
A Matter of Interpretation: Federal Courts and the Law by Antonin Scalia,

Review by: Reviewed by David O. Brink

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David Archard systematically discusses issues concerning consent, particularly as consent relates to whether certain sexual acts or relationships are morally permissible. In this well-organized book, ethical questions relevant to currently debated issues such as student-teacher or client-professional relationships, homosexuality, intergenerational sex, sexual abuse of children, prostitution, acquaintance rape, spousal rape, and feminist theories of sexuality are examined in terms of their consensuality and moral permissibility. Archard clearly states that his focus is not all moral approaches to sexuality but “one particular theory of the sexually permissible” (p. ix), stemming from the popular view that when it comes to sex, “whatever is consensual and harms no one else is permissible” (p. ix).

Archard begins his book with an exceptional analysis of consent: what constitutes it, what invalidates it, what manifests it, and how it relates to sexual morality. It is this last topic, consensuality as it relates to sexual morality, which is most thought provoking in Archard’s writing. For example, Archard discusses cases where one human uses another human for personal sexual gratification, with that person’s apparent consent. Establishing that such consent can indeed be real, Archard admits that despite his attraction to the view consent is the “only rule in the sex game” (p. 1), he himself has nagging doubts about the truth of the view. He speculates that even if techniques like manipulation and exploitation, calculated to get someone to do what one wants him or her to do, are compatible with that person’s valid consent to one’s request, the presence of manipulation and exploitation in a situation seem to lessen, if not destroy, its moral permissibility. But, implies Archard, he is not exactly certain why, or really if, this should be the case.

Temporarily setting aside his doubts about his preferred view on the “sex game” (p. 1), Archard applies his analysis of consent to discussions of particular situations, and this is where his book succeeds in being relevant to a wide range of ethical questions. For example, an entire chapter is devoted to gendered consent. Here, Archard confronts feminist criticisms of women’s supposed consent in patriarchal culture, particularly Catharine MacKinnon’s view that because male-female relationships are currently characterized by the erotization of male domination and female subordination, no woman can truly consent to sexual relations with a man. Acknowledging that there are indeed biological, socioeconomic, and cultural facts about life in patriarchal society that make heterosexuality more or less compulsory for many women, Archard nevertheless defends the ability of at least some women to engage in noncompulsory sexuality. He explains: “Women and men [do not] always understand consent to these relationships in the same ways . . . [but to deny] that women ever do validly consent to sex with men is mistaken. It also, ironically, represents a refusal to take seriously what women themselves take seriously: their own giving and withholding of consent” (p. 97).

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Taking on another major feminist issue, rape, Archard writes that as nonconsensual sex, rape is always wrong. Sympathetic to feminist complaints about how traditional Anglo-American law made it the task of the victim, the woman, to prove that she didn’t consent (all “rape” is sexual intercourse unless proven otherwise) instead of the task of the alleged rapist, the man, to prove that she did consent (all “sexual intercourse” is rape unless proven otherwise), Archard nonetheless provides a balanced discussion of what the law counts as evidence of consent or, alternatively, absence of consent, whether prior or preconsent is relevant, and the mens rea of rape. Despite the fact that Archard criticizes the popular feminist view that rape is a power crime not a sex crime (p. 132), most feminists will find his answer to the question, “Should only ‘yes’ mean yes?” quite satisfactory. Archard suggests that to the degree a man and a woman have not established a pattern of mutually and respectfully satisfying each other’s sexual desires and needs, it is the man’s obligation to secure the woman’s verbal affirmative response before he moves, for example, from a less intimate (foreplay) to a more intimate (penetration) moment in a sexual exchange.

In testing the limits of his Principles of Consensuality and Dissent as the only relevant indices for the moral permissibility of sex, Archard contrasts the area of rape and the sexual activity of those below the age of consent with areas like incest, prostitution, and sadomasochism. As Archard sees it, rape and underage sexual activity are certainly morally impermissible because they are, by definition, nonconsensual, but they seem to have other features, over and beyond their nonconsensuality, which add to their wrongness. In the case of rape, it is the unfair ways in which Anglo-American law has (and still does) treat women, and in the case of underage sex, it is “the nature of childhood and the sexuality proper to it” (p. 98). The concerns are different, however, with reference to areas like incest, prostitution, and sadomasochism. Consent may be present in each of these areas, and yet most of us still express concerns about all of them. With respect to incest, we worry about whom “the consenting sex is between”; with respect to prostitution we worry “that the consenting sex is harmful” (p. 98). And worry we should, says Archard, even as he suggests that there are ways to assuage our worries about what transpires between two or more consenting adults. After all, if anyone is harmed, it is only themselves and not also a nonconsenting “third-party” as in the case of adultery.

Finally, Archard reaches the end of his thought-provoking, conscience-pricking book without offering a final opinion on whether consensuality is enough to declare permissibility, whether consent is a purely private or necessarily public activity, whether consent to sexual activity is ever free, and whether consent should be the foundation for sexual morality. This, I fear, is the only way anyone could conclude a book with Archard’s declared scope. For as I see it, in discussions of sexuality, the phenomenon of consent may be fully explored from all sides and examined analytically, but will remain enmeshed in the depths of our humanity, best understood as an incredible mix of emotion and reason, clarity and confusion, honesty and deception. ‘Yes’ may mean yes, and ‘no’ may mean no, but some of the time we are left with a ‘maybe’. And we may indeed always have to be.

Rosemarie Putnam Tong
University of North Carolina at Charlotte
This is a collection of twelve essays in moral philosophy written by Robert Audi. Five of the essays are new; the remainder have been published in journals or edited collections over the past ten years. Each of the essays (with the possible exception of the final, synoptic one) is entirely freestanding, but the essays have numerous points of interconnection, many of which are noted in the useful and brief preface and introduction. Among the topics receiving extensive discussion are moral epistemology, ethical naturalism, pluralism, virtue theory, practical reason, and moral psychology. Though the collection format does not lend itself to protracted defense of an ethical theory, this collection has very little redundancy and more thematic coherence than most. It sets out in broad strokes a comprehensive view with elements of both metaethics and normative moral theory.

I focus here on one central theme running through the book: Audi’s defense of “intuitionism” or “ethical rationalism.” The position is developed throughout the collection, but it is introduced most systematically in the second essay, “Intuitionism, Pluralism, and the Foundations of Ethics.” There Audi argues that certain signature claims of ethical intuitionism, as exemplified in W. D. Ross’s *The Right and the Good* (Oxford: Oxford University Press, 1930), have been widely misinterpreted. Properly understood, intuitionism’s claims that moral intuitions are “self-evident” need not appeal to the deliverances of a special faculty of intuition, nor do they require that ethical intuitions be epistemically indefeasible or true. In place of these familiar, if caricatured, conceptions of intuition, Audi offers his own characterization: intuitions are (roughly) (i) noninferential cognitions that are (ii) firmly held, (iii) formed in the light of an adequate understanding of their propositional objects, and (iv) relatively pretheoretical, in the sense that one’s grounds for holding them are not theoretical, even if they are vulnerable to disconfirmation by theories. What Audi aims to defend in the first instance is ethical reflection: a methodology for the formation of moral judgment, which, he says, is neutral between cognitivist and noncognitivist interpretations of moral language and between naturalist and nonnaturalist accounts of moral properties. Audi provides some careful mapping of this conceptual terrain, including an important distinction between judgments reached by inference and judgments reached by reflection. Reflection, he reminds us, can be noninferential.

So far, there is little to disagree with here, as Audi acknowledges (p. 53). His method of ethical reflection is roughly equivalent to Rawls’s method of reflective equilibrium; as such, it rules out very little—and nothing likely to be attractive to contemporary philosophers. That we do have some ethical intuitions, understood as Audi defines them, and that judicious ethical reflection pursued in light of discussion and experience is our best avenue to forming acceptable ethical judgments, are hard to deny. In places this seems to be enough for Audi, but at other points he construes his project as a way of defusing various kinds of ethical skepticism and of motivating “a moderate intuitionism, one on which, above all, both the intrinsic value of certain kinds of experiences and the truth of certain moral principles is non-inferentially knowable (or at least justifiedly acceptable) by those with sufficient maturity and clarity of mind” (p. 265). (An important
question Audi does not pursue is, when can we justifiably conclude that we possess sufficient maturity and clarity to render our intuitions justifiers of the claims they present to us?

It seems that the epistemological distinctiveness of this position, and the propriety of its claims to be a version of intuitionism, as that view has developed historically, will depend largely on just what sort of status it accords to ethical intuitions. Once it is granted (as it is and must be) that a person can seem to be struck with the self-evident truth of an ethical claim, say, that one has a prima facie duty to kill the heretics, that such conviction can survive the critical reflection even of an entire discursive community, and yet that the claim can nonetheless turn out to be (by our lights, anyway) a grotesquely pernicious and mistaken moral view, what exactly is being claimed for these intuitions? Is the mature and lucid inquisitor who has such an intuition justified in believing he should kill the heretics? If so, under what circumstances is he thereby justified in killing them? Does the proviso that the justifications in question are defeasible provide any reason for confidence that, in fact, such judgments and actions can be ruled unjustified? I’m uncertain of Audi’s answer to these questions. He points out in various places that prima facie duties will still have moral weight, even when they do not control what to do. But he also says, in a single paragraph (p. 56), both that, as he is characterizing them, intuitions must be granted “evidential weight” and that, if “arbitrary,” an intuition “would not necessarily have prima facie justification.”

Related matters arise in the third essay, “Skepticism in Theory and Practice: Justification and Truth, Rationality and Goodness,” where Audi aims to clarify the idea of practical skepticism and, more ambitiously, to offer an answer to it. He approaches this issue by exploring the analogy between theoretical and practical reason. Philosophers concerned with the relation between these domains will find this discussion of interest, especially its treatment of the roles of truth and goodness, respectively, for belief and desire (this comes up again, briefly, in essay 11). In the case of theoretical skepticism, Audi urges that there are certain a priori epistemic principles which are partly constitutive of the very concept of epistemic justification. His example is “if one has a clear and steadfast visual impression of something green before one, one is prima facie justified in believing there is something green before one” (p. 80). This is not a contingent criterion of justification, according to Audi, but a conceptual truth: “The idea, in part, is that the concept of justification is constituted by principles connecting justification, in the a priori way just illustrated, to certain basic sources” (p. 80). He seeks to support this general claim about the concept of justification by applying it in the ethical domain to the justification of action.

Just as an experience of a certain sort of visual impression is held to be an a priori (defeasible) justifier of belief, so experiences of pain and pleasure are held to be a priori (defeasible?) justifiers of action. The claim here is very strong: these are experiences which, though they may not entail that there is anything good, do entail that there is a reason for action. “Could an experience’s being painful fail to provide a reason to act, say to avoid it? If I am being shocked and frozen by the frigid water I have just fallen into, is there not a reason for me to get out of it? . . . surely anyone who sincerely denies that there is a reason for me to act in such a case reveals a failure to understand reasons for action (or at least some conceptual failure)” (pp. 80–81).
Of course we can construct cases in which this shocking freeze is something one does not have sufficient reason to escape—perhaps this is the best available way of committing suicide, where doing so has been rationally determined to be the best thing to do, or perhaps this is literally just what the doctor ordered. So although the quoted passage omits the qualification that the reasons in question are defeasible, we should take Audi to be assuming that throughout. But this raises the question of what the acknowledgment of defeasibility entails. In an earlier essay, Audi glossed indefeasible justification as “roughly, justification that cannot be undermined or overridden” (p. 38). This, however, was in the context of theoretical reason, in reference to the status of intuitions as defeasible justifiers of moral judgment.

What then of the practical case? Are we to say about our rationally suicidal freezer that he has some reason to get out of the water, which is overridden by his suicidal project, or that such reason as he would normally have is undermined (to the point of disappearing) by the special circumstances? If the epistemic and practical cases are supposed to be fully analogous, it seems that there should be room for both possibilities in the practical case, as there was in the epistemic one. But elsewhere (p. 265), Audi suggests that a pain necessarily provides a basic reason for action—though it may not provide sufficient reason, to regard it as no reason is to display conceptual confusion.

It is difficult to know what to make of such a conceptual thesis about reasons, since it would seem to leave instrumentalists (who will claim that if S has no end which would be served by escaping the water, then there is no reason for him to escape it) as not merely mistaken about rationality but as incompetent with the concept. However, the alternative claim—that the practical reasons supplied by pain can be undermined, as well as overridden—seems too weak to supply what Audi wants, since it renders the justificatory status of painful experiences hostage to contingencies on whose nature the concept of justification itself is apparently silent. If the experiences that Audi seeks to tie, through a priori principles, to the very concept of practical justification are such that on any given occasion they might supply us with no reason whatever, it is hard to see what answer has been given to the practical skeptic after all. He apparently intends a distinction between “agreement in reasons” and “agreement on reasons” to help with this question, but I found the relevant discussion uncharacteristically opaque (p. 266).

There are many other interesting topics canvassed, and positions advanced, here—too many for even a summary discussion. I particularly recommend the essay “Self-Deception, Rationalization, and the Ethics of Belief,” which offers interesting and plausible accounts of self-deception and rationalization and explores questions about the rationality of action proceeding from these. Among the issues touched upon here are questions about the rational assessment of unconscious attitudes; Audi holds that such attitudes are appropriate targets of rational assessment. He also argues that where one has evidence that clearly favors not-\( p \) over \( p \), accepting \( p \) in the mode of self-deception is “less reprehensible” than believing \( p \), because the latter involves a greater failure of cognitive self-control than the former. He claims that on a plausible conception of self-deception it is prima facie criticizable “from the point of view of the ethics of belief” (p. 144), and yet that there may be cases in which one has a moral duty to become self-deceived. In each of these cases, the discussion is couched broadly in terms of the “ethics of belief”;
it would be interesting to see some exploration of the relation and apparent tension between moral and epistemic reasons to believe.

JUSTIN D’ARMS
Ohio State University


Anybody familiar with recent political theory will be aware that much discussion is being given to the topic of deliberative democracy. In part, this reflects frustration with the way democratic politics works in contemporary American society, where money has a large influence on political outcomes. The deliberative ideal represents an attempt to find a way of thinking about democracy that makes it more likely that the force of the relevant reasons will determine which policies are enacted into law.

The collection under review provides a valuable introduction to the many questions raised by this project. It contains four previously published “major statements,” by Jon Elster, Jürgen Habermas, Joshua Cohen, and John Rawls, and more recent contributions by Frank Michelman, David Estlund, Gerald Gaus, Thomas Christiano, Jack Knight and James Johnson, James Bohman, Henry Richardson, Iris Young, and Joshua Cohen.

