

# 5. Be careful what you wish for

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## Introduction

This chapter contrasts two competing models of an ethics of office suitable for democratic policy systems.<sup>1</sup> The one I favour is a model of dispersed ethical responsibilities where the precise ethical content varies with the nature of the public office. I label the model I oppose 'stealth ethics' because it promotes ethical public policy by subverting democratic ethics, which it sees as too conservative. Most conventional policy systems operate somewhere in-between, with mixtures of my favoured pluralism and my disfavoured paternalism. My aim is to nudge policy systems away from paternalism towards pluralism.

My chapter begins with a general warning about expecting too much from ethics in public policy and a more specific warning about the misguided ethical idealism I associate with the 'esoteric morality' promoted by influential utilitarian ethics theorists, of whom the model is British 19th century philosopher Henry Sidgwick. My recovery of a more realistic set of expectations for ethics is based on an artificial but I think productive distinction between 'ethics' and 'morality'. For policy purposes, I define 'ethics' in terms of right relationships among policy actors and 'morality' in terms of deeper value commitments that we each make as individuals, separate and distinct from our public roles. I conclude by contrasting the Sidgwick model of centralised ethical paternalism with my preferred model of dispersed ethical pluralism. I suggest that contemporary policy systems rely on ethics regimes that confer considerable regulatory power on political executives, which tilts them in the direction of paternalism rather than pluralism, at some cost to the ethics of sustainable democracy.

## Great expectations

The idea behind the title of my chapter is a warning: be careful or beware of what you wish for. My argument is that we should not ask too much of ethics.

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<sup>1</sup> My thanks to Adrian Kay and Alec Mladenovic for comments on earlier drafts of this paper and to Don Locke and many other participants at the Ethical Foundations of Public Policy conference in Wellington, New Zealand, December 2009, for their welcome suggestions.

We should ask a lot of ethics, because it has a lot to offer: but we should not ask too much. I am confident that ethics is necessary, in public policy as in all aspects of our lives, and that we have better public policy when we construct policy on solid ethical foundations. My argument about not asking too much of ethics reflects my view that ethics, like so many good things, has its limits, which we should acknowledge. We respect ethics when we recognise its limits and do not call on it to do more than it is capable of: which is considerable, but not necessarily as far-reaching as some ethics enthusiasts want it to be. To respect the power of ethics means to accept the limits that define its integrity as an instrument of good public policy.

My warning is against inflated expectations of what ethics can contribute to public policy. Managing expectations is an important part of political and policy leadership, as we have seen over the last year of remarkable intergovernmental cooperation to deal with the global financial crisis. This involves raising expectations so that our political communities can strive to do more. This also involves moderating expectations so that our communities are protected against unrealistic expectations that policy makers can never meet. Moderating expectations can also protect communities against the impact of unforeseen and therefore uncontrollable shocks that policy makers fear are more likely than not to emerge out of the unknown. One of my aims is to help manage and moderate our expectations about what can be expected of ethics and public policy.

My tone might strike some as inappropriate or even offensive for a book on ethics. After all, what sort of friend of ethics is a person who talks ethics down? Where one might expect a visitor to be enthusiastic with helpful suggestions about strengthening the ethical foundations *for* public policy, here I come along with a cautionary tale about the ethical foundations *of* public policy. I risk disappointing those who are advocates of better ethical foundations for better public policy. I share that advocacy. My problem is that, having taught ethics and public policy for over 20 years, and having watched the remarkable growth of policies designed to encourage ethical conduct within governments, I fear that ethics may not be able to carry the load of our weighty expectations for 'better' government and 'better' public policy.

## Ethical foundations

Analysts of public policy have long debated the precise place of ethics in theories and practices of public policy. One difficult question asks how useful ethics can be in both policy theories and policy practices. One really challenging answer comes from utilitarian policy analysts who take their inspiration from 19th century English moral philosopher Henry Sidgwick (1838–1900), revived

for contemporary readers in John Rawls's *A Theory of Justice* (1971). This school of policy analysis takes its inspiration from Sidgwick's so-called doctrine of 'esotericism', which holds that policy elites can, under certain circumstances, have good moral reasons for hiding the practice of acting unethically. Sidgwick's model army of elite policy makers subscribes to the view that democracy is best ruled through policy arts that hide some of the hard truths from citizens, including the hard truth that policy elites will have to lie when exercising their policy responsibilities.

Against that background, I will try to help frame our discussion of ethics and public policy. My own view is that many of the strongest ethical foundations of public policy are matters of process rather than structure. Policy making works through process, and good policy making should be all about ethical processes. Ethics is particularly relevant to one type of process: managing the untidy but vital network of relationship processes – formal and informal, public and private. We recognise ethical relationships as those that measure up against processes of fairness. And how is fairness itself measured? In practical terms, ethical relationships are fair when they comply with agreed and acceptable standards.

Our general topic is 'ethical foundations'. The usual test of the quality of 'foundations' is whether the foundations are strong enough to 'carry weight', which is a test of structural strength. I think the better test of 'ethical foundations' is whether they are acceptable enough to 'carry conviction', which is a test of a different sort of strength: the strength that comes from shared purpose.<sup>2</sup> To promote ethical foundations, we need skills of advocacy and persuasion ('outreach') as much as knowledge of ethics ('insight'). The big test is this: can we persuade and convince the policy community to support a set of agreed ethical standards?

