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PubPol 580: Reading Notes for Class 4 & 5 (Sept. 17 & 22, 2009)

The classes on September 17th and 22nd serve as an introduction to some of the principal approaches to moral reasoning that are used in the policy world and in public discourse about policy. Some of the readings cover different approaches to moral reasoning (Darwall, Rawls, Thacher); others focus on the particular policy topic of the day. There is a lot of reading so plan ahead and it's OK to spread it out over the next week or so.

We will split into two groups for these classes; the list will be available by the Thursday when you need it.

THE MORAL POINT OF VIEW

After our initial focus on politics and morality, we're going to move away from politics. In comparison with the political point of view that has been at the center of the issues we discussed so far, the moral point of view is disinterested, universal, general, abstract, reflective, consistent, transparent, etc. We'll be taking up a series of topics in which we'll discuss and debate particular policies or policy proposals, focusing on what you think the right thing to do is and why. Along the way we'll touch on many of the major concepts that get brought to bear in policy debates--human welfare, rights, freedom, justice, etc.--and intertwine theoretical and applied discussions.

When we judge particular acts/policies, we place them into one of three categories--those that are morally prohibited, those that are morally permissible, and those that are morally obligatory. As you think about the different approaches to moral reasoning we'll take up, one way to evaluate them is to think about cases that different approaches would assign to different categories and which approaches accord best with your intuitions about the cases. This is also a good time to recall (or re-read) the discussion of reflective equilibrium in David Thacher's "Value Rationality in Policy Analysis."

On Thursday we'll talk about the promises and predicaments that accompany the rush of advances in the life sciences. Then on Tuesday we'll examine several issues concerning medical research involving human subjects who live in developing countries.

RECOGNIZING MORAL CONSIDERATIONS

These two classes are intended to give you some practice in recognizing moral issues and thinking about the moral intuitions that underlie them.

In both classes, the goal is to identify the moral considerations that the parties to the debate are placing on the table (and to add others if you believe some are missing) and to identify what kinds of moral claims these are. Why has this turned out to be such a controversial matter--what separates the two (or more) sides to this debate?

The objectives are (1) to identify the moral considerations that arise in connection with the issue (and to connect them up with concepts that moral philosophers write about) and (2)

to discuss the different approaches to talking about these considerations and resolving the conflicts among them that make policy decisions both controversial and difficult. So keep these objectives in mind as you think about the two policy issues.

The students doing presentations those days will spend their 10 minutes laying out the range of moral considerations that they think warrant attention. If they wish, they can spend the last minute or so telling us what they think the right answers are to the question they will talk about. The Q&A following the presentations and the ensuing discussion should focus on surfacing additional moral considerations and points of view beyond those raised by the presenters and on assessing the moral weight of the various considerations.

APPROACHES TO MORAL REASONING

The theoretical readings for Thursday illustrate some of the approaches philosophers take to making judgments about right and wrong. Steve Darwall's chapter provides a broad overview of most of the approaches we'll consider. The beginning pages are a little dense, and you needn't dwell on meta-ethics.

CONSEQUENTIALIST AND DEONTOLOGICAL THEORIES

In thinking about these policy issues, it will be helpful to keep in mind a common philosophical distinction between different ways of thinking about morality. You can place most moral theories (i.e., theories of the sort that we'll be reading about) into two broad categories: Consequentialist theories and deontological theories. The former hold that the rightness or wrongness of an action is determined by the future consequences of the action. The latter have in common that they attach moral weight to something other than (and often in addition to) consequences. Utilitarianism is the most important consequentialist theory. Deontological theories include theories about moral rights (the basic moral rule being "don't violate rights") and theories of justice. We'll have more to say about this distinction in later classes. One important distinction between these two approaches is the way they treat the "right" and the "good." Utilitarianism, for example, defines the good as human welfare (or some variant on that) and right consists in maximizing the good. Deontological theories operate differently, with notions of right preceding the definition of the good, and with maximization usually not playing a central role.