The idea that sound democratic practice will involve deliberation is hardly novel. But the current theorists of deliberative democracy clearly mean to be proposing something new. They concede that actual political deliberation will rarely produce a consensus, at least by the time a decision is necessary, and thus that the policies to be adopted will normally be determined by a vote. What, then, do they have in mind?

The deliberative ideal is closely connected with the notion of public reason. As explicated by Rawls, to reason publicly is to invoke considerations that one can reasonably expect other reasonable members of a pluralistic society (where comprehensive moral views differ) to accept. Each person’s understanding of what these considerations are will, of course, be shaped by the exchange of arguments in deliberation. And if citizens vote only for what seems justified by such considerations after shared deliberation, we get an alternative to what Cohen calls the “aggregative” view of democracy, according to which democratic procedures merely resolve the preferences of the members of a group into a social choice. Elster’s contribution also explores the deliberative-aggregative contrast. Rawls restricts decision making on the basis of public reasons to constitutional essentials and questions of basic justice. But Cohen seems to regard deliberation and voting on the basis of such reasons as appropriate for all political issues.

Why does the deliberative conception represent an improvement over the aggregative conception? One possibility is epistemic. In his contribution, Estlund seems to concede that the aggregative approach is satisfactory for cases where conflicting interests are at stake. But he thinks that when votes express moral
opinions, which could be right or wrong, citizens need to be able to regard democratic procedures as, to some extent at least, likely to enact the right answer. He doubts the applicability of the Condorcet jury theorem, which establishes certain epistemic properties of voting. But he appears to believe that under favorable conditions, familiar democratic procedures, which combine deliberation and voting, can be regarded as getting the right answer more often than not. He calls this view “epistemic proceduralism.” He is a little vague about the details, but he does state as one of the conditions of this result that citizens accept a shared conception of justice. This suggests that for epistemic proceduralism, democratic procedures do not, strictly speaking, track the moral truth, but rather reveal the true implications of the shared conception. Perhaps Estlund thinks that if the shared conception is established by public reasoning, determining what it implies constitutes epistemic success in a pluralistic society.

Gaus argues that shared deliberation cannot be expected to produce a consensus. In his view, the decision-making apparatus that resolves disputed questions should have the status of an umpire. An umpire does not just dictate a policy. It is a source of decisions that, ideally, each of the parties to a dispute can regard as at least reasonable. Gaus states that voting can play this role. But the paradigm of umpiring is adjudication, which interprets and applies antecedently existing rules, and it is unclear whether the full range of legislative activity can be accommodated to this model.

Christiano proposes that public deliberation in a democracy has value primarily as an epistemic instrument, but that it can be so conducted that it gives each equal access to various cognitive benefits, in which case it has intrinsic value as well. But in large political societies, where public deliberation is carried on primarily by the intermediate entities comprising what Habermas calls the public sphere, it is doubtful that any intrinsic value that such deliberation might have can take the form of an equal distribution of the benefits of actual participation to all individuals.

The essays by Knight and Johnson and by Bohman address the possibility that by appropriately structuring the deliberative aspect of democracy we can enhance democracy’s claim to be a decision procedure that accords equal consideration to everyone in a society. This constitutes a second important theme—in addition to the epistemic one—in the case for deliberative democracy made in this book. Similarly, Young emphasizes the importance of shared deliberation in ensuring that the perspective of each group in a culturally diverse society is adequately appreciated. The key concept here is “equal opportunity for political influence.” Bohman argues that this should be understood in terms of equality of capabilities rather than equality of resources. He seems to favor an outcome-oriented criterion for equality of capability. One must be able actually to alter discussion, if one chooses to do so. But this point is in tension with the acknowledgment, occasionally made by these authors, that arguments can be legitimately dismissed as defective. The decision between capabilities and resources is tricky for a theory of deliberative democracy since the answer must ultimately be determined by prior shared deliberation, which itself must proceed without the benefit of an answer. This bootstrapping problem is discussed in a more general vein by Michelman.

Richardson’s essay concerns how respecting each citizen as a self-originating
source of claims can be reconciled with the putative epistemic virtues of deliberation. He suggests that this can be accomplished if people are understood as deliberating about ends. Ends are subject to rational appraisal but, unlike beliefs, can be compromised. This holds out the possibility of a compromise that respects the claims of each yet also identifies a new end that each can regard as better justified. His example of this process, however, is the building of majorities in a legislature. As he acknowledges, this leaves unanswered the question of the basis on which outvoted minorities are to participate.

There may be a deep problem for deliberative democracy lurking here. Several of the contributors refer to “democratic legitimacy”—that is, the legitimacy of democratic authority. But one sometimes gets the impression that they think that as long as what Cohen calls the “substantive” component of the deliberative ideal is realized—as long as each party is operating with reasons that are reasonably responsive to the reasonable commitments of others—justifying political authority is a minor matter. If everything works as it should, even if one loses the argument, one will still be able to regard whatever policy is adopted as backed by cogent reasons. And this means that compliance with the laws implementing it will be relatively unproblematic.

Doubts arise, however, when we consider some actual cases. (Here I am assuming that the deliberative ideal is meant to apply to all political decisions.) The voters of California have recently passed ballot initiatives that reduce social services for illegal immigrants, end affirmative action in state-funded enterprises, and curtail bilingual education. The process that led to these results is certainly not a paradigm of deliberative democracy. But we can still consider how these issues would look from the deliberative standpoint.

One possibility is that such proposals do not meet the substantive test of being reasonably responsive to the reasonable commitments of others, and thus could not be placed on the agenda in a society that realized the deliberative ideal. But this would create the suspicion that the deliberative ideal is simply a particular (left-liberal) conception of justice masquerading as a theory of the well-functioning of our common democratic institutions.

If, however, we say that the opposing sides in these cases each meet the substantive test of reasonableness—if affirmative action is something about which reasonable people can disagree, for example—it becomes doubtful whether the reasonableness of a law constitutes sufficient justification for complying with it. In each of these cases, some of those on the losing side have advocated disobedience. A more plausible approach to legitimacy would give a prominent role to the idea that a certain amount of cooperation to implement policies that one regards as seriously mistaken is unavoidable if political society is to be maintained. But then it is a short step to the view that the burden of contributing to policies that are regarded in this way should be fairly distributed. And this moves us in the direction of an aggregative, bargaining-oriented understanding of democracy.

Christopher McMahon
University of California, Santa Barbara

In the mid-1980s, a number of major publishers considered and ultimately rejected the idea of a new, multivolume general encyclopedia of philosophy meant to replace or update the now classic one published in 1967 under the general editorship of Paul Edwards. Library budgets were flat or shrinking; publishing costs (or at any rate book prices) were rising dramatically; the extent to which electronic publishing would become the medium of choice for academic reference materials was uncertain; intense financial pressures on publishers of all sorts made them reluctant to commit large amounts of money in advance to long-term, large-scale projects on which the rate of return would be relatively modest compared with, say, the profits on a successful cookbook. Moreover, while it was clear that the Edwards encyclopedia was in many respects out-of-date, it was widely admired and used—especially in the United States, not least because there (thanks to the Book-of-the-Month Club) most philosophers over the age of thirty-five had their own personal copies.

The naysayers’ argument seemed to be this: if you couldn’t do something dramatically better than the Edwards encyclopedia, and rather quickly disseminate it as widely as that work, the effort was doomed to failure, both financial and critical. The likelihood that one could do something dramatically better, given all the problems enumerated above, was small. Therefore, one should not try. One should instead do other sorts of reference works—collections of articles on various periods in the history of philosophy; specialized encyclopedias in various subfields; companions; dictionaries. That seemed to be the smart course of action, and many publishers followed it. As a result, in the last ten years or so, there was an outpouring of such reference works in philosophy—some of them more or less eccentric and ephemeral, but others very good indeed.

We now have cause to celebrate the fact that the London wing of Routledge declined to follow the smart advice and launched, in 1991, a massive, well-organized, and well-funded project to produce a new general encyclopedia of philosophy, the Routledge Encyclopedia of Philosophy (REP), under the general direction of Edward Craig. The result is dazzling—a huge, handsome set of volumes of some 2,054 lucid, valuable articles, written by roughly 1,300 expert authors, and ably presented within the complicated apparatus that transforms a mere collection of articles into a genuine encyclopedia. The editors have imposed a house style that encourages browsing (more about that later), and thus even the most task-oriented readers are likely to be led into one of the great delights a huge work like this can provide—pleasant, surprising, leisurely, and rewarding detours. One goes looking for an article on the Pareto principle, for example, wondering whether it has some unusual twist (no), and whether it warrants a separate entry here (iffy), and soon finds oneself engrossed in a nearby, elegantly clear piece on paraconsistent logic. Or one goes looking for an account of marxist ethics and finds the topic embedded in pieces on Marx, of course, but also, explicitly or implicitly, in separate entries on Western, Chinese, Russian-Soviet, and Latin American marxism. Though a general encyclopedia of phi-
losophy—indeed, any encyclopedia—must often sacrifice depth to achieve its breadth, it is a wonderful thing to see topics situated in such a vast landscape.

My focus in this brief review will be the material on ethics and social, political, and legal philosophy, along with some matters concerning the organization and presentation of the whole work. For the record, I note that these evaluative comments should be read in the knowledge that I contributed a short article to the *REP* and edited one of the specialized encyclopedias alluded to earlier. Moreover, scores of the contributors to the work I edited, who are obviously philosophers I admire, also wrote articles for the *REP*. All of that, together with my all-too-vivid appreciation of the editorial difficulties of an encyclopedia project, might of course predispose me to like what I see here. Even more predisposing is my profligate affection for reference works of all sorts—from telephone books, dictionaries, and encyclopedias to variorum editions of obscure works—combined with rather conventional views about what constitutes excellence in such works. You should perhaps be warned that the people who divided the Britannica into micro- and macro-"pedias" are not welcome in my house—at least not for that reason.

I am happy to report that the *REP* is not tricked out with any appalling new gimmicks. It has a straight-ahead alphabetical organization, with no attempt to identify or segregate articles thematically (except in the index and the CD-ROM version; see comments on this below). It is replete with "see" and cross-references, both in the head words and the articles, and the index is a marvel. The editors have chosen not to require authors to insert birth-death dates after the initial occurrence of a name in the text of an article. But the loss of this bit of standard apparatus does contribute to the remarkably clean look of the text on the page.

According to the general editor, Edward Craig, the work of constructing the table of entries and commissioning and editing the articles was parcelled out to thirty subject editors, who communicated extensively with each other and with him during the process. Other matters of the overall design were, according to the editor and publishers, heavily influenced by market research, focus groups, and so forth, especially among librarians.

The subject editors for ethics were Onora O’Neill and Roger Crisp, with help at one stage from Christine Korsgaard. For political philosophy, the editor was David Miller; for philosophy of law, Beverly A. Brown and Neil MacCormick; for philosophy of social science, David-Hillel Ruben.

The range and selection of the entry lists here are sound, though like the articles themselves, rather streamlined. (The entry on *akrasia*, for example, which begins with sections on Socrates and Aristotle, jumps without explanation directly from them to Donald Davidson.) It is of course difficult to get a precise estimate of how much of the whole encyclopedia is devoted to ethics—in part because, in a general encyclopedia like this, a good deal of the material is presented in subsections of articles covering a wide range of themes, or covering the whole body of work produced by a major philosopher. In the CD-ROM version, one can survey the entries in various overlapping subject categories, and there, ethics has 161 thematic entries (i.e., not biographical or historical ones), of which perhaps a third can also be found listed either among the 41 entries on philosophy of law, the 89 on the philosophy of social science, the 117 on political philosophy, and the 127 on religion. Naturally enough, the large, core entries, such as the one on
justice, are listed in several of these groups. The same sorts of overlap and omission exist in the other thematic categories, but for purposes of rough comparison, metaphysics has 113 entries; epistemology, 94; philosophy of science, 97; logic and mathematics, 143; language, 76; mind and psychology, 110; and aesthetics, 54. Material relevant to all these thematic categories can be found via the 1,121 overlapping listings in the history of Western philosophy, 289 in “world philosophies,” and 426 in world religions. Overall, this organizational template has some 3,053 listings to deal with the REP’s 2,054 entries, but I have no idea how many entries the template omits entirely. (By accident I found two: “Italy, philosophy in,” and “Native American Philosophy.”) There is no substitute for a good index.

Most elements of the house style imposed by the editors are standard and executed admirably throughout. Three of the elements are of dubious value, however, and deserve mention here. No doubt they are welcome to harried reference librarians, since such things reduce the amount of hand holding those good people have to do in their work. But one wishes that Routledge’s market research had also included focus groups of those of us who are reasonably adept at reading encyclopedias and who take a leisurely approach to browsing in them.

1. We would have raised more than an eyebrow, for example, at the editors’ insistence that almost every article be prefaced with a swift, nontechnical summary of its contents, amounting to roughly 10 percent of its overall length. Encyclopaedia articles are already distillations, dangerous enough in that respect. Offering a precis at the beginning, set off in italics, increases the risk. When I was browsing in the CD-ROM version, I often found myself reading only the precis. Much to my dismay, especially for the rather substantial summaries of long articles, I had difficulty either skipping directly to the article itself, or going on to read the article after reading the summary. Oddly, for what it is worth, my experience with the print edition was quite the reverse: in the hundreds of articles I read in it, I could not once bring myself to read all the way through a precis. Most of the time I ignored the precis completely.

2. We stodgy readers would also have queried the convention of calling so much attention, typographically, to the division of long articles into sections, and to the general practice of making those sections quite short. Section headings are given as a sort of table of contents beneath the precis and are set off in the text of the article with a good deal of white space. This too encourages skimming, and when one finds, here and there, a series of sections labeled “(cont.),” one has the sense of forced overorganization. At least this is so in the print edition. In the CD-ROM version, the section headings serve as very useful hypertext links.

3. Some of us will also regret that almost all elements of author-identifying style have been eliminated in the editing. Partly this is necessitated by the form, because any encyclopedia’s articles have to be standardized in many respects if the work as a whole is to achieve its purposes. And it is a delicate matter for any editor to strike a proper balance between the diverse voices of the authors and the “voice” of the encyclopedia itself. In the REP, it is pretty clear where the power lies. One can read long stretches of contiguous articles by different authors and, save for the names at the foot of each article, have the sense that they were all written by the same person. In rhetorical terms, the implied author throughout is an indefatigably upbeat fellow, who writes crisply, clearly, with a good deal of self-assurance, in well-organized paragraphs of rather short (or at any rate
compound rather than complex) sentences, who sometimes shows a laconic wit, but otherwise reveals no identifying traits of character—certainly nothing of the intellectual passion and idiosyncrasy (not to mention hints of psychopathology) that readers in future generations would relish. This certainly does not amount to a criticism of the *REP*. This element of its house style is a perfectly defensible choice and has significant benefits for certain sorts of readers. There are, however, costs as well.

