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The Past Is No More Certain Than The Future

Decision-Making In The Face Of Unavoidable Uncertainty

By Charles Brass

Around midnight on June 13, 1994, Nicole Simpson and Ron Goldman were found stabbed to death outside Simpson's house while Simpson's two small children slept inside. Four days later a warrant was issued for the arrest of Orenthal James (O.J.) Simpson, Nicole's ex-husband and father of the two children. After a police chase, much of which was broadcast live on prime-time TV, Simpson was charged with two counts of murder. Simpson had not long retired from a stellar sports career, and was very much a public figure. His 134-day trial was filmed, and broadcast, live. Nine months later he was acquitted and the murders are still considered an open case by the Los Angeles Police Department.

During the 19th century, thanks largely to the work of Isaac Newton, most scientists were convinced that the only thing stopping them from fully understanding the universe was gaining access to a sufficiently powerful computing machine. Newtonian mechanics described the world as following simple mechanical rules, and most scientific research supported this view.

By the early 20th century, scientists like Albert Einstein and Walter Heisenberg had shown that what appeared to be a predictable and mechanical universe was, at its core, uncertain, chaotic and unpredictable.

Not surprisingly, these insights caused many people a lot of angst. Even Einstein seemed hopeful that further research might remove this uncertainty when he said that he didn't believe God would play dice with the universe.



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During the following 100 years, the uncertainty built into the universe has been completely confirmed. In fact, in some ways things have gotten worse. As one of Einstein's successors put it: "Not only does God play dice with the universe, but sometimes he hides the dice where we can't find them!"

Human beings crave certainty and regularity, and most people have a hard time coming to terms with the ultimate uncertainty that underpins our world.

Some people attempt to reduce the impact of uncertainty on their lives by suggesting it only applies to the future and not to the past. As one old adage puts it: "We may not know where we are going, but at least we all know where we have been."

A moment's reflection, however, suggests that this is not the case.

There is as much uncertainty about the past as there is about the future, but this has at least as much to do with human frailty as with the underlying rules of the cosmos.

First of all, none of us could have been everywhere at all times in the past, and even if we could the fallibility of human memory and recollection inevitably introduces uncertainty.

I am reminded of a terse interchange I once heard between a radio broadcaster and an eminent Australian historian. The historian interrupted a tirade from the broadcaster against a particular interpretation of history by saying: "Please note what it says on the front of the book—Manning Clark's history of Australia. If you don't like it, write your own."

Arguments among historians are interesting, but there are many times when we are required to make vital decisions *now* about past events, and here uncertainty and ambiguity can be devastating.

An obvious example is our legal system. Most legal cases focus on events from the past, and seek to both make deci-

sions about the rightness or wrongness of these events and lay out the consequences for the perpetrators.

In the example with which this paper began, two people were brutally murdered. Our society views such actions as abhorrent and uses our legal system to bring the perpetrators to account.

In this case, the ex-husband of one of the victims was accused of both murders and brought to a criminal trial that began only seven months after the murders were committed. One hundred fifty witnesses were called over a nine-month period, and the jury took four hours to unanimously find O.J. Simpson not guilty. Had he been found guilty he would have faced a lifetime prison sentence (the district attorney declined to seek the death penalty). No one else has ever been charged with these crimes.

Some two years later, the victims' families commenced civil proceedings against O.J. Simpson for damages in the wrongful death of the victims. Four months later a different jury unanimously found "there was a preponderance of evidence to hold Simpson liable for damages" and awarded over \$45 million to the plaintiffs.

My point is not whether Simpson is guilty or innocent, but to notice that the legal system has no difficulty imposing serious penalties (death, life in jail or huge financial payments) *today* based on an investigation of events that happened in the past.

In this case, both trials took place relatively quickly after the murders and all relevant witnesses were able to testify in both trials—and two different juries came to unanimous but opposing decisions.

Our legal system recognizes that there is rarely certainty about past events, and has evolved elaborate protocols and techniques for establishing the truth "beyond reasonable doubt."

Lawyers and judges (not to mention the general public) are probably not particularly happy when two conflicting

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conclusions are reached about basically the same set of events, but the system still manages to validate both decisions (Simpson is not in jail for this¹, but has relinquished most of his assets).

The inevitable uncertainty about what actually took place does not prevent binding and far-reaching decisions from being made.