Given that there are so many legitimate policy communities, as there should be in a democracy, what manner of ethics will serve our common purposes? My answer is an ethics of due process seen as fair by as many policy participants as possible. The ethical foundations of public policy include agreement on standards of due process by those sharing the making and implementation of public policy. Getting these policy-making relationships right means stepping forward to acknowledge our shared public roles, so that we can then agree on what those involved in the policy process can reasonably expect of one another. Constructing ethical foundations is, thus, an exercise in community building.

One common test of the value of a public policy is whether it is democratic: produced by democratic processes for clearly democratic purposes. This test

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<sup>2</sup> See Toulmin (1976, p. 163).

of policy value seems a core test for many contemporary democracies, with its comforting assumption that the alignment of democratic form and substance is what is good about democracy. But what if a powerful school of ethics is or was convinced that democracy was not so much the solution but rather the main problem confronting ethical public policy? This question anticipates my examination of Sidgwick, which follows later in this chapter.

But the question at this early stage is more general: is it so easy to define the nature of ethical policy? It is easier to define ethical policy analysis (the means: laying out all relevant considerations) than to define ethical policy (the end: once all the hard decisions have been taken). Almost everyone agrees that ethics should be prominent in the study of public policy. But what about the place of ethics in the *practice* of public policy? Internationally, there is surprisingly little agreement on the precise place of ethics in the practical world of public policy. This chapter tries to promote fresh discussion about such matters by drawing critical attention to the often-unacknowledged limits of ethics as a guide for policy makers.

## Esoteric ethics

Ethics has many dimensions. Shortly, I will provide my own policy-relevant definition of ethics as not simply individual ‘right conduct’ but ‘right relationships’ among those sharing policy responsibilities. But before I step forward with my own definition, I want to step back and take note of an alternative policy-relevant definition associated with utilitarianism: the philosophical doctrine associated with influential policy reforms in the 19th century, which contains a challenging alternative to my own approach to ethics and public policy. This influential ethics doctrine is also about relationships of public power, but not one that many contemporary democrats would call their own.

I will review the place of a fascinating school of ‘esotericism’ in democratic public policy, inspired by 19th century English utilitarian social theory, recently revived by Peter Singer.<sup>3</sup> This school of political thinking has influenced policy analysts not only in England but around the English-speaking world. Contemporary ‘ethics entrepreneurs’ who want lessons in how to ‘make democracy more ethical’ can find them in such classic utilitarian theorists as Sidgwick. Sidgwick stands out as an exemplary theorist of ethics and public policy who saw the importance of schooling policy elites in what he called ‘esoteric’ social doctrines that would strengthen emerging democracy by

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<sup>3</sup> See de Lazari-Radek and Singer (2010).

substituting a higher but hidden social morality for the lower social morality favoured by democrats. Critics have saddled Sidgwick with responsibility for championing ‘Government House utilitarianism’: a form of policy paternalism not unlike colonial rule where a ruling class does it best to advance the welfare of subject peoples, even to the point of disguising the underlying utilitarian logic of government programmes if that helps cement popular consent (Williams 1993, pp. 108–10).<sup>4</sup> John Rawls featured Sidgwick in his *A Theory of Justice* (1971) as a prominent representative of the (not unqualified) virtues of utilitarianism.<sup>5</sup> This chapter serves as a reminder about the role of policy elites in democratic policy systems and a warning about the recurrence of unethical use of ‘ethics talk’ in democratic public policy.

To some extent, I am examining a neglected but important feature of democratic ethics: the ethical role of policy elites. I am drawing on Sidgwick to generalise a portrait of ethics entrepreneurs who view democracy as a threat to ethics and whose solution involves a fascinating form of democratic deception: deception exercised by policy elites who fear that democracy tends to get in the way of ethical public policy. My critique of the Sidgwick framework is based on two core distinctions: generally between ethics and morality, in order to minimise opportunities for high-minded morality to justify unethical practice; and specifically between democratic ethics and esoteric morality, in order to minimise opportunities for esoteric doctrines to undermine democracy. Although democracy might well need policy elites, Sidgwick’s ‘esoteric ethics’ eventually fails to show why policy elites need or even value democracy. I contend that some contemporary ethics advocates discount the ethical value of democracy. Those who value the conventional procedural ethics of democratic policy making should be on guard against the secret policy designs of utilitarian ‘esotericism’.

Surprisingly, this conviction about the need for ‘esoteric morality’ remains a model for contemporary ethics advocates (or ‘ethics entrepreneurs’).<sup>6</sup> Many such advocates adopt a form of what I call ‘stealth ethics’ that hides their policy preferences behind what the original utilitarian theorists called an ‘esoteric’ social philosophy. As used in this sense, ‘esotericism’ refers to a disguised social doctrine that protects its anti-democratic ethics behind the façade of an ‘exoteric’ policy doctrine. Many advocates of ethics see democracy as one of the primary problems confronting ethical public policy: either we have ethical policy or democratic policy but we cannot have both. Democracy should give way to ethics. In practice, democracy should be regulated by an ‘esoteric’ social philosophy that hides or disguises its ethics: protecting its anti-democratic ethical

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4 See also Williams (1981, p. 52).