Such minor matters aside, the *REP* is a worthy successor to the Edwards encyclopedia. It is not a replacement for it. Librarians pressed for shelf space should look for savings elsewhere, because there are many things in the Edwards volumes that are of enduring value, and of course any good encyclopedia is of enduring historical interest. But the *Routledge Encyclopedia* is certainly much more than a mere complement to its predecessor. It is a genuinely new work, and at least in terms of the limited portions of it that I can evaluate, a work of uniformly high quality. The editors and publishers should be very proud of their accomplishment.

Their claim is that the *REP* is a new work in two important senses. First, of course, it reflects the substantial and far-reaching developments in many areas of philosophy that have occurred since the mid-1960s. Ethics, broadly conceived, is one of the areas that has undergone a sea change, and the *REP* accurately reflects this—though it understandably does not delve extensively into the rather time- and-place-bound details of specific developments in applied ethics. (Where it does discuss specific applications, it properly does so on issues of wide, enduring interest and theoretical significance—such as the ethical treatment of animals.)

Second, the *REP* purports to be more “inclusive” than its predecessor. This claim is hard to assess with respect to the material on ethics, though it certainly seems plausible of the encyclopedia as a whole. Part of what might be called its increased inclusiveness simply reflects the increased interaction between Anglo-American philosophers of an ahistorical, analytic sort and both historically minded and Continental philosophers. Boundaries between types and areas of philosophy are much more permeable than they were three decades ago, and the mainstream of Anglo-American philosophy has spread out considerably as well. The *Routledge Encyclopedia* quite naturally, and properly, reflects this—typically by declining to sort things in the Western tradition along linguistic or political lines. French feminism, for example, does not have a separate entry, even though the coverage of feminism, including the French feminists, is extensive. There are exceptions: the aforementioned piece on Italy; a similar one on Scandinavia; French philosophy of science. But generally, the *REP* has moved in the direction of Anglo-American and European unity. Whether it has also moved substantially in the direction of “world philosophy” I must leave to others to assess. The limited portions of the work I have surveyed leave me uncertain on this score, since the Edwards encyclopedia made the same sort of effort, and since the material in ethics, social, political, and legal philosophy under review seems pretty standardly Western.

Two things make me tentative about this, however. One is a modest set of articles bridging philosophical and religious ethical traditions—“bioethics, Jewish,” for example, or “law, Islamic.” The other is the thicker treatment of Asian, Indian, Middle Eastern, and African philosophy and religion than is typically found in older reference works in Western philosophy. Under the heading world
philosophies in the CD-ROM version, one finds the following (unexplained) order of topics and distribution: African, 18 entries; Chinese, Japanese, and Korean, 114; Indian and Tibetan, 65; Slavonic, 74; Latin American, 18. Under the heading world religions, one finds, again in an unexplained order, Judaism, with 69 entries; Buddhism, 60; Christianity, 188; Islam, 61; Hinduism and Jainism, 48. Situating philosophical ethics in the Western tradition in this broader context is illuminating.

Finally, I should say something more about the CD-ROM version. This single disk of roughly 250 megabytes can be purchased either by itself, or together with the print edition. It is licensed for local area network use of up to ten simultaneous users but can easily be installed on a single PC—either in full, or in an arrangement that puts only the browser on one’s hard disk. In the front matter to the print edition, Edward Craig hints that subsequent updates to the REP might come only in this version. I have just two brief sets of observations to offer about it.

One set concerns the fact that the electronic version is wonderfully designed and greatly increases the usability of this massive work. Upon opening the program, the reader is presented with a screen divided into three windows. Running down the left margin, from top to bottom, is a navigation window listing the complete table of entries. One selects an entry by clicking on its title there (where a second click reveals the article’s section headings), but the surrounding portion of the table of entries remains visible, providing a comforting sense of orientation within the work—much as one would have with the print edition. This is by now a familiar arrangement to users of the World Wide Web, but one which evolved in stages and has only recently become standard for complicated websites. For this reason and others, the editors were wise to wait until quite late in their project to design the CD-ROM package.

Three tabs at the top of the navigation window allow one to toggle between the table of entries, the index, and a glossary of technical terms in logic. The text of the article (or index item, or glossary entry) that one has selected appears in the upper right window, and a smaller pane at the lower right shows the article’s bibliography. All of these windows can be customized: they can be resized, for example, to enlarge the area of text, and fonts can be changed. There is even a way to bookmark and take notes on the entries one reads, and to insert one’s own hypertext text links. And of course one has the advantage of full text searching. As mentioned previously, on an alternative screen the editors have provided instant access to various groupings of articles—arranged by historical periods, for example, or in terms of various “themes” such as ethics. This is undoubtedly a convenience for some purposes, and here, where it is simply one among many options for organizing and reorganizing the table of entries, it is harmless.

Overall, having the full text of the encyclopedia available in this format is enormously valuable. My only quibble with it is that for some reason the editors have not included, in the CD-ROM version, any of the front matter explaining the purpose of the encyclopedia, the process used to produce it, and information on the subject editors and authors. At least, if this information is in the CD-ROM version I could not find it after a pretty determined effort to do so. The list of subject editors is printed at the back of the instruction manual, but who but a reviewer or a complete computer novice would read that? In the print edition, by the way, information on authors is in the index volume.
The other set of issues about the CD-ROM version concerns the possibility that subsequent editions will be issued in this form. (My remarks here are prompted by my own research with a focus group of one—a certain librarian and coeditor.) One of the disturbing things about a great deal of text now available on the Internet and in various other electronic formats is how easily such text becomes disassociated from its provenance—from information about who produced it, how, for what purpose, and when. For this reason it seems important to make a special effort, in CD-ROM publications, to make such information visible to the user. Moreover, subsequent editions are likely to overlap considerably with this first one, and it will be quite important to keep the history of various articles straight—when they first appeared in the encyclopedia, how they have been amended, and so forth. This should be much easier to do in an electronic version than in a print edition, and all the more important to do if subsequent editions are issued frequently. This makes the absence of the front matter in the current edition more troubling. And I note that when one prints out a section of an article—say, the elegantly done section on cosmopolitan morality in Charles Beitz’s essay on international relations—one gets pages stamped with the publisher’s copyright notice, but no indication of either the title of the article or its author.

On the other hand, the CD-ROM version should certainly solve the problem of wide distribution. Presumably, its stand-alone price will eventually drop dramatically, doing vastly more for the Craig encyclopedia than what the Book-of-the-Month club did for its predecessor. That will be a great benefit to us all.

LAWRENCE C. BECKER

College of William and Mary


This collection of mostly new essays (one of the fourteen was excerpted from an earlier work) probably should have been subtitled “Essays on Virtue” rather than “Essays on the Virtues,” since the essays in it are not about the virtues in sensu diviso, as a collection of different and potentially unique traits. None of them is a sustained discussion of some particular trait—such as generosity, courage, or integrity—and the distinctive contribution it makes to the ethical life. This characteristic of the book is probably not the result of oversight but of a principled choice. To use a distinction employed by more than one of the authors represented in it, the subject of this volume is not “virtue theory” (the investigation of a particular subject matter within the general area of ethics, the nature of particular virtues and of the nature of virtue in general) but “virtue ethics,” which is a normative theory of what we should do and how we should live, a potential alternative to Kantian and consequentialist ethics.

With this distinction in hand, I think I can say that this volume is probably the best single introduction to what is going on in virtue ethics today. It would be easy to think of interesting contributors to the field (including five or ten of my own favorites) who are not represented in it, but this in a way constitutes one of
the book’s virtues. The editorial choices represented in it reflect a certain tendency to favor younger or less well-known contributors. This, we may hope, can serve to bring new blood (to use the slightly gruesome cliché) into the aging tribe of virtue ethicists.

This book seems to be aimed at performing two quite different functions. One is to fill a hole in the syllabus, to serve as a useful text in a graduate or advanced undergraduate course. The other is to present original essays of interest to other researchers in the field. Given that these two purposes necessarily conflict to some extent, the result is quite successful. Perhaps inevitably, it is not an absolutely unqualified success. A few of the essays have a rather textbookish format. Quite a number of them are to some extent digests of their authors’ earlier work. In addition, most of the contributors who are well known are not operating here at the very peak of their powers. But the general quality of the contributions is high. I found it consistently interesting, and sometimes absorbing, reading.

Within the realm of virtue ethics, the essays cover a commendably broad range of topics. Rosalind Hursthouse defends her claim that virtue ethics can serve to guide conduct. Michael Stocker discusses the significance of the fact that the notion of virtue pushes the emotions somewhere near the center of the ethical stage. Gabriele Taylor discusses the ways in which the vices that correspond to the self-regarding virtues are bad for the person who has them, and ends her account with a fascinating presentation of a non-Kantian notion of self-respect. Michael Slote defends his claim that, on the issue of the relative weighting of the agent’s self-interest and the interests of others, virtue theory can take a position that is as broadly principled as, though sharply different from, both consequentialism and Kantianism.

Several largely historical essays provide some counterweight to the mainly theoretical cast of the book: those by Terence Irwin (on the Ancients), David Wiggins (on Hume), and John Cottingham (partly, and very interestingly, on Descartes). There are also two essays by authors representing points of view that are inimical to virtue ethics. Onora O’Neill defends Kant, in an argument that strikes me as both sensible and enlightening, against the virtue-ethical charge that his conception of virtue is too subjective and psychological. Julia Driver defends the idea that consequentialists, too, can have a usable conception of virtue, though, as she presents it, it would be a conception radically different from the ones that are current in virtue theory as we know it.

Regarding Driver’s essay, I cannot resist the comment that it will do little to dispel the common impression that consequentialists tend, in their treatment of commonsense morality, to be revisionist in ways that are both casual and gut-wrenchingly severe. Her central thesis is that virtue should be defined simply in terms of its good results and quite independently of any intentional states of the agent. As she points out, this would seem to imply that there is no longer to be any conceptual connection between acting virtuously and acting out of intentions or motives that are good. If that is so, then this thesis would seem to require just the sort of mind-boggling changes in the way we ordinarily think that are commonly associated with consequentialist thinking.

Though the spread of topics represented in this volume is very good, the balance among the points of view represented is not always what one might hope
for. There is only one essay (by Andrew Mason) that discusses political issues, and there is likewise only one (by Brad Hooker) which is focused on discussing the relations between virtue and the good of the agent. Since both essays defend highly distinctive positions (one culminates in a discussion of which of two types of socialism might be superior to the other one, and the other denies the sort of close connection between virtue and self-interest which was orthodox during the centuries when virtue-ethics dominated moral philosophy), the treatment of these two important topics in this book is inevitably rather lopsided.

There are many things in this book that are worthy of more detailed comment, but I will confine myself, arbitrarily, to a few remarks on Brad Hooker’s essay. Hooker denies, though with some hesitation, that the virtues are fundamental constituents of well-being in the way that pleasure, knowledge, achievement, and friendship are thought to be. His argument goes (with slightly damaging simplification) like this. Suppose that two people lead equally sad and wretched lives, and that one of them is morally virtuous while the other is not. We would not feel sorrier for the nonvirtuous person than for the virtuous person. The best explanation for this fact is that we do not believe that virtue, in and of itself, is one of the elements of the agent’s own good.

I think the first thing to say about this argument is that many traditional virtue theorists would reject the hypothesis on which it is based. They might admit that it is of course obvious that we would feel equally sorry for two people who are equally sad and wretched—sadness and wretchedness being the formal objects of pity—but they would deny that these two people would be equally wretched and sad. This is, in fact, the point of their theory. Packed into the hypothesis is the assumption that their theory is false.

The argument could probably be patched up in a way that avoids this objection (by supposing that the two people are equally deficient in goods other than virtue, etc.) and perhaps (though this is a little less obvious than before) we would still not feel sorrier for the bad person. But, depending on the conception of virtue they hold, Hooker’s adversaries might still have plenty to say. For instance, in one family of traditional theories, virtue consists, at least in part, of a certain very important sort of knowledge (called, of course, “wisdom”). On the basis of such a theory, they can reject the hypothesis again, this time on the grounds that, since we are assuming that knowledge does constitute part of the good, these two people would not be equally wretched. One has more knowledge, and a very important sort of knowledge at that.

Another possible response could be based on the notion that the contribution that virtue makes to happiness is fundamentally different from those made by the more obvious constituents of well-being. Virtue, according to some traditional theories, is not so much an element of happiness as a formal constraint on it. A virtuous person grasps the true hierarchy of values, the relative importance or unimportance of things, and the nonvirtuous person does not. Happiness (perhaps ‘flourishing’ is a better word for it) does not only mean having good stuff, it also means (among other things) that one has the stuff in the right proportions. Since the nonvirtuous person is in the dark about what these right proportions are, nothing they have can possibly count as happiness, even when it is the sort of stuff that would make a good person happy. The analogy used by the Stoics was that of a gaming piece, which only has that value and status within the
context of the game. On this view, though virtue is constitutive of happiness (or flourishing), it is not obvious that we can pity someone for lacking it. Perhaps pitying a nonvirtuous person would be like pitying my dog because she cannot benefit from most of the things that make me happy. Would that make sense? Is it the same sort of thing?

These questions, and many others raised by this book, are interesting ones, and I hope it will inspire others to pursue the answers to them. I would only wish to warn them that one cannot go very far in this pursuit without also attempting to answer questions about what virtue is, and about what the particular virtues are like. For guidance on that subject one must, as I have suggested, go to sources other than this book.

LESTER H. HUNT
University of Wisconsin—Madison

New York: Oxford University Press, 1997. Pp. xiii + 258. $49.95 (cloth); $19.95 (paper).

