

ADVANCED READING

PASSAGE 1

Governments of developing countries occasionally enter into economic development agreements with foreign investors who provide capital and technological expertise that may not be readily available in such countries. Besides the normal economic risk that accompanies such enterprises, investors face the additional risk that the host government may attempt unilaterally to change in its favor the terms of the agreement or even to terminate the agreement altogether and appropriate the project for itself. In order to make economic development agreements more attractive to investors, some developing countries have attempted to strengthen the security of such agreements with clauses specifying that the agreements will be governed by “general principles of law recognized by civilized nations”—a set of legal principles or rules shared by the world’s major legal systems. However, advocates of governments’ freedom to modify or terminate such agreements argue that these agreements fall within a special class of contracts known as administrative contracts, a concept that originated in French law. They assert that under the theory of administrative contracts, a government retains inherent power to modify or terminate its own contract, and that this power indeed constitutes a general principle of law. However, their argument is flawed on at least two counts. First, in French law not all government contracts are treated as administrative contracts. Some contracts are designated as administrative by specific statute, in which case the contractor is made aware of the applicable legal rules upon entering into agreement with the government. Alternatively, the contracting government agency can itself designate a contract as administrative by including certain terms not found in private civil contracts. Moreover, even in the case of administrative contracts, French law requires that in the event that the government unilaterally modifies the terms of the contract, it must compensate the contractor for any increased burden resulting from the government’s action. In effect, the government is thus prevented from modifying those contractual terms that define the financial balance of the contract. Second, the French law of administrative contracts, although adopted by several countries, is not so universally accepted that it can be embraced as a general principle of law. In both the United States and the United Kingdom, government contracts are governed by the ordinary law of contracts, with the result that the government can reserve the power to modify or terminate a contract unilaterally only by writing such power into the contract as a specific provision. Indeed, the very fact that termination and modification clauses are commonly found in government contracts suggests that a government’s capacity to modify or terminate agreements unilaterally derives from specific contract provisions, not from inherent state power.

PASSAGE 2

Frijda's law accounts for my panic if I am afraid of snakes and see an object I correctly appraise as a rattlesnake, and also for my identical response if I see a coiled garden hose I mistakenly perceive to be a snake. However, suppose I am watching a movie and see a snake gliding toward its victim. Surely I might experience the same emotions of panic and distress, though I know the snake is not real. These responses extend even to phenomena not conventionally accepted as real. A movie about ghosts, for example, may be terrifying to all viewers, even those who firmly reject the possibility of ghosts, but this is not because viewers are confusing cinematic depiction with reality. Moreover, I can feel strong emotions in response to objects of art that are interpretations, rather than representations, of reality: I am moved by Mozart's Requiem, but I know that I am not at a real funeral. However, if Frijda's law is to explain all emotional reactions, there should be no emotional response at all to aesthetic objects or events, because we know they are not real in the way a living rattlesnake is real. Most psychologists, perplexed by the feelings they acknowledge are aroused by aesthetic experience, have claimed that these emotions are genuine, but different in kind from nonaesthetic emotions. This, however, is a descriptive distinction rather than an empirical observation and consequently lacks explanatory value. On the other hand, Gombrich argues that emotional responses to art are ersatz; art triggers remembrances of previously experienced emotions. These debates have prompted the psychologist Radford to argue that people do experience real melancholy or joy in responding to art, but that these are irrational responses precisely because people know they are reacting to illusory stimuli. Frijda's law does not help us to untangle these positions, since it simply implies that events we recognize as being represented rather than real cannot elicit emotion in the first place. Frijda does suggest that a vivid imagination has "properties of reality"—implying, without explanation, that we make aesthetic objects or events "real" in the act of experiencing them. However, as Scruton argues, a necessary characteristic of the imaginative construction that can occur in an emotional response to art is that the person knows he or she is pretending. This is what distinguishes imagination from psychotic fantasy.