5 See, for example, Rawls (1971, pp. 22, 26, 29, 32–3, 92, 400, 458, and especially 254–7 and 572–7).

6 See, for example, de Lazari-Radek and Singer (2010).

content beneath an 'exoteric' policy exterior that cause no harm to democracy. In fact, the hope is that the esoteric morality can strengthen democracy by importing ethical elements that democracy, if left to itself, would reject.

Esotericism is normally associated more with conservatives (think of recent debates over 'neo-conservatives') than social progressives like Sidgwick. What is remarkable is how infrequently debates over ethics and public policy pay any attention to the sort of 'stealth ethics' practised by Sidgwick and his followers, who illustrate many of the ways that friends of democracy can turn towards a form of democratic elitism to overcome what they see as democracy's fragile ethics infrastructure. Unfortunately, their remedy can become worse than the disease if the policy elite distance themselves too far from the democracy they disdain. Debates over ethics and public policy can benefit by paying closer attention to the sort of 'hidden hand' or 'stealth ethics' favoured by Sidgwick and followers and by holding policy elites to greater public accountability as one way of restraining their self-avowed elitism from straying too far from the conventional requirements of democratic ethics. Although democracy might well require policy elites, Sidgwick's school of 'esoteric ethics' fails to show why policy elites need or even value democracy. All the more reason for democracies to hold policy elites accountable for the power they exercise in the name of social utility.

## Ethics defined

For simplicity's sake, let me define ethics as the agreed standards we expect of, say, public policy or even private policy if it comes to that. Thus, to have the right ethics means having the right standards: recognising the standards expected of us, and to the best of our ability living up to these standards. When we speak of the ethical foundations of public policy, we are speaking about our agreed standards we expect of public policy: standards appropriate to the various instruments of rule and regulation governments use to manage public affairs. Being ethical means doing the right thing consistent with our agreed standards. This is much more than compliance with the rules of the game. Being ethical typically means doing the right thing according to the spirit of the game. Hence, being ethical means doing what is expected according to the unwritten rules known to all who want to be regarded as 'a good sport', even in the competitive world of politics and public policy.

Ethics is thus about obligations or duties that we accept because we accept agreed standards. Almost always, doing the right thing means accepting our part in a relationship: doing what we owe others as part of a shared agreement. Of course, there are limits. Much depends on our bargaining power in such

relationships: ‘accepting our part’ might cover many forms of acceptance that reflect unequal power relations, such as accepting our part as an instrument of convenience for power-holders. In this summary of an ethical relationship, I am highlighting the importance of voluntary cooperation as an ethical ideal. Acknowledging the inequalities of power is one thing, all too common in most government circumstances: less common is a situation of mutual respect among officials sharing public power, which helps point us toward a set of appropriate ethical standards.

As a regulatory ideal, doing the right thing more often than not means respecting the rights of others to be treated according to the standards we mutually acknowledge. As we can see, ethics and justice are closely related: ethics is accepting what others expect of us and justice is ethics at its fullest, when we act on ethical principle even when the law or the rules might not be so demanding. Doing the right thing more often than not means respecting the rights of others to be treated according to the standards we mutually acknowledge. My model of justice here is about basic fairness rather than any model of comprehensive social justice: in other words, my approach to justice as ethics-in-action is an admittedly ‘thin’ rather than ‘thick’ model, comprising norms of due process and fair procedure for all citizens, regardless of their claims to special treatment based on their self-confessed moral worth. My approach is standard fare in theories of liberal pluralism, which many communitarians will find too thin and spare an interpretation of ethics, with too formal an account of justice to promote moral public policy.

In explaining the reasons for my restraint, some readers will detect my reliance on Stuart Hampshire, the noted English philosopher and author of *Justice is Conflict* (1999), which provides a classic defence of the ethics of due process in politics and public policy. I am drawing from Hampshire the view that agreement about an ethics of fair procedure in public decision making is a top policy priority in liberal-democratic societies that tolerate extensive moral pluralism. That is, the greater the diversity of moral belief-systems, the greater the benefit from consensus on procedural ethics. Policy architects have to anticipate the need for reconciliation and instruct institutional designers to devise procedures that cause each of us to ‘hear the other side’. This of course is easier to do in theory than in practice. But if ethics means anything, it means something practical. Being ethical means aligning the fair and the feasible.