The provocative character of Richard Dagger’s important new book is signaled by the most general rubric under which he presents his arguments and his wide-ranging engagements, that is, “republican liberalism.” He recognizes that many will regard this combination of words as oxymoronic and will think that a theory that purports to meld the ideas that the words commonly signify is and must be catechetical (pp. 11–12). As indicated by his title and by the stylistic that in developing his own arguments he invariably qualifies “liberal” by “republican”, it is evident that, were he convinced by this familiar view, he would opt for republican and against liberal positions. In other words, for Dagger liberalism is a defensible ideology or theory only if or to the extent that it accommodates or rather promotes civic or citizenly virtues and the obligation to pursue the common good that are the hallmarks of republican theories and practices. But he rejects the view, common to both those republicans and those liberals that he characterizes as “stringent,” that no such accommodation is possible. More particularly, he argues that the strong commitment to individual rights—in particular, a right to autonomy grounded in a Dworkinian-like notion of treatment of all persons as equals—characteristic of many versions of liberalism is not only compatible with but complementary to the emphasis on community, virtue, and obligation familiar from republican theories from Aristotle through Machiavelli and Harrington and up to contemporary thinkers such as Pangle, Sandel, and Taylor.

There are two primary elements to his argument on this latter point. The first is that the idea/ideal of autonomy has important affinities with the republican idea/ideal of “independence” in the sense of not being dependent on other “men.” Dagger recognizes that the major republican thinkers made little if any use of the notion of rights and also that various among them rejected anything like the idea of equality that he takes to be basis of the “fundamental right” to autonomy (chap. 3). He also agrees with Glendon and others that in fact “rights
talk” and rights-oriented thinking and acting have frequently worked to dissolve the bonds of community and obligation that republican thinkers cherish. He contends, however, that the right to autonomy is a rationally imperative universalization of the republican ideal of independence and that, properly understood—this is the second element in his argument—according and respecting this right is not only compatible with but strongly contributive to those objectives of republicanism that concern community, civic virtue, and moral and political duties.

This second argument consists of several strands or dimensions, the first of which is conceptual and the others a mixture of phenomenological, ontological, and more explicitly normative considerations. Following Hohfeld and the many analysts of rights influenced by Hohfeld’s—at bottom Hegelian—construal of rights “in the strict sense,” Dagger underscores the respects in which A’s right to X always entails some obligation on the part of some B or Bs and hence that, conceptually, the possession and particularly the exercise of rights in this strongest sense of the term enmeshes participants in the practice of rights in a complex array of interdependencies. He agrees with the growing number of critics of the rights-oriented or rather rights-dominated legal, political, and moral practices current in the United States that numerous participants in this culture do not adequately understand or appreciate this feature of their favorite jural or moral concept and hence that, in fact, thought and action under the rubric of rights is too often privatizing, atomizing, and regretfully conflictogenic. Issuing pointed reminders of Hohfeldian conceptual truths may or may not improve the thinking and acting of practitioners, but in any case it is a partial but important rejoinder both to stringent liberal theorists who want rights to insulate individual persons or groups from all interdependencies and to stringent republican thinkers who deplore this result but think that the only way to avoid or contain it is to excise the concept of rights from our vocabularies or to narrowly circumscribe its uses. Thus, a conceptual analysis or argument eliminates obstacles and otherwise opens the way to a rapprochement between republicanism and a liberalism distinguished by its commitment to an equal right to autonomy.

The other dimensions in Dagger’s second argument are evidently more important to him and lead quite directly (albeit somewhat awkwardly) to the most emphatically prescriptive features of his book. Endorsing what he calls Charles Taylor’s “holistic individualism” and what Taylor himself sometimes calls “hylo-morphism” in respect to individual-society as well as mind-body relationships, Dagger argues that ideas of rights and of autonomy presuppose or postulate interdependencies of which the Hohfeldian conceptual relationships are linguistic manifestations. I am the person that I am, could not be that person, apart from the various more or less structured, rule- or convention-governed interactions that I have with other people, the various statuses that I occupy and roles that I play in those relationships (pp. 18, 39–40, 76, 101, 180; chap. 12). Those who champion “stringent” conceptions of autonomy (e.g., Robert Paul Wolff), according to which such relationships are heteronomizing unless all parties to them knowingly and democratically participate in the making and enforcing of the rules that govern them, fail to grasp fundamental features of the human condition.

Dagger does not endorse, however, the Bradleyian or more generally idealist...
view which holds that the rights, duties, and criteria of good or excellent conduct that develop, organically as it were, out of situated interactions therefore or thereby deserve our allegiance. Overly stringent proponents of autonomy and democracy make it impossible to articulate a cogent theory of political and more generally moral obligations (chap. 5), but they are correct in thinking that we need such a theory and that it cannot be provided simply by describing the de facto dependencies that inevitably develop in the course of human interactions. Drawing importantly on what he regards as the liberal elements in Rousseau’s predominantly republican theory, and embracing leading features of Rawls’s account of a basically just society, he argues that rights, duties, and especially political obligations, however clearly established in law, custom, and convention, must be scrutinized by and shown to meet criteria that deserve universal or at least more than merely local standing. Practices, arrangements, and particularly laws that do not meet such criteria must be reformed and if necessary civilly disobeyed and perhaps otherwise resisted (chaps. 5–6).

Faithful to the predominantly republican dimensions of his thinking, the relationships and rights and obligations on which Dagger concentrates his attentions are those of citizens and citizenship. Whatever the merits of the theory of republican liberalism, a regime of this type is a practical possibility only to the extent that the citizens of the regime develop and enact civic virtues. In addition to providing various protective legal rights, citizenship must be understood to have ethical and educative dimensions that serve to integrate the members of a polity in relationships marked not only by the equality and autonomy already mentioned but of mutuality, reciprocity, and commitment to the common good (chap. 7 and passim). Courageously, Dagger therefore proceeds to address a number of quite specific but sharply disputed questions concerning education (chap. 8), democratic participation (chap. 9), and the place of cities in Respublica. Space does not permit summarizing his arguments concerning these matters, but in each case the objective is to cultivate and inculcate civic virtue, thereby moving citizens beyond the “pernicious individualism” (pp. 103–4) that produces Prisoner’s Dilemmas and “market relationships” to “assurance games” and a “forum” or deliberative democracy conception of politics (if these were the alternatives, this reviewer would agree with him). These discussions will repay the attention of both republican and liberal thinkers who share Dagger’s avid desire to conceive of the polity as a cooperative practice governed by the principles of fair play (p. 92) as it pursues common goods. They will have a particular appeal to thinkers who share his equally avid desire to put theory to the service of political and moral practice.

Dagger objects that the later Rawls is “too skeptical” concerning the possibility of reasoned agreement concerning conceptions of the good and of excellence (p. 192). As much as I admire and am indebted to his vigorous and thoughtful attempt to go beyond Rawls in these respects, I am left with the thought that a more determined skepticism than Rawls’s, a skepticism, say, of a Montaignian, Oakeshottian, and Cavellian provenance, would enhance the considerable value of these reflections.

Richard E. Flathman  
Johns Hopkins University

The theoretical debate and studies on the political experience represented by the Weimar Republic are not diminishing in intensity or quantity. The interest in this context for the work and person of Carl Schmitt reawakened in Germany and Italy in the seventies and eighties is now moving into the French-speaking world and the vast Anglo-American cultural universe. The past two years (1996 and 1997) have been particularly rich in this connection. I would recall only Carlo Galli’s book, around a thousand pages long, which is likely the fullest study on Schmitt’s thought (*Genealogia della politica: Carl Schmitt e la crisi del pensiero politico moderno* [Bologna: Il Mulino, 1996]), the agile but accurate reconstruction of this German lawyer’s role in the 1932 institutional crisis that ended in Hitler’s taking over power, by Olivier Beaud (*Les derniers jours de Weimar: Carl Schmitt face à l’avènement du nazisme* [Paris: Descartes & Cie, 1997]), and John MacCormick’s book (*Against Technology: Carl Schmitt’s Critique of Liberalism* [Cambridge: Cambridge University Press, 1997]) on Schmitt’s opposition to technology and modernity. On top of these comes the book to be discussed briefly here by David Dyzenhaus. This is programmatically an essay in “integrative theory of law” (“integrative jurisprudence,” as Berman says), in the sense of moving on various levels, from the purely historical one (reconstruction of a specific political context) to a more specifically historical and theoretical one (presentation of a certain theoretical debate within a temporarily defined context, inevitably compromised by very practical political objectives), the point of reaching the more abstract plane of political philosophy and the key problem of philosophy of law, the relation between legality and legitimacy. It is no mere rhetorical flourish that the book’s very title contemplates the investigation of this relationship. Dyzenhaus concentrates on the three probably most significant authors in German theory of the state in the twenties, Schmitt, Kelsen, and Heller, intelligently illustrating, with a sound ability for synthesis, their positions, and then makes a clear theoretical choice. Heller is in his view the one that most tenaciously and effectively puts forward a theory of law able to uphold the legitimacy of a democratic political edifice, in the specific case, in fact, the rather precarious one of the Weimar Republic. Yet this conclusion cannot help arousing some perplexity, for a number of reasons. If Heller’s antifascist feelings are indisputable, as is undoubtedly his loyalty to the republic, the liberal democratic orientation of his theoretical proposal is less clear. His critique, for instance, of the notion of the authoritarian state and of fascist dictatorship itself is cautious, at least in its arguments, to the point that on his return from a study trip to Mussolini’s Italy in the late twenties Gustav Radbruch wrote to ask him (with obvious irony) if he had not perhaps been converted to the cause of authoritarianism. The definition of ‘sovereignty’ supplied by Heller exceeds Schmitt’s decisionism, and his idea of “law” olympically ignores its formal and universal aspect, making it a mere tool of the popular will, understood simultaneously as the vehicle of *national* and of *proletarian* interest. It was not Heller during Weimar, but Heller after Weimar, that was to rethink decisionism and nationalists’ communitarianism. It is this later Heller that on the one hand makes a significant opening to Kelsen’s normativistic approach, and on the other abandons his historiestic relativism to embrace an ethi-
cal objectivism that savors, perhaps, of the lessons of a Leonard Nelson. Nonetheless, despite the radicalization of a few (late) democratic elements in Heller’s doctrine, Dyzenhaus’s book remains an important work, especially for the attempt to interpret a historically contextualized debate in the light of the most recent developments in political philosophy (with particular regard to John Rawls and Jürgen Habermas).

Massimo La Torre
European University Institute, Florence

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It may well be doubted that I am an appropriate reviewer for this book. Indeed, I doubted it myself when I opened the book and found myself making a series of cameo appearances as an example of the kind, or style, of liberal theory that Flathman most dislikes. But reading more closely, I learned that “experiencing dissonance, disagreement, and conflict animates what Mill calls the ‘meaning’, for or to me, of my beliefs and values and thereby also animates my individuality” (p. 6). And because individuality understood as “self-enactment” or “singularity” is for Flathman the highest ideal, it would seem to follow (if he is right about this) that just as his book is a contribution to my well-being, my review will be a contribution to his.

Taken in full, the title of this book reveals much about its substance and style. Flathman would like to be an anarchist, but he cannot be an anarchist because he accepts the necessity and desirability of political institutions, rightly understood (p. xvi). More broadly, liberal thought at its best is open to not only anarchism, but also antinomianism and skepticism. But in the end, liberalism cannot surrender to these longings but must instead espouse an ideal of individual and collective life that approaches these longings as nearly as the general facts of human existence will permit.

This ideal, as I’ve already suggested, revolves around the principle of self-enacted individuality. There is, says Flathman (following and intensifying Berlin), an “irreducible diversity of divergent, incommensurable, and perhaps interpersonally or intersubjectively inexplicable goods, ends, and especially ideals” (p. 13). Reason is incompetent to decide among these possibilities; the scope for will is very wide. Within the moral universe so understood, the good life consists in the capacity to determine one’s life for oneself, free of the conformity, fear, and resentment that diminish us by giving others the power to determine our identity. The hero of self-enactment is Nietzsche, quoted by Flathman with evident approval: “My ideal is mine. This is what I am; this is what I want:—you can go to hell!” (p. 167, n. 9; emphases added by Flathman).

That this captures something of the liberal spirit cannot be denied. Still, one may wonder whether “you can go to hell” is an adequate slogan for the liberal enterprise. Flathman is right to suggest that liberal societies must be densely
populated by individuals who take care of themselves, who do not need to be cared for by others or by society (p. 15). But many—particularly but not only in the dawn and twilight of life—will need to be cared for. From time to time, most of us experience vulnerabilities to which our powers of individual self-care prove inadequate. Does liberalism have nothing systematic to say about the nature and terms of human connection, about the circumstances in which taking care of ourselves is not the totality of our responsibility? One need not agree with Rawls that justice is the first virtue of social institutions or that the rational is bounded by the reasonable to believe, as I do, that liberalism must parse (in its distinctive way) the ideas of mutuality and reciprocity.

The idea of self-enactment may be interrogated from another standpoint as well. Early on, Flathman distinguishes between two variants of liberal theorists who focus on individual agency. Some adopt the view that the human good consists solely in regular success in obtaining the objects of passion and desire, whatever those objects happen to be; others affirm criteria of value that are (at least partially) independent of desire. In a book not noticeably deficient in candor, it is difficult to see which of these views Flathman adopts.

It makes a difference that is more than theoretical. If some desires, however deeply held, are morally and humanly questionable, then (at the very least) “you can go to hell” is not an adequate response to the questions they evoke, and in some cases social and political institutions may be warranted in limiting the enactment of these desires.

Flathman doesn’t want to go down this road, and every liberal knows why: institutions that are capable of acting when warranted are typically strong enough to act when not warranted, and the libido dominandi tempts those in power to efface the distinction. But there are well-known dangers on the other road as well: individuals may consent to arrangements that undermine their own agency or insist on liberties that violate their minimal responsibilities to others. I don’t believe that the Hobbesian equation of goodness with the objects of individual desire can be sustained theoretically, and I don’t believe that Flathman thinks so either (I may be wrong about this). But it is fair to say that if he does reject the unadorned Hobbesian view, he is noticeably reticent about drawing what would seem to be the obvious theoretical and practical consequences of that rejection.

Flathman distinguishes sharply between “agency liberalism” and “virtue liberalism.” Agency liberalism is the family of theories that take their bearings from the individual will—particularly its desiring, passionate, and imaginative capacities—and that see political systems as valuable to the extent that they do not trammel the exercise of the will. Because the exercise of the will in the enactment of individual lives can lead in an almost limitless number of directions, agency liberals value plurality and even the dissonance that plurality typically creates. Virtue liberals, by contrast, are said to value ends that are shared and in common over those that disaggregate and divide and to believe that lives cannot be well led unless “all public and much private thinking and acting are governed by beliefs that are arrived at under the discipline of intersubjective reason” (pp. 8–9).