PASSAGE 3

Although bacteria are unicellular and among the simplest autonomous forms of life, they show a remarkable ability to sense their environment. They are attracted to materials they need and are repelled by harmful substances. Most types of bacteria swim very erratically: short smooth runs in relatively straight lines are followed by brief tumbles, after which the bacteria shoot off in random directions. This leaves researchers with the question of how such bacteria find their way to an attractant such as food or, in the case of photosynthetic bacteria, light, if their swimming pattern consists only of smooth runs and tumbles, the latter resulting in random changes in direction. One clue comes from the observation that when a chemical attractant is added to a suspension of such bacteria, the bacteria swim along a gradient of the attractant, from an area where the concentration of the attractant is weaker to an area where it is stronger. As they do so, their swimming is characterized by a decrease in tumbling and an increase in straight runs over relatively longer distances. As the bacteria encounter increasing concentrations of the attractant, their tendency to tumble is suppressed, whereas tumbling increases whenever they move away from the attractant. The net effect is that runs in the direction of higher concentrations of the attractant become longer and straighter as a result of the suppression of tumbling, whereas runs away from it are shortened by an increased tendency of the bacteria to tumble and change direction. Biologists have proposed two mechanisms that bacteria might use in detecting changes in the concentration of a chemical attractant. First, a bacterium might compare the concentration of a chemical at the front and back of its cell body simultaneously. If the concentration is higher at the front of the cell, then it knows it is moving up the concentration gradient, from an area where the concentration is lower to an area where it is higher. Alternatively, it might measure the concentration at one instant and again after a brief interval, in which case the bacterium must retain a memory of the initial concentration. Researchers reasoned that if bacteria do compare concentrations at different times, then when suddenly exposed to a uniformly high concentration of an attractant, the cells would behave as if they were swimming up a concentration gradient, with long, smooth runs and relatively few tumbles. If, on the other hand, bacteria detect a chemical gradient by measuring it simultaneously at two distinct points, front and back, on the cell body, they would not respond to the jump in concentration because the concentration of the attractant in front and back of the cells, though high, would be uniform. Experimental evidence suggests that bacteria compare concentrations at different times.

PASSAGE 4

Anthropologist David Mandelbaum makes a distinction between life-passage studies and life-history studies which emerged primarily out of research concerning Native Americans. Life-passage studies, he says, “emphasize the requirements of society, showing how groups socialize and enculturate their young in order to make them into viable members of society.” Life histories, however, “emphasize the experiences and requirements of the individual, how the person copes with society rather than how society copes with the stream of individuals.” Life-passage studies bring out the general cultural characteristics and commonalities that broadly define a culture, but are unconcerned with an individual’s choices or how the individual perceives and responds to the demands and expectations imposed by the constraints of his or her culture. This distinction can clearly be seen in the autobiographies of Native American women. For example, some early recorded autobiographies, such as *The Autobiography of a Fox Indian Woman*, a life passage recorded by anthropologist Truman Michelson, emphasizes prescribed roles. The narrator presents her story in a way that conforms with tribal expectations. Michelson’s work is valuable as ethnography, as a reflection of the day-to-day responsibilities of Mesquakie women, yet as is often the case with life-passage studies, it presents little of the central character’s psychological motivation. The Fox woman’s life story focuses on her tribal education and integration into the ways of her people, and relates only what Michelson ultimately decided was worth preserving. The difference between the two types of studies is often the result of the amount of control the narrator maintains over the material; autobiographies in which there are no recorder-editors are far more reflective of the life-history category, for there are no outsiders shaping the story to reflect their preconceived notions of what the general cultural patterns are. For example, in Maria Campbell’s account of growing up as a Canadian Metis who was influenced strongly, and often negatively, by the non-Native American world around her, one learns a great deal about the life of Native American women, but Campbell’s individual story, which is told to us directly, is always the center of her narrative. Clearly it is important to her to communicate to the audience what her experiences as a Native American have been. Through Campbell’s story of her family the reader learns of the effect of poverty and prejudice on a people. The reader becomes an intimate of Campbell the writer, sharing her pain and celebrating her small victories. Although Campbell’s book is written as a life history (the dramatic moments, the frustrations, and the fears are clearly hers), it reveals much about ethnic relations in Canada while reflecting the period in which it was written.