## **Saving ethics from morality**

Where does or should ‘morality’ feature in our analysis? Perhaps surprisingly, I propose that we make a distinction between the smaller topic of ‘ethics’

and the larger topic of 'morality'. I think we already distinguish in practice between the practical discourse of 'ethics', which can stimulate discussion over role relationships in the policy process, and the other-worldly discourse of 'morality', which has many virtues but lacks the pragmatic value of 'ethics' discourse. Where morality is intensely theoretical and speculative, ethics is quite practical. Talk of morality is talk about the meaning of fundamentals; ethics, as I am using that term here, is talk about action: what we do here and now in the social roles we occupy.<sup>7</sup>

I admit that the discourse of 'moral philosophy' frequently frames our approach to discussions of ethics and public policy. Prominent examples typically come from newly elected governments believing they have some sort of 'moral mandate' to steamroll opponents. The former Rudd Labor government in Australia is a good example where the prime minister has been explicit about his moral heroes, such as the anti-Nazi theologian Dietrich Bonhoeffer, in ways that his opponents protest as 'moralistic' (Rudd 2006).<sup>8</sup> The prime minister had a tendency to reach for the high moral ground, identifying climate change as 'the moral crisis of our times' and describing opponents of his border-protection policies as 'lacking a moral compass'. These are useful examples because they illustrate the way that public use of the discourse of morality often says 'no compromise', as though the stated public policy response is fundamentally right, with no room for alternative views. Bonhoeffer's uncompromising stand against Nazi policy and practice is truly admirable. Rudd deserves praise for bringing Bonhoeffer's religious commitments back into public consideration. But to what extent can we use this rare and valuable example of moral courage as a feasible model for the routines of policy making under less extreme circumstances?

The problem here is not morality but 'moralising'. There is nothing in ethical practice that quite matches 'moralising' ('sermonising' or being judgemental about others' lack of morals), and that is one very good reason to retain our focus on ethics. In fact, 'moralising' suggests why moral discourse is unhelpful for our purposes: moral discourse is more judgemental and exclusionary than ethics discourse, which suits the purposes of those uncompromising policy makers who want to take 'the high moral ground' and condemn, rather than converse with, their opponents who allegedly lack a 'moral compass'.

The deep and rich discourse of morality can be distinguished from the conventional and comparatively superficial discourse of ethics. This distinction between two related discourses is a useful way of separating out ethics and protecting it from too heavy a burden of moral expectation. My use of this distinction mimics the famous distinction between 'the right' and 'the good'

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7 Consider Billington (2003, pp. 19–26).

8 Examples of anti-moralistic opposition include Uhlmann (2009) and Murphy (2009).



in English philosophical discourse, with ethics approximating the former and morality the latter. My claim is that policy analysis can benefit by distinguishing between issues of right and good, both of which are of fundamental importance, where 'the right' refers to right relationships among policy actors and 'the good' refers to the less visible world of deep personal value to which each of us as individuals are personally committed (Ross 1930, pp. 155–73).

My distinction is admittedly artificial but arguably a useful way of relating two realms that overlap. Think of morality as the social plant with deep roots and ethics as the social plant with shallow roots. Both are socially useful but in different ways. Our everyday language illustrates that the discourses of morality and ethics are frequently put to different social uses, with morality indicating the deeper realm of beliefs about conscience and personal identity (for example, belief systems), while ethics often, but not always, indicates a social realm of relationships based on the shared identity of interdependent roles (for example, public service roles).

## Relating ethics to morality

All of this careful distinction between 'ethics' and 'morality' is nicely academic. The learned will tell us that the two terms *ethics* and *morality* are almost interchangeable. They will point out that the word ethics comes from the Greek language and that morality comes from the Latin language and that both terms refer to the same thing: in fact, the Latin term 'mores' was probably invented by Cicero when trying to translate the Greek term 'ethos' from Aristotle's classic treatise on ethics.

But I follow where others have been prepared to tread in adhering to this distinction of convenience between 'ethics' and 'morality'.<sup>9</sup> For example, Ricoeur's (1992) use of a similar distinction refers to 'the primacy of ethics over morality' where ethics refers to the internal character or characteristics we desire in order to do well in life and morality refers to the externally imposed obligations or norms expected of us by others. My rough and ready distinction is simpler than Ricoeur's grand theory, which seeks to promote Aristotle's school of virtue ethics over Kant's alternative school of strict compliance with duty. Our two approaches converge in thinking of ethics as having primacy over morality, even if our underlying justifications differ. Both approaches draw on Aristotle's virtue theory to spell out the ethical content of contemporary role ethics. Both approaches see moral theory as serving other purposes. Where we differ is that my approach is quite pragmatic. I see morality as the world

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<sup>9</sup> See Ricoeur (1992, pp. 169–239). See also Toulmin (2001, p. 168), arguing against those 'who want ethical theory to be moral'.

of *confessional* responsibilities (for the good things we value as fundamental, which we are reluctant to compromise). Accordingly, I see ethics as the world of *professional* responsibilities (for the right things we accept as part of our role or office or job).

This is an artificial but useful distinction about two realms that overlap. Ethics here refers to doing the right thing and morality here refers to our deepest beliefs about good and evil. Ethics relates to our duties and obligations in the roles we carve out for ourselves; morality relates to the concept of the good that shapes the inner individual. The term 'morality' often refers to unconditional value commitments that trump all other values. Here I am using the term morality much as it is often used in the policy process to designate the deepest reservoirs of our belief-system: the deepest springs of our value commitments that define who we are and what, at the end of the day, we stand for. The topic of ethics and public policy shifts away from an intractable wrangle over competing moral visions of different belief communities and becomes a debate over the important but limited role responsibilities we as a political community expect of one another in public life.

