

Ethics and Public Policy: A Philosophical Inquiry

Jonathan Wolff, 2011

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One might wonder whether this book would not have been more accurately subtitled ‘Philosophical *Inquiries*.’ After all, it is composed of eight essentially free-standing chapters, each dealing with a different topic in applied political philosophy (namely, animal experimentation, gambling, drugs, safety, crime and punishment, health care, disability, and the free market). There are of course some connections between various topics, but the chapters do not substantially build on one another. To have done so, however, would have been contrary to the whole spirit of the book, for Wolff insists that he is pursuing a ‘bottom-up,’ ‘problem-driven’ approach to political and moral problems, as opposed to a ‘top-down,’ ‘first-choose your theory approach’ (9). What unifies the book, then, is not its subject-matter, but the project of working out this methodology and showing how it might be applied to other policy issues (8).

The methodology seems best encapsulated in the conclusion, where philosophers are urged to interpret the world before criticizing it. For one thing, Wolff maintains that philosophers need to recognize how the challenge of setting public policy differs from a seminar discussion. Whereas philosophers prize intellectual originality, consistency, and sharp conflict of rival positions, what matters in public policy is reaching some sort of agreement, even if it is philosophically untidy. And whereas it may seem arbitrary to philosophers to privilege the status quo, the burden of

proof in policy debates naturally lies with the advocates for change (4-5). Hence, Wolff argues that the urgent question for drug policy is not whether the present legal framework is purely 'logical' in its tolerance of alcohol but not less harmful drugs like cannabis and ecstasy. Given that alcohol seems here to stay, the real question is whether we would be better off with *more* legal drugs (77-81).

Wolff also wants philosophers to figure out what it is that people really disagree about in policy disputes. In the debate about animal experimentation, for example, Wolff thinks that the opposing sides are much closer together than their slogans suggest. The issue is not whether animals have rights or are members of the moral community, but concerns the kinds of treatment appropriate to characteristics that are widely accepted to have *some* moral relevance (like sentience or the possession of a life) (22-29). By locating the real sources of contention, policy questions may prove much more tractable in practice than they appear in theory.

Finally, attending to what the parties concerned actually think about an issue implies an openness to moral pluralism. If we tackle policy debates already armed with our preferred principles, then we may tend to identify (say) consequentialist and deontological reasons with feuding philosophical sects. Wolff's salutary advice is that we instead recognize the struggle between different philosophical standpoints to be 'inside each of us' (93). The task, then, is 'to work out a position that accommodates both ... elements' (107). At the same time, Wolff warns us of the most common pitfall of the bottom-up approach, which is assuming that our 'intuitions' about cases are a kind of reliable moral insight. For instance, he thinks that our intuitions about the appropriate distributive principles for certain kinds of goods (e.g., that seats in public transportation ought to go to the first occupant and not to the highest bidder) often turn out to be nothing more than engrained conventions. Of course, this doesn't mean that we should abandon

those rules. After recognizing their conventional nature, Wolff thinks we should be mindful of the social benefit of utilizing a variety of distributive mechanisms, since this helps prevent the hegemony of the market and market values (180-190).

One quarrel I have with the book is that Wolff occasionally contrasts his pragmatic, bottom-up approach with only the crudest version of the principle-first, top-down approach. In the chapter on gambling, for example, Wolff states that ‘Taking a philosophical theory and applying it to a public policy area is likely to yield consequences not publicly acceptable,’ and that a case in point is ‘Mill’s liberty principle,’ which ‘would seem to rule out all limits to gambling’ (59), even those designed to protect the problem-gambler from himself. Now Mill’s opposition to paternalism may well be excessive, but Wolff simply ignores the nuanced argument of Joel Feinberg in *Harm to Self* (Oxford: Oxford University Press, 1986) to the effect that restrictions on compulsive behaviors—including compulsive gambling—are actually consistent with Mill’s liberty principle, inasmuch as such behavior is substantially nonvoluntary.

A related objection is that Wolff tends to lump together under the heading of ‘ideal theory’ both ‘principle-first’ theories and theories that propose ‘models of a good and just society’ (191). This is unfortunate because at least one of Wolff’s chief criticisms of ideal theories—that we must begin from the institutions we actually have—really only applies to the latter category, instances of which are rare in contemporary philosophy. Utilitarianism, on the other hand, is a paradigmatic principle-first theory, but it naturally lends itself to a pragmatic, reformist outlook, not to utopianism.

Many readers will be most interested in Wolff’s book for its contributions to particular questions in applied political philosophy. As the book is written in an unassuming, clear, lively style, it should be accessible to the layperson. Moreover, even the specialist will discover in its

pages a number of interesting, original arguments. The only drawback is that Wolff seldom has the space to develop or defend his arguments at much length. For example, in the chapter on safety, Wolff suggests that we tend to hold the railroad authority more responsible for accidents caused by factors under its direct control (like faulty tracks) than we do for accidents caused by an intervening agent (like a collision with a negligent motorist), and that this is true even if the railroad could have taken steps to prevent each of these at comparable costs (105-107). While that sounds descriptively accurate, the philosopher naturally wants to know whether that principle could withstand scrutiny from a normative perspective. Unfortunately, Wolff does not pursue the matter.

Ethics and Public Policy will also be read for its reflections on methodology. Some of the ‘Lessons for Philosophy’ collected at the end of each chapter—such as that ‘empirical claims need empirical support’ (60) and that ‘it is important not to rely on a “one-sided diet” of examples’ (167)—are pretty uncontroversial. But, though mundane, perhaps they warrant mention insofar as they are too often neglected. What I found myself wholeheartedly agreeing with is the central contention that philosophers should not permit themselves to indulge in self-righteous declamation without understanding the reasons for existing policies and the constraints on changing them. On the other hand, a point of method I still have questions about has to do with how philosophers ought to take into account popular attitudes on policy issues. Wolff plainly thinks that philosophers need to seek policy reforms that can garner a broad consensus. What is less clear is whether this is a purely strategic consideration, or whether Wolff thinks this stems from deeper democratic values. If the latter, then how are we to balance democratic considerations with other values? Hopefully, Wolff will have the opportunity to expand on these matters in the future.

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