I do not believe that the distinction between agency and virtue liberalism can be sustained, at least not as Flathman draws it. I will let the other virtue liberals he chastises fend for themselves and speak only for myself. The role virtue plays in my theory is structurally similar to the role it plays in the thought of
someone Flathman repeatedly invokes as an agency (proto) liberal—namely, Thomas Hobbes.

As everyone knows, Hobbes moves from the diversity of individual wills through the unacceptable consequences of their unregulated enactment to the idea of a peace-guaranteeing framework within which their enactment can be mutually compatible. One aspect of this framework is (as we would now say) “institutional.” But the other aspect is a robust account of the intertwined beliefs and dispositions—virtues—that are required of individuals if the institutional framework is to be sustained and its ends achieved. Because of the consequences of unregulated diverse wills, “All men agree on this, that peace is good, and therefore also the way, or means of peace, which... are justice, gratitude, modesty, equity, mercy, & the rest of the Laws of Nature, are good; that is to say, moral virtues; and their contraries vices, evil.” Virtues are not ends in themselves, certainly not part of a widely shared conception of the summum bonum; they are “the means of peaceable, sociable, and comfortable living” (Leviathan, ed. C. B. McPherson [Baltimore: Penguin, 1971], p. 216).

It is an open question whether any recognizably liberal theory can propound a single conception of virtue as an end to be promoted through state action. But that is not what I (or, I suspect, most contemporary liberals concerned with virtue) have in mind. The question is rather whether a liberal social space within which the drama of diversity, plurality, and (yes) singularity may be enacted has individual as well as institutional preconditions and—if so—whether we should attend to the processes (private, social, and political) through which these preconditions are fostered.

Because Flathman accepts, however grudgingly, the necessity of liberal institutions and institutionalism(s), he is not free to dismiss these questions as illegitimate or illiberal. And in the end, he doesn’t. “No form of liberalism,” he concedes, “has entirely eschewed, or could entirely eschew, reliance on some degree of commonality among those who compose a politically organized society” (p. 36). He wonders whether there may not be beliefs and values, virtues and dispositions that are necessary to specific regimes—liberal and otherwise—and if so, whether there may not be an “intraregime argument” (within the four corners of liberalism) for educational arrangements and practices that help instill them (pp. 152–53). His answer is less clear than one might like; his rejection of civic education rests more on a generalized antipathy to state-sponsored “normalization” than on a compelling argument that liberal regimes don’t need civic virtue.

In the end, it is Flathman who is the real virtue-liberal—not in the instrumental Hobbesian sense, but as an advocate of a canon of specific virtues—civility, liberality, magnanimity, fastidiousness, and courage, among others—understood as part of the ideal of a good or excellent life (pp. 19–20). Flathman suggests that these virtues are (in Oakeshott’s sense) “adverbial,” dealing with the manner in which something is done rather than the substance or end of the action (p. 44). I doubt that this suggestion can be carried through. Could one say that under fire, a soldier deserted his post “courageously”? Or that a man had intercourse with his mother “temperately”? There are certain verbs that just don’t go with certain adverbs.

And even if virtue could be construed adverbially, why Flathman’s list ex-
Hobbes’s fifth law of nature is “compleasance”—that is, “that every man strive to accommodate himself to the rest.” The alternative is the human analogue of the stone that “by the asperity, and irregularity of Figure, takes more room from others, than itself fills; and for the hardness, cannot easily be made plain, and thereby hindereth the building” (Leviathan, chap. 15, p. 209). It may seem odd to view mutual adjustment as a liberal virtue. But is it odder than “you can go to hell”?

William A. Galston
School of Public Affairs, University of Maryland


According to Kolm (p. 4), this monograph has two primary objectives. First, it aims to provide “the complete introduction to the theory of justice and the solution of its main problem (macrojustice)” (emphasis added). By ‘macrojustice’, Kolm means the basic principles of justice that, for example, determine the optimal distribution of resources and the specification of basic rights. Second, it is meant to provide “the rational presentation and evaluation of the various particular theories, principles, or criteria of justice that have been proposed in the second half of the twentieth century.” These are issues that have been addressed by Kolm in a number of monographs published in French and in a rather large number of articles written in either French or English. This volume, Kolm’s first in English, serves as an introduction to this body of work.

Kolm’s title and his description of the second objective suggest that detailed descriptions of many of the rival theories of justice that have been proposed in the last half century will be found here. This is not the case. While there is extensive critical evaluation of the work of Arrow, Buchanan, Dworkin, Gauthier, Har- sanyi, Nozick, and Rawls, among others, the summaries of their theories typically amount to no more than a paragraph or two. Instead, Kolm identifies a number of issues on which theories of justice may differ (e.g., on whether the fundamental end value is liberty, satisfaction, or consumption), drawing out the similarities and differences between alternative theories in their fundamental features. In many respects this is a book on “moral taxonomy.”

To Kolm, by far the most important problem of distributive justice is how to allocate the benefits obtained from human capacities, of which there are two kinds—productive and consumptive. The distinction between these two kinds of capacities rests largely on whether or not the capacity in question is of direct benefit to the individual being considered. Thus, the possession of a technical skill is a productive capacity because the benefits of this skill are realized only through exchange or subsequent consumption of the products produced, while mental and physical capacities for obtaining satisfaction from one’s plans and activities are consumptive capacities.

Using his distinction between the two kinds of capacities, Kolm describes what he calls the three “great polar simple theories of justice” (p. 56). The first
respects the natural distribution of both kinds of capacities, the second respects just the natural distribution of consumptive capacities, and the third rejects the natural distribution of both kinds of capacities. Each of these theories employs a different end value. They are, respectively, process-freedom (“the liberty to benefit from the results of one’s acts”; p. 13), income or consumption, and satisfaction.

In Kolm’s view, to qualify as a theory of justice, the theory must be rationally justified, which he equates with being substantiated by a valid reason. He argues that this requirement logically implies that there is a prima facie case for equality of the end value of the theory. His argument (p. 36) is as follows. Principles of “justice must select the relevant ‘situations’ of various justiciables” (the justiciables are typically the individuals in society). Roughly speaking, a “relevant situation” is a description of how a justiciable fares with respect to the relevant end value. The characteristics (capacities and, it seems, positions in the social structure) of the justiciables are also relevant. To be fully rational, the theory must determine a unique choice. If the individual situations are not identical, “permuting both their situations and their characteristics produces an ethically indistinguishable state . . . Hence, if one situation is just, so is the other.” As a consequence, no reason can be provided for choosing one of these states over the other. But the choice must be unique, so “this irrationality is avoided only if these . . . justiciables have identical (that is, equal) situations.” When the end value is multidimensional, this equality is multidimensional as well. For example, when the end value is process-freedom, each of the relevant liberties must be equalized, and when the end value is consumption, equality is with respect to each of the consumption goods.

The case for equality is only prima facie, and there may be circumstances in which this ideal equality is not appropriate. For example, it may be impossible to achieve equality; this might be the case if consumption is the end value and some goods are indivisible. Further, everyone may benefit from a departure from equality, and Kolm regards sacrificing these benefits for the sake of equality to be against reason. To deal with these beneficial inequalities, Kolm advocates a multi-dimensional version of the lexicin principle applied to the relevant end value.

Kolm’s own solution to the problem of justice is arrived at by combining elements from his three polar theories. The three pillars of Kolm’s theory are the satisfaction of basic needs and the alleviation of extreme suffering, efficient fixed-duration income equalization (“the income earned during a certain fraction of the time is completely redistributed to equality, whereas the individuals are free to keep untaxed and unsubsidized any extra income they choose to earn”; p. 128), and process-freedom, with the relative importance of the three depending on the state of economic development. For example, in poorer societies, satisfaction of basic needs and the alleviation of extreme suffering takes precedence, with the consequence that the natural allocation of capacities is given little weight. Thus, while a priori reasoning plays a prominent role in Kolm’s work, he is not an unadulterated rationalist.

Kolm has many original ideas about the substantive content of principles of justice and about the kinds of arguments that should be used to justify them. He also makes a number of novel and important critical points about well-known theories of justice. For these reasons, Kolm’s work deserves more attention than
it has received in the past. But in spite of these positive features, overall I find this volume disappointing because there are key arguments that are either incomplete or not compelling. Let me mention just two examples.

Central to Kolm’s thesis is the prima facie case for equality in the relevant end value. My summary of Kolm’s argument in support of this position is essentially his whole argument. But is it really the case that a rational theory of justice must identify a unique choice, or can there be multiple situations all of which are just? What is a characteristic of a justiciable? (Kolm is extremely vague on this point.) And so on.

Kolm mounts a scathing attack on utilitarianism, which he views as antithetical to the rights- and liberty-based theories of justice (such as his own) that derive from the French Declaration of Rights and the American Declaration of Independence. One of Kolm’s main arguments against utilitarianism is that it requires cardinal utility which, at least in the case where there is no uncertainty, Kolm finds to be a meaningless concept. His argument is that cardinal utility requires utility differences to be an increasing transform of a function $f$ that assigns a number to each pair of alternatives in such a way that $f$ preserves the ranking of alternative pairs in comparisons of the form “I prefer $A$ over $B$ more than I prefer $C$ over $D,” and Kolm believes that there is no particular reason for this to be the case. But this conclusion is not a matter of logical necessity. In fact, Kolm appears to concede that such a structure is a logical possibility (p. 366), which I think undermines his conclusion. But even if Kolm’s argument were correct, he has not shown that cardinal utility is meaningless because using preferences on pairs is not the only way to calibrate a cardinal utility function. More fundamentally, Kolm’s argument only concerns the meaningfulness of cardinal utility for preference utilitarianism, and preference utilitarianism is hardly what the original utilitarians had in mind.

This book is not for the faint of heart. Kolm is a poor expositor, and it is often difficult to figure out what he is saying. The excessive repetition needlessly adds to the reader’s burden. Yet in spite of its many flaws, this volume (and the body of research on which it is based) is a major contribution to the debate on theories of justice and one that merits serious consideration.

John A. Weymark
University of British Columbia


Third-World feminists must contend with a variety of interlocutors. There are Third-World nationalists who may regard anything feminist as inherently contaminated by Westernism and therefore as disloyal to the project of postcolonial, national self-determination. Then there are Western feminists who may misunderstand Third-World contexts and regard the “other” as merely a covert mirror for self-analysis. In this book, Third-World feminist Uma Narayan speaks to and about both of these sorts of interlocutors. In the course of doing so, she helps
to show that culture and national identity are rarely coherent or homogeneous but instead may harbor profound internal complexities.

Narayan's book is a recent addition to Linda Nicholson's acclaimed Thinking Gender series of books in feminist philosophy. Of the five essays composing this book, the first four are published here for the first time. Each essay covers a somewhat different area of concern and may therefore be read independently of the rest.

The first essay most clearly addresses Third-World postcolonial nationalists. Its point is to defuse the notion that feminism is exclusively or inherently a product of Western values or influence. Narayan argues that Third-World feminism is an indigenous reaction to the institutions, practices, and norms of Third-World national contexts as these pertain to women. If the issues happen to resemble those of Western feminism, that is because women's inequality and mistreatment know no national boundaries. Narayan shows that what Third-World nationalists defend as traditional and what they repudiate as Western are often quite arbitrary. The same Hindu fundamentalists, for example, who defend the practice of sati, or widow burning, use television to spread their anti-Western messages (p. 22). Narayan ends this essay with a convincing plea for the potential congruence between nationalist concern for all the powerless victims of injustice and feminist concern for women oppressed by "traditional" gender practices.

The second essay begins the dialogue with Western feminists. Here Narayan shows how Western feminist understanding of Third-World gender practices sometimes relies on inadequate and demeaning colonialist-type portraits of those practices. Mary Daly's discussion of sati in her famous 1978 book, *Gyn/Ecology: The Metaethics of Radical Feminism* (Boston: Beacon Press) exemplifies this unfortunate attitude. According to Narayan, Daly exaggerates the importance of sati in Indian life. Sati has been endorsed only by Hinduism, not the other religions of India; it has been practiced only by some Hindu communities; and its warrant within Hinduism has been a subject of debate among Hindu scholars themselves. At the present time, sati is furthermore, according to Narayan, nearly extinct.

Narayan also complains that Daly's treatment obscures the way in which nineteenth-century British colonials helped to "invent" the "authentic indigenous tradition" of sati by authorizing as Hindu experts just those scholars who claimed that Hindu scriptures did indeed support sati (pp. 62–64). Narayan's historic account, however, is puzzling. The British, fearing resistance to their colonial rule, wanted to avoid suppressing traditions that had religious support. Yet they eventually suppressed sati. Why would they have helped make it into a religious tradition whose suppression would surely provoke a backlash, and then suppressed it anyhow? More explanation is needed here.

The third essay discusses the Indian practice of dowry murder. Narayan argues that Americans fail to recognize that dowry murder is simply "one extreme form of domestic violence" (p. 89). Instead, Americans single out dowry murder as yet another way in which Indian traditions or culture victimize Indian women. Dowry deaths, on such an understanding, are not blamed on individual perpetrators but instead become "deaths by culture," a fate which Americans seem to attribute only to Third-World women or to American women who are not part of the American "mainstream" (pp. 84–85).

Narayan's view of what Americans think about both dowry murder and do-
mestic violence murder is unconvincing. For example, on the basis of her own anecdotal encounters, she concludes that Americans are surprised by the suggestion that dowry murder is an extreme form of domestic violence. The Americans whom I queried, however, found the suggestion plausible. And because she and various colleagues had trouble in locating statistics on the U.S. rates of domestic violence murder, she concludes that Americans do not make an issue out of it. Yet even when not supported by actual statistics, the idea that husbands or boyfriends sometimes murder the women they have abused is not unfamiliar in U.S. public dialogue about domestic violence.

Narayan explains what she considers to be the American misunderstanding of domestic violence murder on the grounds that Americans lack a single term for domestic violence murder that is comparable to “dowry murder.” This explanation seems implausible, in any case. Human understanding is not limited only to those things for which people possess single words or terms. Finally, Narayan’s insistence that American feminists do not blame U.S. culture for “mainstream” domestic violence murders ignores the abundant references, in the domestic violence literature, to lingering U.S. traditions of law, religion, and family life that have subordinated women to their husbands.

Narayan, however, makes the important point that people can easily misunderstand national contexts other than their own because of the ways in which information becomes reframed when it crosses national borders (p. 100). For example, U.S. statistics on domestic violence murder are probably based on conviction rates, while Indian statistics on dowry murder are probably based on mere police suspicions (pp. 98–99). Cross-cultural attempts at understanding may thus be hampered in undetectable ways.