My point is that fruitful discussion over ethics and public policy can begin by separating ethics from morality in order to lessen the weight of value that ethics will be asked to carry. Devising agreed standards for public policy will be much harder if the task is approached in terms of an agreed morality informing the substance of public policy, compared with my suggested approach of an agreed ethics informing our roles in making and managing the processes of public policy. My distinction is between morality as a world of deep substance and ethics as a shallower world of process. We inhabit both worlds of course, but I am suggesting that ethics marks out the agreed social space we share when we play our allotted part in the public policy process; and morality marks out the personal space of individual conscience that I share with my belief community, however large or small that might be.

## Ethics by example

An example will help. Think of the language we use around 'ethics committees' to refer to regulatory bodies that oversee communities (of employees or researchers or contractors) with shared and agreed expectations about the ethical norms expected of those carrying out the business of that community. We do not refer to 'morals committees'. Why is this? I think it is because we make a distinction between ethics as role-related (for example, my role as an employee of a hospital or healthcare facility) and morals as me-related, in my personal capacity when my professional or social role has been put to one side.

Ethics committees perform important functions in many organisations in the public and private sectors, helping clarify appropriate on-the-job conduct. For academic researchers, an important stage in the research process occurs when we get our ethics clearance, which means our employer or funding authority approves our research plan on the basis that we will comply with the relevant code of conduct for fair and honest dealing as researchers. But we do not have to undergo tests by a 'morals committee'. The reason for this is that we envisage a 'morals committee' as something quite different, potentially examining things much more deeply personal than our role-responsibilities.

I admit that the two spheres of ethics and morality are not separate and distinct but often overlap. Think only of the process called for by many professional associations when determining whether particular individuals measure up and deserve to be recognised as professionals: as medical professionals, legal professionals, or military professionals. One of the tests, not always made explicit, is whether particular persons are 'fit and proper persons' to take on the responsibilities of the profession: that is, whether they have the personal capacities to use and not abuse whatever responsibilities come with the professional office they seek. Such tests can drill down into the deeper layers of personal morality if there is reason to suspect that particular persons might hold or harbour deep value commitments that make them unlikely to honour the rights and privileges that go with professional standing. But most of the time, ethics committees and related ethics processes stay closer to the surface of our roles as employees or functionaries, making a rough and ready distinction between our deepest moral wells of personal meaning and our conventional worlds of on-the-job performance in the roles or offices expected of us.

What is the practical implication of this proposition about separating ethics from morality? Negatively, to accept that our task is not to arrive at a consensus about agreed moral belief-systems. Positively, to focus on the practical roles of those formulating and implementing public policy. Here we note the many networks of shared responsibility for public policy, in order to devise codes of practice to clarify the responsibilities of those exercising public power in the policy process.

## **Ethics entrepreneurs**

In my view, some of the most committed ethics enthusiasts need to increase their commitment to democracy. Just as political executives can confuse their particular institutional interests with those of good government more generally, so too some influential ethics gurus are more impressed with their own school of ethics than they are with the norms and values of democracy. Until ethics

experts make their peace with the messy realities of practical democracy, I think we should take their advice with a grain of salt. Again, this situation is not all bad. The welcome implication is that ethics has important political implications and we should judge ethics regimes as much by their political qualities as their moral qualities.

My example comes from utilitarianism: the same school of ethics ('consequentialism') identified in the *Stern Review* as the core of the ethical foundations of contemporary public policy (Stern 2006, pp. 31–4, 46–9).<sup>10</sup> This is the school of ethics that holds that the value of an action is judged by reference to its consequences, which seems a sane and sensible enough view. Much of utilitarian ethics is designed to undercut our tolerance for those well-intentioned blundering types who ask us to excuse them by claiming that the wrong they did was not all that bad, because after all, they meant well. Plenty of public policies come off the rails, even though the policy actors meant well. Many policy actors defend such policy failures on the basis that they did not intend any harm and, in fact, they meant well.<sup>11</sup>

The point of utilitarian ethics is to turn things around so that good intentions are no longer a sufficient reason for policy actions to be judged as right. Consequences also matter: results matter, perhaps even more than intentions. You can see where this is going: at a certain point, advocates of utilitarian ethics discount or undervalue both intentions and process, and privilege, or indeed overvalue, results. This approach has the air of worldly realism about it. I am all for realism. But I want to warn us against a downside risk of utilitarian realism, which is the link between thinking in utilitarian terms and acting with what are called 'dirty hands'. Most forms of the ethic of 'dirty hands' have to do with an embrace of the belief that the ends justify the means: valuable policy ends ('peace') can justify disreputable administrative means ('war').

I want to suggest that many of our contemporary ethics entrepreneurs walk in the shadow of this utilitarian cloud. In fact, the original ethics entrepreneur of this school went out of his way to justify why taking ethics seriously can mean not taking democracy seriously. My evidence comes from the first great policy publicist for utilitarian ethics: Henry Sidgwick, a truly remarkable example of the ethics entrepreneur who models the sort of 'stealth ethics' I want to highlight.<sup>12</sup>

Sidgwick is the very model of a theoretically informed policy innovator. But I want to identify a private 'moral' theory nested in the public 'ethical'

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10 On consequentialism generally, see Hardin (1988).