Even now, 15 years later, this case stirs passionate debate in America. It is still studied today because of the way forensic DNA evidence was collected and presented, and, given that O.J. Simpson has black skin, there are racial overtones as well. As recently as three years ago books and films were being produced, making various claims about guilt and innocence and the conduct of the two trials.

Again, my point is not about the individual circumstances of this case, but to note that there are occasions when unambiguous decisions need to be made today about ambiguous situations that occurred in the past—and that we have developed systems designed to make such decisions as intelligently as possible.

It is worth noting some of the ways in which our judicial system deals with the inevitable uncertainty it faces every day.

First, all parties have the right to be vigorously represented by professional counsel.

Second, everyone is sworn to "tell the truth, the whole truth and nothing but the truth" (as they see it) and there are severe penalties for deliberately lying.

Then, the entire process is conducted before a learned professional (judge or mediator) who sometimes is also the decision-maker and sometimes guides others to decide.

There are also elaborate rules, protocols and procedures about how the entire process is conducted, and how people's views will be heard.

Those charged with making decisions are given guidelines about the basis on which they will decide. In cases with the most serious consequences, the criterion is "beyond reasonable doubt"; otherwise it is "on the balance of probabilities," and if a firm decision cannot be made against the relevant criterion, the most conservative option is always followed ("innocent until proven guilty").

The system is also deliberately multi-layered, with many options to review each decision if required. The original decision is binding, unless appealed, but once appealed no irreversible action is taken until the appeal is decided.

And finally, the system is founded on precedent. What has worked well in the past is validated and repeated, and what hasn't is discarded.

Futurists face much the same dilemma as those in our legal system. Futurists work with people who need to make decisions today about the future—a time and place that is inevitably uncertain.

The legal system has had centuries to develop its protocols. Futurists as professionals have been around for fewer than 50 years. Nonetheless, futures studies are beginning to develop tools, techniques and systems designed to improve the quality of decisions made today about events that are yet to occur.

It is probably not surprising that some of the elements incorporated into the legal system are also becoming part of the futurist's toolkit. Most prominent is the emergence of professional, practicing futurists. Just as the legal system has spawned specialist lawyers, barristers and judges to assist those who seek clarity about the impact of past events

on their lives, so futurists have emerged to assist those seeking to explore the future of their country, company, community or even their individual lives.

Just as the legal system encourages differing perspectives to be robustly put forward before any decisions are made, so many futurists encourage the creation of alternative future scenarios that are then explored for their likelihood and desirability.

Good futures practice also encourages the accumulation, and analysis, of as much data as possible. Futurists call this "environmental scanning" where lawyers call it "collecting evidence."

Futurists, like judges, never forget that human beings, with all their fallibilities and frailties, are an integral part of the process. So, they both couch their analysis in terms of probabilities and likelihoods, and they always remain open to the possibility that new information might revise their conclusions.

Futurists are also acutely aware of the importance of precedent—though they think about it a little differently than do lawyers. Futurists acknowledge the power that past performance might bring to the future, but they also explicitly recognize the possibility of "wild cards" that might change the picture completely. They also tend to consider simple extrapolations of the past into the future as rather shallow and unsatisfactory futures practice.

Futurists, like judges, might be somewhat discomfited when contradictory conclusions arise from the same analysis (such as the two different decisions in the two O.J. Simpson trials—or the opposing views about the impact of climate change; Is it global warming or the precursor to an ice age?), but the best practitioners learn to embrace this uncertainty and look for a frame of reference within which both can be accommodated (in the case of climate change either outcome—heating or cooling—is sufficiently dire to warrant urgent action today).

Uncertainty is a fact of life. It cannot be willed away. In the words of American philosopher Ken Wilber, this means “all truth is partial” and “any single perspective is always only a part of the picture.” This does not provide an excuse for inaction, or a lack of decisiveness—but it does mean key decisions should be made intelligently and with sufficient humility to acknowledge their potential frailties.

Society has learned to accept decisions made by our legal system as binding, while acknowledging that sometimes they get things wrong.

Similarly, we are slowly beginning to recognize that good futures practice can lead to much better decisions about the future, even when we don’t actually know what the future holds. ▼

ENDNOTES

- ¹ In September, 2007, he was arrested for subsequent felonies (including armed robbery) and found guilty. He is serving his sentence at the Lovelock Correctional Center in Nevada.

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