Unfortunately, with so many national contexts and so little time, a hardworking feminist who does no empirical research of her own may often have to settle for whatever data are at hand. Even in-depth research can later be faulted. The global sweep of Daly’s Gyn/Ecology awed a generation of American feminists in the years after its publication in 1978, but, thanks in part to Narayan, its cross-cultural credibility is now in disrepute. What’s a concerned feminist to believe? Narayan’s book raises an important problem but suggests no solutions.

The fourth essay explores a contemporary Western form of cultural relativism that Narayan terms the “anthropological perspective” (p. 125). According to this perspective, mainstream Westerners should indeed learn about other cultures but should not criticize them morally. Westerners who adopt this perspective tend to “thrust” (p. 121) Third-World nationals into roles that compliment the perspective, for example, that of portraying only the riches of Third-World cultures, not the flaws.

Although the anthropological perspective correctly avoids the arrogant colonial view that Third-World cultures are backward and barbaric, it errs in failing to recognize the reality of unjust social practices in Third-World national contexts. A failure to judge Third-World contexts does not help those who suffer injustice in those contexts and it “handicaps” the “project of multiculturalism and the prospects for feminist solidarity across ‘cultural differences’” (p. 148).

Narayan’s call for internationally unbounded political and moral critique is refreshing. At the same time, she seems to miss the relevance, to this discussion, of her own third essay. In that essay, she stressed that people in one national
context might misunderstand the practices of another national context because of cross-culturally hidden differences of conceptualization or background understanding. Thus, one very good reason to avoid criticizing cultures other than one’s own is the difficulty of obtaining clear and reliable information about them. Narayan’s call for cross-cultural feminist critique should have addressed this problem of epistemic uncertainty that she herself aptly stresses in the third essay.

The fifth essay investigates cultural identity and cross-cultural understanding through an exploration of food and eating practices. Whether gastronomically or geopolitically, the colonizer can incorporate or internalize the “other” in various ways. Analogous ironies can also arise. For example, just as Great Britain itself manufactured the curry powder product that Westerners buy in their shops today, so too Great Britain manufactured, under a united colonial governance, the unified India of today out of a variety of kingdoms and princely states (p. 165). At a certain point, however, as Narayan herself notes, the analogy to food cease to be informative. While curry was incorporated easily into British culture (albeit on British terms), Indian people were not (p. 173).

Two rather irritating flaws mar this otherwise useful book. First, the text is cluttered with distracting scare quotes. Many of the flagged terms are indeed ambiguous or contested. It is not obvious, however, why the author needs to flag every single occurrence of each contested term or why some of the other terms are flagged at all. Second, and more important, the front pages of my paperback copy of the book came loose as soon as I bent back the cover.

Production and copy-editing problems aside, this book provides a wealth of (seemingly reliable!) information about India and adds a welcome complexity to our general understanding of culture, tradition, and cultural identity. Its exploration of various attitudes and assumptions that feminists bring to cross-cultural understanding of women’s issues should provoke lively debate.

MARILYN FRIEDMAN
Washington University in St. Louis


Ramsay presents an account of integrity that incorporates elements of natural law theory into an otherwise Kantian conception of virtue. There is more to integrity, he argues, than the coherence exhibited by those whose choices are in harmony with their deepest personal commitments. In order to have integrity, one must be “practically reasonable”; that is, one must have the “appropriate attitude” toward all of the “basic goods.”

Ramsay endorses Kant’s conception of the virtuous person as one who expresses who she truly is by exercising rational self-constraint. And in a Kantian spirit he argues that a human being lacks autonomy if her choices are not guided by a coherent, unified—yet flexible—life plan. Whereas, however, Kant identifies our “proper self” with our reason, Ramsay insists that each of us has a “human nature” which is the ground of “several incommensurable basic goods”
Human nature is the ultimate standard against which our choices must be evaluated—the “self” to which we must be true if we are to have integrity. A person’s virtues are the character traits she manifests in being guided by particular human goods; and she has integrity if and only if her responsiveness to each basic good reflects her commitment to all of them.

This is a very ambitious book. Ramsay takes on the views of many philosophers, explains in what respects these views are inadequate, and develops his criticisms into a positive view of his own. In addition to discussing integrity, virtue, natural law, practical reason, and autonomy, he devotes half the book to Aquinas’s ethics. In this context, he considers the role of the emotions and beauty in the good human life, as well as the nature and significance of beatitude in both its “perfect” and “imperfect” forms.

When so much philosophy is crammed into so little space (barely one hundred pages for the non-Aquinas chapters, sixty more for the rest), it is almost inevitable that the reader will identify many points that need to be clarified and better defended. Far too little is said, for example, about “human nature.” What is it? How can we identify the conditions of “human fulfillment” without making any initial evaluative assumptions? What, exactly, is wrong with the Kantian argument that nothing is good in itself except good willing? Even the relatively lengthy discussion of virtue left me confused. I could not, for example, understand the point of Ramsay’s repeated insistence that virtue is an experience; and even after reading through his arguments, I was unsure why he was convinced that a virtuous character trait cannot be identified with various dispositions. Perhaps most important, Ramsay fails to make good on his promise to show just how insight into integrity yields insight into Aquinas, and vice versa. Though each chapter heading in the Aquinas half contains the word ‘integrity’, the two halves read more like two separate books.

The difficulties created by the book’s brevity are compounded by two additional features which make it impossible for me to recommend it to most readers. First, the discussion proceeds at a level of such generality that it is difficult to keep a grip on what, exactly, is being asserted and denied. Second, and relatedly, those who are not well acquainted with the particular debates to which Ramsay is responding are often given insufficient background.

Those more familiar with the literature that provides the book’s context may profit from considering Ramsay’s attempt to reconcile approaches long thought to be in tension. A nonexpert myself, I was intrigued instead by one particular feature of his account: his conception of character. When we attribute a person’s action to a particular character trait, he argues, we are implicitly evoking the “metaphysical unity of the self” (p. 32). In essence, our character traits are various respects in which we come close to and/or fall short of realizing this ideal unity. I think Ramsay may be onto something important here. In my view, his suggestion ought to be spelled out more thoroughly, and its implications for the normative significance of human nature further explored.

Sarah Buss
University of Iowa

This book contains the published version of Justice Scalia’s Tanner Lectures on Human Values at Princeton University, replies by Gordon Wood, Laurence Tribe, Mary Ann Glendon, and Ronald Dworkin, and a response by Scalia.

Scalia’s main concern, in his short but spirited essay, is with issues about how judges should interpret statutory and constitutional law in a constitutional democracy. His central contention is that the rule of law within a constitutional democracy requires that interpretation be constrained by the original meaning of legal texts, as applied to present circumstances, rather than by extratextual sources, such as the intentions of the framers or past or present moral and political ideals. Only a textualist approach to interpretation will ensure the rule of law, rather than a rule by individuals. Scalia contrasts the quasi-legislative aspects of common-law adjudication with statutory and constitutional adjudication and inveighs against what he sees as the modern infestation of common-law methods in statutory and constitutional interpretations.

Scalia’s commentators fall into two main camps: those who accept the terms of Scalia’s contrast between textualism and its rivals (Wood and Glendon) and those who favor a more principled conception of textualism (Tribe and Dworkin). Wood shares some of Scalia’s concerns about the tension between common-law methods and constitutional democracy but challenges Scalia’s view that the growth of judge-made law is a recent phenomenon, arguing that there has been a blurring of legislative and judicial functions since the inception of the republic. Glendon shares many of Scalia’s concerns about the principled basis of much contemporary statutory and constitutional adjudication, some of which she also attributes to the infestation of common-law methods. But she thinks that many of the ills of statutory and common-law adjudication would be remedied if there were greater attention paid to the common-law concern with precedent. Tribe thinks that Scalia’s jurisprudence depends upon an untenable contrast between judicial legislation that looks outside the text and judicial interpretation of rules and principles to be found in the text of the constitution. In a similar, but more satisfactory, response, Dworkin argues for a more philosophical conception of textualism than Scalia is willing to recognize; key constitutional provisions enact abstract moral and political principles that it is the interpreter’s job to articulate and apply in a defensible way. To my mind, Dworkin’s commentary is the best of the bunch and identifies some serious concerns about Scalia’s jurisprudence.

The common law, Scalia thinks, represents the imposition of judge-made law. Initially, a judge decides a case by invoking a rule or principle that she finds politically attractive or rooted in traditions of her community. The principle of stare decisis exerts pressure for future decisions to be consistent with earlier ones. But consistency, as Scalia understands it, is a rather weak demand, and the common law grows by judges adding new rules and principles or qualifying existing ones. Here too, they invoke rules or principles that they find congenial either to their own sense of political morality or to that of the community but that come from sources that are external to existing rules and principles.

Scalia has no serious quarrel with the need for and appropriateness of common-law adjudication in those parts of the private law not governed by legis-
lation. (One might wonder why Scalia doesn’t conclude that courts should simply remain silent where democratic legislatures have not spoken.) But he does think that the common-law approach to interpretation is inappropriate in areas governed by enacted law—statutory or constitutional. In these areas, Scalia argues, the rule of law and the institutional role of the judiciary as interpreters of the law require that judges and other interpreters be guided by the language of the enacted provisions. Appeals to the intentions of the legislators or those of constitutional framers, the moral and political values of the interpreter, or the values of the community at the time of enactment or now, Scalia thinks, are all irrelevant, for that would be to decide cases by appeal to standards that were not democratically enacted; only the words of the provision were democratically enacted.

Some conceptions of interpretation represent many interpretive claims as objects of reasonable disagreement that are inherently controversial. Conceptions of interpretation that require interpreters to make substantive normative judgments, to engage in historical reconstruction of the intentions of the framers or the moral and political traditions at the time of enactment, or to identify current moral and political ideals will be controversial in this way. Whereas some think that only such conceptions can do justice to the contested character of interpretive practice, Scalia, like others, thinks that any such conception of interpretation is inconsistent with the rule of law: “I do not suggest, mind you, that originalists always agree upon their answer. There is plenty of room for disagreement as to what original meaning was, and even more as to how that original meaning applies to the situation before the court. But the originalist at least knows what he is looking for: the original meaning of the text. Often—indeed, I dare say usually—that is easy to discern and simple to apply” (p. 45). His own textualism does not eliminate interpretive controversy altogether, but he thinks it does limit disagreement and make it tractable.

One question is whether, as Scalia believes, a consistent textualist can avoid or minimize interpretive controversy and disagreement. The meaning of some statutory and constitutional provisions is difficult to dispute. The meaning of the constitutional requirement that the President be at least 35 years old and have been a resident of the United States for at least 14 years (Article II, §5) seems pretty clear. But many statutory and constitutional provisions, especially provisions in the Bill of Rights and the Fourteenth Amendment, use general or abstract normative language—such as ‘freedom of speech’, ‘unreasonable search and seizure’, ‘due process’, ‘just compensation’, ‘cruel and unusual punishment’, and ‘equal protection of the laws’. The meaning of such language seems inherently controversial, inasmuch as people can and do form different conceptions of these abstract concepts. No doubt the framers had specific understandings or conceptions of how these abstract concepts were to be interpreted, which led them to expect that these provisions would regulate some activities and not others. But because they chose the abstract language, rather than language that specifically targeted all and only the activities they expected the broader language to cover, fidelity to democratically enacted law requires fidelity to the best conception of the abstract concept, rather than to the framers’ specific conceptions. For instance, the framers of the Eighth Amendment may have been especially concerned with certain specific forms of punishment or torture—perhaps the guillotine, the rack, and drawing and quartering. But they chose language prohibiting all cruel and unusual punishments, not just those that they then be-
lieved to be cruel and unusual. That means that fidelity to the language of the constitutional provision requires articulating and defending a substantive conception of the abstract concept of unfair or morally disproportionate punishment, rather than reproducing the framers’ specific conception of cruel and unusual punishment. But then it’s hard to see how interpreters could try to ascertain the meaning of provisions employing normative language without making explicit or implicit normative commitments. Often, these normative judgments will be controversial, which is what makes statutory and constitutional interpretation especially interesting. Good interpretation will defend, and not simply invoke, these normative judgments.

Another question is whether a consistent textualism can deliver acceptable interpretive results. Consider Scalia’s own illustration of textualism. His brand of textualism insists that “a text . . . should be construed reasonably, to contain all that it fairly means” (p. 23). He illustrates this brand of textualism by his dissent in *Smith v. United States* (508 U.S. 223 [1993]). “The statute at issue provided for an increased jail term if, ‘during and in relation to . . . [a] drug trafficking crime’, the defendant ‘uses . . . a firearm’. The defendant in this case had sought to purchase a quantity of cocaine; and what he had offered to give in exchange for the cocaine was an unloaded firearm, which he showed to the drug-seller. The Court held, I regret to say, that the defendant was subject to the increased penalty, because he had ‘used a firearm during and in relation to a drug trafficking crime’ . . . I dissented” (pp. 23–24). Scalia dissented on the ground that the proper interpretation of the statute would understand the reference to the use of firearms to be restricted to their use as weapons, and not to include their use as barter. But this sensible interpretive claim cannot be defended by appeal to the meaning of the language of the enacted provision, independently of information about the general aims or goals the legislators were pursuing in enacting the provision. But this is just the sort of extratextual information that Scalia’s textualism eschews. To avoid the interpretive absurdities of literalism, interpretation must appeal not just to the meaning of the language of legal provisions but to reasonable conceptions of the principles and aims that rationalize those provisions.

Scalia’s attempt to articulate and defend his interpretive methods is a welcome development, even if his jurisprudence remains problematic. Though the Court’s reasoning in particular cases is quite public, we often see too little of the larger jurisprudential commitments on which specific interpretive claims depend. One might hope that a more systematic public discussion of these matters would help form more consistent and sound jurisprudential views on the Court.

**David O. Brink**

*University of California, San Diego*

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In this collection of sophisticated essays George Sher focuses on complex issues of justice, desert, and compensation. In the opening essays he examines the
claims for compensation for the effects of wrong acts performed a long time ago. In the absence of the wrong act, let us assume that the victim would have prospered in certain ways. It might at first appear that to compensate the victim is to make the victim as well-off as he or she would be if no wrong had been done. But Sher rejects this basis for compensation. First, certain losses as a result of the wrong act are readily avoidable by the victim. The loss of well-being through such failure to act on the victim’s part is not compensable. Second, there is to be no compensation for the increase in well-being which would have come about in the absence of the wrong act but which is not the result of efforts actually made by the victim. Sher believes that claims to compensation lose their force over time, as these considerations accumulate.