11 See also Ward (2009, p. 5).

12 See Sidgwick (1907, especially pp. 484–495). Compare de Lazari-Radek and Singer (2010, pp. 37–42). See also Schultz (2004, especially pp. 18–20, 264–9, 507).

theory. The public doctrine is about using concepts of public (or social) utility to construct new ethical foundations for public policy: a classic and very influential advocacy of a progressive version of utilitarianism, designed to sweep away traditional public policies that served no clear public utility. What is most interesting about Sidgwick as policy reformer is his inner conviction that ethical reformation would require special political dedication by his core followers. They would have to work from within established systems and structures, steadily seeking to transform established society without publicly disclosing all of their reformist agenda.<sup>13</sup> Ethical reform might require a kind of high-minded ethical deceit where Sidgwick's followers would be called on to say one thing in public ('comply with social norms') and do another more important thing in private ('break social norms, but for the greater good of the public benefits this will produce').

If this is characteristic of ethics advocates generally, then those of us favouring democratic values of open public participation have a few problems. We have to look very closely at the elitist ethics being practised by well-intentioned but anti-democratic reformers, for whom the slow process of building public acceptance is reason enough to try an alternative reform strategy of what I call 'stealth ethics'. In two of his very influential works, Sidgwick (1898, 1907) draws his more attentive readers to the importance of what he terms the 'esoteric morality' (that is, the hidden or undisclosed morality) that utilitarian reformers should adopt.<sup>14</sup> In passages of quite cryptic prose, perhaps designed to deflect all but the most persistent of readers (the 'enlightened few'), Sidgwick teases out the example of lying for the greater good. He warns his readers that the people generally believe that lying is wrong, yet utilitarians know better: lying is not wrong if the public benefits outweigh the public losses. Trouble is, if utilitarians publicly admit to their inner conviction that lying is in principle beneficial, this would then cause significant public harm by weakening public confidence in the prevailing social morality prohibiting lying.<sup>15</sup>

## Stealth ethics

Sidgwick's energetic 'stealth ethics' provides a standing example of a potential weakness in ethics advocacy. He is realist enough to acknowledge that many policy makers act unethically; for example, by lying. He is idealist enough to wish this were not so. Usually, lying politicians have no excuse for their wrong conduct. Sidgwick is also experienced enough in the practicalities of policy making to know that professional ethics confers special privileges on many

13 Consider Bok (1984, pp. 112–3).

14 See Sidgwick (1898, especially Essay 3, 'Public morality', pp. 52–82).

15 A convenient source is H. Sidgwick, 'The classification of duties: Veracity' in Bok (1978, pp. 272–5).

socially powerful groups to act in ways that are in tension with the rules of ordinary morality. For example, lawyers do their best to protect their client's interests by stretching the truth in ways that would be unacceptable according to the rules of everyday ethics, so too do leading opposition politicians when holding governments to account, and that rough and tumble activity is consistent with their socially useful ethics of role. Further, Sidgwick notes that many powerful groups in government are given authority to deny the truth that they are breaking the ordinary rules of ethics; for example, spies and military authorities and their political ministers deceive the enemy, even if this means deceiving friends as well. But Sidgwick takes this notion of professional political ethics one step further: he illustrates for us the temptation facing ethics advocates to devise a specialist form of professional ethics for ethics reformers. This warrant not only allows them to lie for the greater good but to lie about this practice of lying, and to deceive the public about the presence of the 'esoteric morality' that persuades the ethical elite of the justice of their covert practice.

Of course, the historical Sidgwick was not as bad or as troubling as I am making him out to be.<sup>16</sup> I am exaggerating and making the worst case for an otherwise good person. I concede that few ethics advocates fit the template I have constructed here. But my point is to identify a very real risk, which is that ethics advocates can be so keen to take ethics seriously that they forget to take the checks and balances of democracy just as seriously. My interest here is not in Sidgwick as such, but in Sidgwick as a type or exemplar of ethics reformer ('innovator' is his preferred term) who drills his followers in the importance of appearances. Policy innovators should manage publicity in ways that deflect public attention from their deviations from conventional social norms. The ethical reformer in this school of utilitarianism thus balances two truths: the general or popular truth about the wrongness of acting unethically (as in the case of lying); and the secret or esoteric truth known only to the committed reformers that acting unethically (for example, lying) is right under certain conditions. Appearances are everything because reformers such as Sidgwick appreciate that the ethical foundations of public policy rest in community sentiment, which disapproves of unethical conduct such as lying. But if reformers want to take ethics seriously, then they have to use every instrument, including well-calculated lying, to manage the policy process in ways that produce the social benefit that is the underlying measure of ethical policy.

