, 56*, 21–41.

Moghaddam, F. M. (1997). *The specialized society: The plight of the individual in an age of individualism*. Westport, CT: Praeger.

Moghaddam, F. M. (1998). *Social psychology: Exploring universals across cultures*. New York: Freeman.

Moghaddam, F. M. (1999). Carriers and change. *Cross Cultural Psychology Bulletin, 33*, 11–17, 31.

Moghaddam, F. M. (2000). Toward a cultural theory of human rights. *Theory & Psychology, 10*, 291–312.

Moghaddam, F. M. (2002). *The individual and society: A cultural integration*. New York: Worth.

Moghaddam, F. M. (2003). Interobjectivity and culture. *Culture & Psychology, 9*, 221–232.

Moghaddam, F. M., Bianchi, C., Daniels, K., & Harré, R. (1999). Psychology and national development. *Psychology and Developing Societies, 11*, 119–141.

Moghaddam, F. M., & Crystal, D. (1997). Reductons, samurai and revolutions: The paradoxes of change and continuity in Iran and Japan. *Journal of Political Psychology, 18*, 355–384.

Moghaddam, F. M., & Harré, R. (1995). But is it science? Traditional and alternative approaches to the study of social behavior. *World Psychology, 1*, 47–78.

Pareto, V. (1935). *The mind and society: A treatise in general sociology* (Vols. 1–4). New York: Dover.

Phelps, E. A., O'Connor, K. J., Cunningham, W. A., Funayama, E. S., Gatenby, J. C., Gore, J. C., & Banaji, M. R. (2000). Performance on indirect measures of race evaluation predicts amygdala activation. *Journal of Cognitive Neuroscience, 12*, 729–738.

Popper, K. R. (1966). *The open society and its enemies*. London: Routledge & Kegan Paul. (Original work published 1945)

Ridley, M. (1997). *The origins of virtue: Human instincts and the evolution of cooperation*. New York: Viking.

Rosen, L. (1989). Islamic "case law" and the logic of consequence. In J. Starr & J. F. Collier (Eds.), *History and power in the study of law* (pp. 302–319). Ithaca: Cornell University Press.

Schama, S. (1990). *Citizens: A chronicle of the French revolution*. New York: Vintage.

Steele, C. M. (1997). A threat in the air: How stereotypes shape intellectual identity and performance. *American Psychologist, 52*, 613–629.

Strong, F. R. (1986). *Substantive due process of law*. Durham, NC: Carolina Academic Press.

Taylor, D. M., & Moghaddam, F. M. (1994). *Theories of intergroup relations: International social psychological perspectives*. Westport, CT: Praeger.

Thorne, B. M., & Henley, T. B. (2001). *Connections in the history and systems of psychology* (2nd ed.). Boston: Houghton-Mifflin.

Turnbull, C. M. (1972). *The mountain people*. New York: Touchstone.

Watzlawick, P., Weakland, J. H., & Fisch, R. (1974). *Change: Principles of problem formation and problem resolution*. New York: Norton.

Whiten, A., Goodall, J., McGrew, W. C., Nishidas, T., Reynolds, V., Sugiyama, Y., et al. (1999). Cultures in chimpanzees. *Nature, 399*, 682–685.

Yang, M. M. (1994). *Gifts, favors, and banquets: The art of social relationships in China*. Ithaca, NY: Cornell University Press.