The issues raised so far involve victims who exist in both the rectified world, without the wrong act, and the actual world. But with ancient wrongs, the current victim of wrongdoing does not exist in the rectified world. Had the original wrong act not been committed, the current victim would not now exist. So if compensation involves the restoration of a good that a person would have received but for the wrong act, then there is no case for compensation. Sher is anxious to avoid this conclusion and suggests instead that the relevant level of well-being with which the victim’s current well-being is to be compared is that of other persons who are related to the victim in certain ways. There is some further, honest exploration of the difficult issues which arise, but the discussion ends somewhat inconclusively.

Another group of essays discusses the justification of preferential treatment for past discrimination. Consequentialist grounds for preferential treatment—that it promotes greater utility, equality, or diversity—are carefully considered and rejected. Such treatment cannot be viewed in a purely forward-looking manner because of its unavoidable compensatory dimension. Sher also rejects the claim that preferential treatment is compensation for groups, such as blacks and women, rather than individuals. He justifies preferential treatment on the ground that it nullifies the competitive disadvantage suffered as a result of past injustice. This justification helps to explain why preferential treatment is not unfair to the bypassed best-qualified candidates who did not perpetrate the original discrimination but who seem to bear the burden of compensation. Only the best-qualified candidates stand to gain from the unjustly produced competitive disadvantage.

In “Right Violations and Injustices: Can We Always Avoid Trade-Offs?” Sher maintains that such trade-offs are unavoidable. However, he argues that the goal is to minimize not the negative value of right violations but rather the degree to which we treat people wrongly. He further maintains that even if right violations and injustices have negative value, rights and claims of justice can still play the role of delimiting the pursuit of other values. He shows interestingly how his view differs from Nozick’s notion of rights as “side-constraints” and the “utilitarianism of rights,” which Nozick rejects.

In various other essays Sher rejects some of the criticisms of women’s traditional preferences for family-oriented lives, considers legitimate and illegitimate bases for predicting the performance of applicants at required tasks, discusses the moral basis of fair lotteries, and argues for a moral compromise between liberals and conservatives on abortion to the effect that abortion should be legal but the government should not fund elective abortions.
The two remaining essays focus on the role of desert in distributive justice and in punishment. In “Effect, Ability, and Personal Desert,” Sher patiently explains, clarifies, and then rejects Rawls’s famous antidesert argument. Rawls maintains that no one deserves the natural endowments or the superior character that enables him or her to expend effort, and hence no one deserves the greater advantage achievable with these endowments and the exertion of effort. Sher argues that Rawls has to show, at the very least, that basic abilities are generally unequally distributed, and differences in efforts are to be accounted for in terms of unequal effort-making abilities. Indeed, Rawls would have to go further in maintaining that differences in abilities make it impossible for different people to expend equal amounts of effort. Sher believes that similar considerations can be used against Rawls to show that personal desert can be established by superior achievement. The fact that people do differ in abilities merely indicates that it is more difficult, but not impossible, for some to reach the same level of attainment as others. Moreover, even if some people are unable to reach the level of achievement required in order to obtain certain benefits, such as the rewards of a professional athlete, there are other comparable benefits, such as those of a successful career in education or business, which they are capable of enjoying. However, Sher acknowledges that there will be cases in which people could not reasonably be expected to match the achievements of high achievers, who do not therefore deserve the full benefit of their achievements relative to these people. But he defuses this point by claiming that a system which allows people to enjoy the benefits of their achievements may well come closer to giving everyone what he or she deserves than any alternative. The essay concludes by rejecting Rawls’s assumptions that how people fare should not depend on factors beyond their control, and that desert arises only in competitive contexts. While a Rawlsian should acknowledge some of Sher’s points, it is not clear that Rawls’s rejection of desert as the basis of distributive justice has been undermined. If one looks at the changing patterns of work and the demands for different talents at different times, brought about by changes beyond our control, it is hard to conclude that people deserve what they can get in the global marketplace. Today, but not yesterday and perhaps not tomorrow, the talented workers in information technology are entitled to get more than the talented classical scholars, but they do not deserve more. We also do not have the detailed knowledge to determine which distributive system gives more people what they deserve.

The essay on deserved punishment, unlike the other essays, has not been previously published (neither has the introduction, which usefully summarizes and integrates all the essays). In his earlier book, Desert, Sher defended the view that wrongdoers have unfairly gained an extra benefit, and punishment is justified because, by imposing an extra burden on them, it rights the balance. The new essay clarifies and amends his theory in light of various published objections. He identifies the extra benefit with a gain in freedom, exercising an option unavailable to moral persons. The amount of extra freedom is greater when the wrongdoing is serious. By showing his willingness to disregard the stronger reasons for rejecting the seriously wrong act, the offender gives himself greater leeway. Exercising extra options is a benefit because it makes the wrongdoer better able to achieve his goals. However, Sher does not explain how the extra burden, imposed by punishment, offsets the extra benefit. How, for example, is one to determine the length of imprisonment that will impose the same amount of loss.
of freedom, in the required sense, as the amount gained by armed robbery? It is like chalk and cheese. Sher also explains why wrongdoers, who themselves have previously been wronged, may still be punished. He believes that the relevant principle of fairness governs the distribution of benefits and burdens between pairs of individuals. If Y, who was previously wronged by X, wrongs Z, then the new unfairness can be rectified only by righting the balance between Y and Z. This view, combined with Sher’s insistence that the benefits and burdens involve conformity to moral rather than legal requirements, opens up interesting issues. One problem is that he makes wrongdoers more like tort-feasors than criminals. Victims of wrongdoings gain more directly from financial compensations than from imprisonments of wrongdoers, and of course such gains can be used to offset the victims’ own wrongs against others. So the closed circle of wrongdoing, when Z in turn wrongs X, returns to haunt Sher’s theory. At best his theory seems still incomplete.

Although I do not share Sher’s view of the centrality of desert in distributive and retributive justice, I find the arguments in the book often subtle, and always considered and instructive. They reflect a highly intelligent and fair mind, prepared to follow the arguments wherever they lead, unmoved by the pressures of intellectual fashions.

C. L. Ten
Monash University


Practical Ethics first appeared in 1898 and turned out to be the last book that Sidgwick would publish during his lifetime. A deeply personal work, artfully assembled, it made a fitting capstone to the philosophical career that began with that masterpiece of ethical theory, The Methods of Ethics (1874). In an appreciative introduction to this reissue, Sissela Bok rightly suggests that Practical Ethics “deserves to count as a classic in the field of practical and professional ethics” (p. v).

Bok also notes that Practical Ethics claims a different focus from the Methods: here is Sidgwick stripped for action, worried more about practice than knowledge, and working up a casuistical complement to and commentary on the moral theoretical positions developed in the Methods. She highlights Sidgwick’s role as an educator, reformer, and ethicist who had a lot to say “about the duties of doctors, lawyers, public officials and clergy, and about Britain’s relations with Ireland, its colonial ventures in Africa, and its military policies” (p. vii). This is a noble endeavor, given the widespread ignorance of Sidgwick’s applied ethics.

Most of the chapters began as addresses to the London or Cambridge Ethical Societies, which Sidgwick helped form and run, and which were, in his words, concerned with “the intelligent study of moral questions with a view to elevate and purify social life” (p. xxi). These societies were partly inspired by the Ethical Culture movement in the United States—a movement that also inspired the journal now known as Ethics, in which various of these pieces debuted. Accordingly,
the first chapter deals with “The Scope and Limits of the Work of an Ethical Society,” and the second chapter with their “Aims and Methods,” but in ways that remain relevant, with much seasoned reflection on ethical theory and practice.

Sidgwick’s long experience with discussion groups and societies had made him painfully aware of how easy it is for people of conflicting ultimate principles to meet genially to discuss their differences without anyone ever budging a particle on any matter of importance. Yet he is impressed by the “generally-admitted fact, that there is much greater agreement among thoughtful persons on the question what a good life is, than on the question why it is good” (p. 26), and he pins his hopes on shifting the focus to the substantive matter of right conduct, the region of “middle axioms” (p. 7). Thus, he hopes that “philosophers of the most diverse schools may combine on the basis of this broad and general agreement with each other, and with earnest and thoughtful persons who are not philosophers in their practical ideals; and letting their fundamental differences on ultimate principles drop into the background may hopefully co-operate in efforts . . . to free this current ideal from all that is merely traditional and self-contradictory, and thus to widen and perfect it” (p. 26).

As usual, Sidgwick also heaps qualifications and doubts on his own labors. “When I surrender myself to the pursuit of truth or the impressions of art, I find myself in either case in a world absorbing and satisfying to my highest nature, in which, nevertheless, morality seems to occupy a very subordinate place, and in which—for the more effective realization of the aesthetic or scientific ideal—it seems necessary that morality should be thus subordinated.” This is especially so with aesthetic ideals: for the lover of beauty, “even moral evil” may be “an element in the contrasts and combinations that give him the delight of beauty” (p. 13). Consider the aesthetic appreciation of Milton’s Satan or the life of Cesare Borgia.

Sidgwick does not solve this problem, a perfectionist variant of the dualism of practical reason, or basic conflict between egoism and utilitarianism, that to his earlier self marked the failure of the Methods and led him to seek the moral order of the universe through parapsychology. In a later chapter he even denies “that this opposition can be altogether overcome. Its root lies deep in the nature of things as we are compelled to conceive it; it represents an unsolved problem of philosophy, which continually forces itself to the front in the development of religious consciousness.” Thus, “we must endeavor to make the moods of aesthetic and ethical sentiment alternate, if we cannot quite harmonize them” (p. 128). Still, he urges that this is the kind of issue Ethical Societies should help clarify and reduce disagreement about, if they can.

Predictably, he also raises a slew of doubts as to whether they can, whether the “unphilosophic majority” that will increasingly dominate such societies can “really aid in the task of constructing a Theory of Right,” given that they lack “the highest gifts and the completest training” (p. 20).

Bok maintains that in the older Sidgwick’s answer to such questions one detects “none of the youthful arrogance of his Methods of Ethics, with its distinctions between ‘the enlightened few’ and ‘the vulgar’, and its endorsement of special moral exemptions for ‘a class of persons defined by exceptional qualities of intellect, temperament, and character’” (p. xiii). But she overstates her case and misses key elements of Sidgwick’s casuistry.

Sidgwick does confess that although he has felt the force of this dilemma,
reflection has convinced him that if an Ethical Society has been right “in undertaking the noble but arduous task which it has proposed to itself, there is much to be said for the broad and comprehensive basis which it has adopted.” The work “cannot be thoroughly well done by philosophers alone; partly because alone they are not likely to have the requisite knowledge of facts; and partly because their moral judgment on any particular question of duty, even supposing them to have obtained all available information as to the particular facts of the case, is not altogether to be trusted, unless it is aided, checked, and controlled by the moral judgment of persons with less philosophy but more special experience” (p. 20). In the modern world, we “cannot any longer decline—as Aristotle would have declined—to work out an ideal of good life for mechanics and tradesmen, on the ground that such persons are incapable of any high degree of virtue.” The morality of common sense, including the “spontaneous unreflected judgments on particular cases, which are sometimes called moral intuitions” must be studied “with reverent and patient care.” Philosophers must learn from all morally serious persons, and such “persons are to be found . . . in the thick and heat of the struggle of active life, in all stations and ranks, in the churches and outside the churches” (pp. 21–22).

“Public Morality,” which begins the assault on neo-Machiavellianism or “dirty hands” in politics, opens by distinguishing the effort to establish fundamental, ultimate ethical principles, deductively working out the rules of duty, from the effort to take morality “as a social fact” and “by reflective analysis, removing vagueness and ambiguity, solving apparent contradictions, correcting lapses and supplying omissions, to reduce this body of current opinions, so far as possible, to a rational and coherent system.” For Sidgwick, the two “methods are in no way antagonistic: indeed, it may reasonably be contended that if pursued with complete success, they must lead to the same goal—a perfectly satisfactory and practical ideal of conduct. But in the actual condition of our intellectual and social development, the respective results of the two methods are apt to exhibit a certain divergence, which, for practical purposes, we have to obliterate—more or less consciously—by a rough compromise” (pp. 31–32).

Such remarks should recall the care bestowed on common sense in the Methods, where philosophical intuitionism and reflective analysis work in tandem. If Sidgwick’s later self was less impressed by what philosophy could accomplish on its own and more open to other voices, this was clearly only a matter of degree. He was steadfast in his belief that taking common sense seriously revealed its unconscious utilitarianism, though he did grow more sensitive to the complexity of practical reason.

To explain, however rich Practical Ethics is in the spirit of compromise, Sidgwick evinces no deep satisfaction with the state of ordinary morality. Although he makes some truly fatuous remarks about the “prevalence of a spirit of humanity,” he is very anxious about fostering the “spirit of justice,” especially to prevent war. In “The Morality of Strife,” he cogently argues that “there is hardly any plain duty of great importance in which civilized men fail so palpably as in this” (p. 59); we must seek “to develop the elements from which the moral habit of justice springs—on the one hand, sympathy, and the readiness to imagine oneself in another’s place and look at things from his point of view; and on the other hand, the intelligent appreciation of common interests.” The hope is “to produce a disposition to compromise, adequate for practical needs, even when the adjust-
ment thus attained can only be rough, and far removed from what either party regards as ideally equitable" (p. 61).

And if "dirty hands" means a neo-Machiavellian appeal "to the sectional interest of a particular group of human beings," it "must receive unhesitating and unsparing censure" (p. 46).

But Sidgwick's aesthetic sense again intrudes upon his moral one. "Luxury" claims that "inequality in the distribution of superfluous commodities" may be "required for the social function of advancing culture, enlarging the ideal of human life, and carrying it towards ever fuller perfection" (p. 112), and "the Pursuit of Culture" pursues the point. "Culture," he holds, is "a fundamentally important part of the human good that practical morality aims at promoting," especially in the modern, scientific era, when "the problem of making human life on earth a better thing has become more and more clearly the dominant problem for morality" (pp. 113–14). But for moderns, culture must be defined as "the love of knowledge, the ardour of scientific curiosity, driving us continually to absorb new facts and ideas, to make them our own and fit them into the living and growing system of our thought; and the trained faculty of doing this, the alert and supple intelligence exercised and continually developed in doing this" (p. 121). This is Sidgwick the foe of Arnoldian classicism.