What would be an example of such a policy deception that produces public benefits but only where the people generally remain ignorant of what is going on? Think of it in these very broad terms: any deception by anyone in a position of policy power that keeps the public ignorant about calculated wrongs done to produce right results. The systemic example is the very denial that such an

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16 Consider Schultz (2004, pp. 703–13).

esoteric ethic of exceptionalism exists! Sidgwick knew the risks he was taking with his 'paradoxical' doctrine about esoteric or exceptional ethics. In *Practical Ethics* he noted that this warrant for public officials to manage their public duties in ways that are inconsistent with their private duties was 'not a proposition that a candidate for Parliament would affirm on a public platform' (Sidgwick 1898). But once elected, what becomes evident is the 'esoteric professional morality current among politicians, in which considerable relaxations are allowed of the ordinary rules of veracity, justice, and good faith' (Sidgwick 1898, p. 57). Building on this rather self-serving form of esotericism, Sidgwick constructs a marvelous edifice of public-serving esotericism, fit for the purpose of ethics reformers who can not afford to wait for democracy.

Does this make Sidgwick's account sound like special pleading: excusing certain policy agents of routine duties? There is something to Sidgwick's doctrine.<sup>17</sup> But it is a doctrine liable to misuse or abuse. At its best, Sidgwick's careful anatomy of ethical exceptionalism resembles traditional casuistry, as he himself noted when examining 'the esoteric morality of any particular profession or trade' (Sidgwick 1898, p. 19). At its worst, Sidgwick's doctrine about the ethical ends justifying the unethical means illustrates the disdain for the routines of democracy and popular government that well-intentioned but impatient ethics experts can display.

The practical implication of this discussion is that democracy is a core part of the ethical foundations of public policy. Negatively, this means we should downgrade the credit rating of those ethics advocates who want to short-circuit the slow but necessary processes of popular decision making. Positively, this means we should value democracy for the way it contributes to ethical foundations of public policy by holding ethics to public account, causing ethics advocates to demonstrate how their ethics schemes can strengthen rather than bypass or subvert democracy.

## Contemporary ethics regimes

We can detect a distaste for democracy among some influential schools of ethics experts or ethics entrepreneurs. We forget that ethics advocates can pose risks to democratic policy making, particularly when their fervour for ethics outstrips their fondness for democracy. Some ethics advocates are quite elitist, with an impatience for the slow grind of democratic processes. This elitism often matches the concentrated ethics adopted by political executives seeking to

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17 Consider Melzer (2007).

bolster the policy power of centralised government institutions. I think ethical public policy includes or presupposes democratic processes of public policy, in contrast to the anti-democratic sentiments of some influential ethics experts.

One practical suggestion I have about improving ethics and public policy is that, despite Singer's advocacy, we learn from the Sidgwick case study to be wary of policy elites bearing ethics (de Lazari-Radek and Singer 2010, pp. 51–8). The problem is not that policy elites generally do not take ethics seriously but that generally they do not take democracy seriously. Their dedication to their chosen school of ethics can mean they treat democracy as vulnerable to unethical tendencies. Their solution is to do what they can to prevent social or exoteric morality from disintegrating in ways traditionally feared of democracy, while devising an 'esoteric morality' to allow the policy elite to escape public distrust while engaged in their unrevealed but well-intentioned policy arts.

Contemporary democratic governance never quite lives up to Sidgwick's high expectations for stealth ethics. Instead, what we have is a preference by governing elites for ambitious ethics regimes devised by those in the political executive at the centre of government to regulate activities of those across the policy landscape. Such ethics regimes are prominent features of contemporary public policy. Nothing so bold as Sidgwick's stealth ethics seems to inspire the ethics regimes regulating contemporary policy systems. But one can detect a form of ethical zeal in the ambition that heads of governments have for taking responsibility for regulating official ethics, where ethical conduct in effect means acting responsively to implement government policies.

Democratic political executives are often tempted to use ethics as part of a credentialling package when searching for ways to increase public confidence and trust in government. Increasingly governments are attracted to ethics policies as a public relations exercise: that is, governments look to ethics not as an end in itself but as a means of strengthening public confidence in government. This is not all bad: the welcome implication here is that good government is wider and deeper than simply the good of 'the government' and that if the ethics initiatives of political executives stimulate ethics initiatives from other branches and components of our governments, then well and good. But it is mistaken to think that any one part of the system of government can take out a 'site licence' on ethics and claim that whatever use they make of ethics is proof that government has gone ethical. A bit of due diligence by other branches of government and a bit of auditing are in order to protect us from whole-of-government claims exercised by subordinate parts of the system of government.



If ‘concentrated’ ethics is the problem, one solution is along the lines of ‘dispersed’ ethics. My own approach (echoing F. H. Bradley’s (1962) case against Sidgwick)<sup>18</sup> to dispersed ethics is the concept of the ‘lattice of leadership’, which emerged in my book *Terms of Trust* as a way of trying to explain the character of dispersed leadership in a democracy (Uhr 2005, pp. 78–81).<sup>19</sup> The concept derives from the theme of power-sharing across many different locations of authority. The lattice of leadership attempts to describe a style of dispersed public leadership based on a spread of locations where powers and influence intersect. In my view, ethical policy leadership in a democracy requires *dispersed* rather than *concentrated* foundations. Ethics as it emerges from the central structures of government is a classic case of concentrated ethics: ethics concentrated in the hands of executive officials, political and bureaucratic. However welcome might be the many ethics initiatives emerging from the central structures of government, the ethical footings of public policy require wider foundations than simply those of central agencies in executive government. Dispersal of policy power does not have to imply lack of energy or focus or impact: in fact, I argue that dispersed power can enrich the ethics of public policy by calling into play a richer blend of ethical viewpoints.<sup>20</sup>