SOCIAL CONTRACT THEORIES

Darwall discusses two versions of these theories: (1) contractarianism (which is grounded in the pursuit of self-interest and often takes the actual status quo as having normative significance) and (2) contractualism (which is grounded in something other than self-interest, and where the status quo has little or no normative significance). There is obviously a tension between these two versions of social contract theory. We'll examine this tension particularly when we discuss a number of international policy issues where justice might apply (climate change, international trade). The most prominent contractualist theory is John Rawls' *A Theory of Justice*, of which I've assigned a few sections. For Rawls justice is the pre-eminent social virtue and his book provides us with an account of the

principles of justice based on the notion of a hypothetical social contract that captures the notion of "justice as fairness." Contractarian theories are likely to be consequentialist theories; contractualist theories are not likely to be solely consequentialist (for instance, Rawls' theory is not).

CASUISTRY

Darwall discusses all of these theories within the context of applied (case) ethics. But most of the theories he discusses seek principles that guide our deliberations on any given case. In contrast, casuists' judgments about cases rely on the analysis not of principles but of other cases that help us to understand what right requires in a particular instance. This approach rests on close analysis of a range of potentially comparable cases, using detailed knowledge of the context of the cases and of the action under study to arrive at a conclusion. David Thacher's paper (for next Tuesday) looks at this approach in several professional fields. His view is that when it comes to decisions in professional settings, we might be best served by relying on lower levels of abstraction than the "principles" authors rely upon—that lower levels of abstraction allow one to make better use of contextual knowledge, professional values, experience, etc. One of the things you should be doing over the next several weeks is to evaluate these various approaches to moral judgment in the policy world to see which you find most compelling (and why?).

VIRTUE ETHICS

Darwall concludes his chapter with a discussion of virtue ethics. As he notes, "virtue is concerned with character rather than conduct—with how we should be rather than with what we should do." And "a moral virtue ethics is a theory of what is worthy of distinctively moral esteem, that is, traits that are worthy of esteem in a moral agent." Just how this fits into thinking about public policy and the people who make and administer it is something to think about.

THINKING ABOUT THE TWO POLICY ISSUES

As you read the debates about the policy issues we'll talk about in these classes, ask yourself what moral intuition underlies someone's judgment about these matters. If you look down the syllabus for the next month or so, you'll see some of the concepts and theories we'll cover—utilitarianism, rights, freedom, justice. Ask yourself what moral concept is associated with the intuition you've identified. The idea here is to identify the considerations and intuitions and concepts that ought to be on the table when we are formulating policy on the issue. Then, once you have that list, think about your own intuitions about how we might know what the right policy is—that is, what do we do with the considerations that are on the table and how do we prioritize them, balance them, or whatever. Is this a matter that we ought to decide based solely on an examination of the consequences (in this particular case, or on average)? Is it a matter of individual rights (if so, whose rights and which rights)? Is this a matter of justice? Is this a decision where a policy can be shaped by abstract principles or is it one that is best decided by casuist reasoning? What other significant decisions in life are like this one and how can we learn

from policy with regard to those decisions? It's much more important that you ponder these questions than it is to reach a conclusion about what you think the right policy is, but to the extent that you do have strong convictions about what the right policy is, you should examine them critically and ask yourself what might lead other thoughtful and moral people to disagree with you. This survey of the moral intuitions that shape judgments on these issues provides a particularly good opportunity to explore ways people might think about them around the globe.

BE ON THE LOOKOUT FOR COMMON FEATURES OF ARGUMENTS

Philosophers and other academics we'll read usually have the opportunity to develop arguments at length and to be careful about filling in the details and responding to potential counterarguments. People writing for newspapers, magazines and other popular press outlets seldom have the space to do this (and often lack the inclination to do so, since their goal is to win over readers in the small space allotted). Learn to be a critical reader of articles like this. One way to do this is to develop a set of features of this kind of writing that you can have in mind as you read them. The following list occurred to me. Add to it as you find instances where authors aren't being as careful with their argument as you think they should be.