Yet knowledge, beauty, and morality can prove conflicting devotions—hence the conflict between morality and art, and Sidgwick's conclusion that "on the whole we must be content that science and art and morality are for the most part working on the same side, in that struggle with our lower nature through which we 'move upward, working out the beast.' Perhaps they will aid each other best if we abstain from trying to drill them into perfect conformity of movement, and allow them to fight independently in loose array" (p. 128).

And humanity still has far to go on this front. The later Sidgwick may sound less haunted, but his old ghosts have not really vanished. His "beast" makes an extended appearance in the last essay, "Unreasonable Action." What worse threat than yielding to temptation? Than "voluntary action contrary to a man's deliberate judgment as to what is right or best for him to do" (p. 138)?

More common (and bad enough) is the man who sophisticates himself. This is "not uncommonly the case when an ordinarily well-bred and well-meaning man acts unreasonably from egotism or vanity: he has an obscure well-founded consciousness that he might come to a different view of his position if he resolutely faced certain aspects of it tending to reduce his personal claims; but he consciously refrains from directing attention to them." Here we "may say that the wrong-doing is really wilful though not clearly so" (pp. 141–42).

The rarer case is where "a man with his eyes open simply refuses to act in accordance with his practical judgment, although the latter is clearly present in his consciousness, and his attention is fully directed towards it." Sidgwick admits that this happens but also says that with "habitually reflective persons" it usually involves "negative action, non-performance of known duty." It is "far easier for a desire clearly recognized as conflicting with reason to inhibit action than to cause it" (p. 142).

This conclusion was profoundly heartfelt. In the end, Sidgwick was on the threshold of great developments in psychology, of James and Freud, having been led there by his parapsychological research. But his concern with the unconscious and the unreasonable had other sources as well. His anxiety over nega-
tive action and weakness of will reflected his own lifelong strategy in practical
ethics—how he had long kept silent about his religious and personal doubts,
refusing actively to speak out for fear of diminishing popular religious belief. As
he put it to an old friend: “since in 1870 I gave up, to avoid hypocrisy, my Fellow-
ship at Trinity—I have ‘kept silence even from good words,’ and never volun-
tarily disclosed my views on religion to any one. But I have never thought it right
to conceal them from any one who seriously wished to have them, and had any
claim to be answered” (Henry Sidgwick, A Memoir, edited by E. M. Sidgwick and

The issue originally concerned whether he could in good conscience sub-
scribe (as required) to the Articles of the Church of England. This was the subject
of his only correspondence with J. S. Mill and his first significant ethical work,
“The Ethics of Conformity and Subscription” (1870). Indeed, during his reli-
gious turmoil in the 1860s, the problem of whether he should keep his fellowship
on such terms drew him “back to philosophy.” “I did my very best to decide the
question methodically on general principles, but I found it very difficult, and I
may say that it was while struggling with the difficulty thence arising that I went
through a good deal of the thought that was ultimately systematised in the
Methods of Ethics” (Memoir, p. 38).

Thus, the chief casuistical theme of his life: what is the duty “which the per-
sons who form the progressive—or, to use a neutral term, the deviating—ele-
ments in a religious community owe to the rest of that community; the extent to
which they ought to give expression and effect to their opinions within the com-
community; and the point at which the higher interests of truth force them to the
disruption of old ties and cherished associations” (p. 63). Correlatively, what is
the role of organized religion in the moral life of society?

Two central chapters in Practical Ethics—“The Ethics of Religious Confor-
mity” and “Clerical Veracity”—are devoted to this issue, thus supplying a final
commentary on the dilemma that had led Sidgwick to struggle with ethical meth-
ods in the first place. They suggest the continuity of his theory and practice, even
as regards esoteric morality. Of the rules of veracity and promise keeping, he
explains: “My philosophical principles are on ethical questions utilitarian. I think
that these and other virtues are only valuable as means to the end of human
happiness, and when I examine the matters discussed for ages by casuists, I find
exceptional cases in which I have to approve of unveracity. For instance, I should
not hesitate to lie to a murderer in pursuit of his victim . . . and there have been
ages of violent and inquisitorial religious persecution when it was excusable,
though not admirable, in a heretic to keep his view of truth a secret doctrine, and
simulate acceptance of the creed imposed by fire and sword” (p. 73).

He allows that “in an age like the present,” no stranger to religious skepti-
cism, “the last shadow of this excuse for unveracity has vanished” (which is not
to say that unbelief should be actively promulgated). But he recognizes that “de-
ception may legitimately be practiced for the good of the person deceived”—as
with a physician sparing an invalid shock. Moreover, he can “imagine a high-
minded thinker persuading himself that the mass of mankind are normally in a
position somewhat analogous to that of such an invalid; that they require for their
individual and social well-being to be comforted by hopes, and spurred and cured
by terrors, that have no rational foundation.” In a distressing illustration, indicat-
ing the limits of his reverence for the moral judgments of nonphilosophers and non-Europeans, he continues: “in a community like that of Paraguay under the Jesuits, with an enlightened few monopolizing intellectual culture and a docile multitude giving implicit credence to their instruction, it might be possible—and for a man with such convictions it might conceivably be right—to support a fictitious theology for the good of the community by systematic falsehood.” Again, such “pious fraud” cannot work “in a society like our own,” and the “better the man who sought to benefit his fellow men in this strange way the worse, on the whole, would be the results; indeed, one can hardly imagine a severer blow to the moral well-being of a community than that that element of it which was most earnestly seeking to promote morality should be chargeable with systematic unveracity and habitual violation of solemn pledges, and be unable to repel the charge” (pp. 73–74).

Hence, like his earlier self, Sidgwick takes a dim view of active religious hypocrisy on his home turf—so much so that Hastings Rashdall could accuse him of Kantian rigorism.

Yet the truth is that Sidgwick did for much of his life practice a form of esoteric morality beyond his refusal to promote the truth as he saw it on religious matters. His struggles with religious hypocrisy were intertwined with his struggles with sexual hypocrisy, and much of his applied ethical life involved ethical counseling to his gay friends about the perils of coming out. Nearly all of Sidgwick’s dearest friends, those with whom he had the most significant intellectual exchanges, were gay or bisexual: H. G. Dakyns, Roden Noel, F. W. Myers, Oscar Browning, Arthur Sidgwick (his brother), and John Addington Symonds, a true pioneer in gay studies.

The relationship with Symonds was especially important. Beyond his public literary career, Symonds privately published various homoerotic works and two classics on gay sexuality, “A Problem in Greek Ethics,” and “A Problem in Modern Ethics.” From 1867 on, he received constant counsel on the dangers of coming out from Sidgwick. When Symonds complained that his best work was his least publishable, Sidgwick replied, “It is vexatious that what are certainly your best things cannot be published: but it seems to me clear that they cannot, at present certainly” and carefully delimited just how far he might go (see the letter dated “July 1st,” from the Dakyns Collection, edited by A. Dakyns and B. Nankivell, forthcoming in Bart Schultz, ed., The Complete Works and Select Correspondence of Henry Sidgwick, 2d ed., Past Masters Series [Charlottesville, Va.: InteLex Corp., 1999]). And right after Symonds’s death in 1893, Sidgwick conspired with Horatio Brown to publish a highly censored, profoundly misleading version of Symonds’s utterly candid journal, making it appear as though Symonds had been exercised by religious rather than sexual questions (see Phyllis Grosskurth, John Addington Symonds, A Biography [London: Longmans, 1964], pp. 318–23; also see the discussion of Sidgwick and Symonds in my general introduction to The Complete Works, and forthcoming book, “Eye of the Universe: Henry Sidgwick and the Quest for Certainty”).

England in the aftermath of the Labouchère amendment and the Wilde trial was as overtly hostile to gays as Sidgwick believed. But it is remarkable that at the very time he was assembling Practical Ethics, he was so completely engaged—personally and philosophically—with the ethics of refusing to come out, of an eso-
teric sexual morality. Was he unreasonable? Guilty of “pious fraud”? Of sophisti-
cating himself? Did he provide the new form of casuistry for which Symonds
called? He did not wonder aloud, but he did wonder, and worry.

Bok reviews some of the big problems on which Sidgwick fails to speak to
us—the environment, nuclear war, and so forth. But she misses how, on the epist-
temology of the closet, he may have more to say than has ever been suspected.
To appreciate his casuistry, his deeper doubts about publicity, and his true vision
of friendship, he must be set alongside Symonds, whose love of Whitman and
democracy, challenges to things Platonic, and devotion to aesthetic beauty were
vital forces shaping the author of *Practical Ethics*. Sidgwick found in Symonds
 intimations of the psychic transfigurations that he sought for the new age, such as
living well without traditional Christian belief, merging the best in classical and
modern culture. It was probably Symonds who taught Sidgwick that life can go
on admirably, even if practical reason is pretty chaotic.

BART SCHULTZ
University of Chicago


This is a superbly written and insightful book on the philosophical foundations
of game theory. Although the main focus is on defending the claim that solu-
tions for noncooperative games should be based on a new equilibrium concept
(weaker than the generally accepted Nash equilibrium concept), there is much
enlightening discussion of a wide range of foundational issues. And it is all done
in intuitive, nonsymbolic, and exceedingly clear terms.

Weirich focuses on games that are single stage, represented in normal form
(i.e., with no order of moves represented), noncooperative (i.e., in which agents
are not able to form coalitions), and with a finite number of agents. He believes
that his results extend beyond these kinds of games but does not attempt to es-
tablish this in the current book. Furthermore, throughout he is concerned only
with ideal games in which the players are perfectly rational, prescient (i.e., able
to anticipate others’ choices), and fully informed of the rules of the games.

Weirich makes five basic assumptions that inform his work on decision
type and game theory: (1) in every choice situation there is at least one choice
that is rationally permissible, (2) a choice is rationally permissible only if it is self-
supporting (i.e., the assumption that it is made does not provide a sufficient rea-
son to choose otherwise), (3) every ideal game has a solution (i.e., a profile of
strategies, one for each agent, such that they are jointly rational), (4) a strategy
profile is a solution only if it is an equilibrium, and (5) a strategy profile is an
equilibrium if and only if the strategies are jointly self-supporting. The first three
assumptions are somewhat controversial, and, as we’ll see below, have significant
implications.

On the received view, a strategy profile is a solution to a noncooperative
game if and only if it is a Nash equilibrium, where this is a profile such that each
strategy is a best reply to the others (i.e., given the other strategies of the profile,
no agent can do better by switching strategies). Given the assumption that every ideal game has a solution, it follows that Nash equilibrium is not the solution concept or even the basic equilibrium concept. For ideal games can fail to have Nash equilibria. For example, in the game of Matching Pennies—in which each of two players reveals a penny, and one player wins one dollar from the other player if the pennies match and loses one dollar if they do not—there is no Nash equilibrium if randomizing strategies is prohibited. For each of the four feasible pure strategy profiles, one of the players would do better, given the choice of the other, by switching strategies. Because Weirich assumes that every ideal game has a solution and hence an equilibrium, he pursues a new equilibrium concept that will ensure that every ideal game has at least one equilibrium.

A strategy profile is an equilibrium just in case the component strategies are jointly self-supporting. A choice is self-supporting just in case the assumption that it is made provides no sufficient reason to switch to another choice. The received conception of self-support holds that a choice is self-supporting if and only if it is ratifiable (i.e., maximizes expected utility on the assumption that it is adopted). This view of self-support leads to the Nash equilibrium conception of equilibrium. Since ideal choice situations need not have a ratifiable choice, and ideal games need not have a profile of strategies which are jointly ratifiable, Weirich denies that a choice needs to be ratifiable in order to be self-supporting. He develops a weaker notion of self-support that leads to a weaker notion of equilibrium.

Weirich holds that there is sufficient reason to switch one’s choice (and hence a choice will fail to be self-supporting) if there is some terminating path of choice switches such that each postswitch choice produces a higher expected utility than the preswitch choice on the assumption that the preswitch choice is made. The existence of nonterminating paths of choice switches, each switch producing a higher conditional expected utility, however, is not, on this view, a sufficient reason to switch one’s choice. In the game of Matching Pennies, for example, although no pure profile is jointly ratifiable, each is self-supporting on Weirich’s weaker view. For example, suppose that the first player wins when the coins match. Then (H,T) is not ratifiable, since given (T,T), the first player will do better by playing T. This does not, however, show that the choice of (H,T) is not jointly self-supporting. For (T,T) may lead to a nonterminating path of choice switches. Indeed it does. For, given (T,—), the second player will do better by playing H. And given (—,H), the first player will do better by playing H. And given (H,—), the second player will do better by playing T. And we’re now back where we started, and the loop continues. Hence, given that there is no terminating path of choice switches away from each of the four pure strategies, each is jointly self-supporting.

Weirich defends his principle of self-support (as a necessary condition of rational choice) against the principles of strict dominance, alpha-contraction, and unconditional expected utility maximization. These principles fail in contexts where the assumption of a given choice carries information relevant for comparison of options (e.g., about probabilities). To be rationally permissible, choices need to be self-supporting (i.e., the assumption that a choice is made should not provide sufficient reason to switch choices). Ratifiability (requiring that a choice maximize expected utility on the assumption that it is made) invokes self-support, but, since no option may be ratifiable, a weaker notion of self-
support is needed, and Weirich defends his conception (absence of some terminating path of choice switches, each of which produces a higher expected utility on the assumption that the preswitch choice is made).

Using the weaker notion of self-support, Weirich defines a strategic equilibrium to be a jointly self-supporting profile. All Nash equilibria are strategic equilibria but not vice versa. Weirich proves that every ideal noncooperative game has a strategic equilibrium.

The core of the book consists of the motivation and explanation of the new notions of self-support and strategic equilibrium combined with a proof that strategic equilibria exist in all ideal noncooperative games. The rest of the book develops the ideas. He has chapters on finding strategic equilibria, on applying his approach to some games, and on comparing his approach with the Nash solution (and variants invoking perfect, proper, and subgame-perfect equilibria) and with the standard of nondomination.

Central to Weirich’s project are his assumptions that there is a rationally permissible choice in every ideal choice situation, and that there is a solution to every ideal noncooperative game. Many, probably most, theorists of the past have denied these assumptions. One of the merits of Weirich’s book is that it highlights the importance of the assumptions that we make about rationality in this regard. Another is that it works out very clearly and plausibly the implications of the assumptions that he makes. Yet another is that his weaker notion of self-support is independently interesting and important. And of course, if his assumptions about the possibility of rational choice are correct, then the theory of rational choice will need to be fundamentally revised.

The book is superbly written and argued and should be read by anyone interested in the foundations of the theory of rational choice.

Peter Vallentyne
Virginia Commonwealth University