## Conclusion

My image of the ‘lattice of leadership’ is another way of conveying the message found in many traditional doctrines of ‘ethics of office’, where expectations about the right conduct of public figures derive from the nature of the specific office in question. One advantage of this type of so-called institutional or role ethics is that it helps officials avoid unnecessary abstraction in ethical thinking by keeping their focus on concrete circumstances and the practical responsibilities of role. Ethical responsibilities vary with role. Although general obligations to act honestly might be common, specific forms of honest ethical conduct can vary according to the role or office in question. This traditional orientation to public ethics undercuts expectations about a ‘one size fits all’ model of ethical conduct, deferring instead to a wide variety of clusters of ethical priorities varying with different types of public office. Theories of ethics of office have survived so long precisely because they match the living realities of the public realm, where what is considered appropriate public conduct for officials derives substantially from the nature of the offices being occupied: take the occupant into another public office and you probably change most of their official ethical obligations.

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18 See, for example, Bradley (1962, pp. 126-9).

19 A more recent version is in Uhr (2008).

20 See more generally Kane et al. (2009).

The practical implication is that responsibility for maintaining the ethical foundations of public policy cannot and should not be left solely to executive government, which is the default position in most democratic systems. Negatively, this means there is no 'one size fits all' approach. Positively, this means a democratic ethic of dispersed public decision making. Democratic governance is much broader than the government of the day, and ethical policy systems rest on networks of dispersed public responsibility involving many types of public offices, each of which deserves to have its own distinctive code of practice reflecting its own particular ethical contribution.

## References

- Billington, R. 2003. *Living Philosophy: An introduction to moral thought*. 3rd edn. London: Routledge.
- Bok, S. (ed.). 1978. *Lying: Moral choice in public and private life*. New York: Pantheon Books.
- Bok, S. 1984. *Secrets: On the ethics of concealment and revelation*. Oxford: Oxford University Press.
- Bradley, F. H. 1962. *Ethical Studies*. 2nd edn. London: Oxford University Press.
- De Lazari-Radek, K., and P. Singer. 2010. 'Secrecy in consequentialism: A defence of esoteric morality.' *Ratio* (March): 34–68.
- Hampshire, S. 1999. *Justice is Conflict*. London: Duckworth.
- Hardin, R. 1988. *Morality within the Limits of Reason*. Chicago: University of Chicago Press.
- Kane, J., H. Patapan, and P. 't Hart (eds). 2009. *Dispersed Democratic Leadership*. Oxford: Oxford University Press.
- Melzer, A. 2007. 'On the pedagogical motive for esoteric writing.' *Journal of Politics* 69(4): 1015–31.
- Murphy D. 2009. 'Rendering to Caesar, and a nod to God.' *Sydney Morning Herald*, 31 October – 1 November.
- Rawls, J. 1971. *A Theory of Justice*. Cambridge, MA: Harvard University Press.
- Ricoeur, P. 1992. *Oneself as Another*. Chicago: University of Chicago Press.
- Ross, W. D. 1930. *The Right and the Good*. Oxford: Clarendon Press.

- Rudd, K. 2006. 'Faith in politics.' *The Monthly Magazine*, October, no. 17. [www.themonthly.com.au/print/300](http://www.themonthly.com.au/print/300).
- Schultz, B. 2004. *Henry Sidgwick: Eye of the universe. An intellectual biography*. Cambridge, UK: Cambridge University Press.
- Sidgwick, H. 1898. *Practical Ethics: A collection of addresses and essays*. London: Swan Sonnenschein. [www.archive.org/details/cu31924031432275](http://www.archive.org/details/cu31924031432275).
- Sidgwick, H. 1907. *The Methods of Ethics*. 7th edn. London: Macmillan.
- Stern, N. 2006. *The Economics of Climate Change: The Stern Review*. Cambridge, UK: Cambridge University Press.
- Toulmin, S. 1976. *Knowing and Acting*. New York: Macmillan.
- Toulmin, S. 2001. *Return to Reason*. Cambridge, MA: Harvard University Press.
- Uhlmann, C. 2009. 'St Kevin's halo may choke him.' *Weekend Australian*, 24–25 October.
- Uhr, J. 2005. *Terms of Trust: Arguments over ethics in Australian government*. Sydney, NSW: University of New South Wales Press.
- Uhr, J. 2008. 'Distributed authority in a democracy: The lattice of leadership revisited.' In P. 't Hart and J. Uhr (eds). *Public Leadership: Perspectives and practices*. Canberra: Australian National University E-Press, pp. 37–44. [http://epress.anu.edu.au/anzsog/public\\_leadership/pdf\\_instructions.html](http://epress.anu.edu.au/anzsog/public_leadership/pdf_instructions.html).
- Ward, T. 2009. 'Punishment and correctional practice: Ethical and rehabilitation implications.' *Policy Quarterly* 5(2): 3–8.
- Williams, B. 1981. *Moral Luck*. Cambridge, UK: Cambridge University Press.
- Williams, B. 1993. *Ethics and the Limits of Philosophy*. London: Fontana Press.