- Narrow or incomplete categorization of options/arguments
- Straw man arguments
- Exaggeration putting words in opponents' mouths
- Slippery slope arguments
- Very large logical leaps
- Inappropriate analogies
- Extreme hypotheticals
- Inappropriate metaphors

MESSING WITH MOTHER NATURE

On Thursday we'll look at a few of the issues that are being thrust upon us by developments in the life sciences. In particular, we'll examine arguments about sex selection (laissez-faire, prohibition or somewhere in between) and the use of neuro-enhancing drugs. For the most part these developments promise consequences that many individuals will value. They also raise questions about freedom and justice and joint consequences that might justify government involvement. And they raise moral questions related to my off-hand title for this class: messing with mother nature. What do we make of the claim that something is "natural" and that we should therefore not change it (or at least proceed very carefully)? What difference does it make if such a claim arises from citizens' faith commitments? If you have an appetite for one more reading, Mark Strayer called my attention to a recent article in the NY Times Magazine:
<http://www.nytimes.com/2009/09/06/magazine/06FOB-wwln-t.html>

CLINICAL RESEARCH IN DEVELOPING COUNTRIES

On Tuesday we'll discuss a topic that involves ethics across national boundaries (and cultures)--medical research carried out in poor countries by researchers from rich countries. This is unsettled terrain, as governments, international associations of doctors and researchers and NGOs debate what is required of study designs by the scientific standards of research and what is owed to human subjects (and their societies) by the sponsors of research. At this point I think it's fair to say that there is not a solid consensus on what's the right policy on this issue.

This is a case that seems to pit consequentialist ethics against deontological ethics. The stakes in terms of prevention of human suffering and death are huge, so the consequentialist argument has a lot going for it. The debate is about what means are permissible in pursuing these expected benefits. When humans are used as means (which seems a risk inherent in experiments involving human subjects), the Kantian requirement that we treat people as members of the kingdom of ends, and never as means, weighs in heavily on the deontological side. The Nazi "experiments" and the Tuskegee "experiment" (in both cases I use scare quote to emphasize the differences between them and honorable experiments) demonstrate just how much disregard for the welfare and rights of subjects trained scientists and doctors are capable of, so concerns on the deontological side are not hypothetical. The principles that come down to us from the Belmont Report are intended to help us resolve the tensions that arise in this kind of research.

The two presentations next Tuesday will address:

* Is it ethical to use placebos in evaluating a "low dosage treatment" when (1) the status quo treatment in the country involved is "no treatment" and (2) there is a effective treatment available in developed country whose cost is prohibitive in the developing country where the testing takes place (and where the low dosage treatment would be used)?

* What is owed to subjects after a clinical trial is over and does it matter whether the trial was a success or not? Do vaccine trials present different issues than drugs used to treat individuals suffering from a particular disease?

As with the class on Thursday, the goal for Tuesday is to identify the moral considerations that the parties to the debate are placing on the table (and to add your own if you believe some are missing) and to identify what kinds of moral claims these are. Presenters should focus on a list of moral considerations that are worthy of attention, with a little time at the end on their own resolution if they wish. Why has this turned out to be such a controversial matter-what separates the two (or more) sides to this debate? We should then spend some time talking about what you think the right answers to these questions are and why.

There are good opportunities for casuist reasoning as we think about current research programs in light of past cases, both good (polio vaccine experiment) and bad (Nazi experiments, the Tuskegee experiment, etc.). David Thacher's article is included to aid in

understanding how casuist thinking works in professional arenas.

One dimension that you shouldn't emphasize is the profit angle. There are some cases of clinical trials in developing countries of drugs that if successful would earn big profits for pharmaceutical companies from distribution in developed nations. But that isn't true of most of the cases under discussion on Wednesday. Most of this work is aimed at developing drugs to fight diseases/medical conditions in developing countries. Big pharmaceutical companies don't fund much of this work and they aren't likely to reap huge profits from it if it's successful. Most of this work is funded by foundations or the governments of developed nations, and these same entities will most likely foot a lot of the bill for distributing successful treatments. There may be a lot of personal glory involved (e.g., a Nobel prize), but for the most part the pursuit of money is not what drives those who engage in the research. So don't spend much time worrying about greedy firms exploiting people in the pursuit of profit. Or about research that engages in clinical trials to test drugs that address diseases/medical conditions that are of minor significance in the developing country where the test might take place. Let's focus on these issues as they arise in drug research whose benefits will be delivered to citizens of developing countries.