



Dudley Knowles

POLITICAL PHILOSOPHY

Fundamentals of Philosophy
Series editor: John Shand

Political Philosophy

Dudley Knowles



London

First published 2001
by Routledge
11 New Fetter Lane, London EC4P 4EE

Reprinted 2002

Routledge is an imprint of the Taylor & Francis Group

© 2001 Dudley Knowles

Typeset in Century Schoolbook and Futura by
RefineCatch Ltd, Bungay, Suffolk
Printed and bound in Great Britain by
TJ International Ltd, Padstow, Cornwall

All rights reserved. No part of this book may be reprinted or reproduced or utilised in any form or by any electronic, mechanical, or other means, now known or hereafter invented, including photocopying and recording, or in any information storage or retrieval system, without permission in writing from the publishers.

British Library Cataloguing in Publication Data

A catalogue record for this book is available from the British Library

ISBN 1-85728-760-6 (hbk)

ISBN 1-85728-550-6 (pbk)

To my mother, Margaret Knowles, and, in memoriam, GRK, DAK,
AK, KC and EJC

Preface

Political philosophy is a hard subject of study, but an attractive one, too. It is hard because the central concepts have been fashioned as much in the hurly-burly of political dispute as in the philosopher's study. These concepts have served as flags around which contending causes have rallied, banners for which opposing parties have fought – too often literally. Unlike many of the topics of metaphysics, say, they *always* have a resonance for issues of active controversy. They are the recognized currency of political argument and debate. This immersion in our practical concerns might be thought to contaminate the discipline, ensuring that no work in political philosophy is without the taint of allegiance. But this would be to suppose that there is a pristine science of political concepts waiting to be unearthed from the debris of interminable conflict, that the concepts can be scrubbed down and examined free of the scrapes and bruises inflicted by their rhetorical employment. There is no such science; there is no 'first philosophy' of political life. Yet it is vital that political philosophy be a careful academic discipline precisely because it is never merely that. It is vital that it be as scrupulous and transparent as its maker can manage because it will always be taken to be a contribution to struggles for power and campaigns for policies.

This makes it hard to do well. No one with a passion for political ideas can be detached from the circumstances of their employment. Political philosophy is attractive because it promises a deep understanding of the values at stake in daily strife, it promises a

defence of causes that are dear to us. But careful thought may reveal that the defences are flimsy or that the values are confused. Most political philosophers will have a political agenda which governs their personal contribution to public affairs, and no doubt you will have worked out elements of mine by the time you finish this book. But philosophy is an open-minded discipline, so, paradoxically, personal commitments must be regarded as provisional, having no more credibility than is conferred on them by the strength of their supporting arguments.

I am particularly conscious of this since I have to report that my philosophical position has changed during the course of writing this book. When I began it, too long ago, I believed that the basic principles of liberal democracy should find universal acceptance. The grounding beliefs, that mankind is born free and equal, seemed to me to be basic elements of a common culture that have anchored themselves in the mind-sets of modern men and women. We think of *ourselves* in this fashion, willy-nilly. These are the guiding principles history has bequeathed us. So I didn't think of liberalism as a radical point of view. I thought of it as mother's milk to the political sentiments of all good citizens. I believed, in the modern world, that the true conservative who is respectful of the traditions of thought that have formed us and our political environment, would be a liberal at least in the sense of accepting some story about universal freedom and equality, and distrustful of claims to authority. Of course, I recognized that values as loosely conceived as these require clarification and analysis, that tensions and confusions would be revealed as the grounding intuitions were worked up into principles and theories of a specificity that could bear examination and assessment. But I didn't doubt that some cogent articulation of these values was the prospectus of philosophers and thoughtful citizens alike.

What I had ignored was the dire effects of religious belief, in particular the power of religion to corrode sentiments as crucial to peaceful social co-existence as mutual respect and relaxed tolerance. The most noxious human capacities, aggression, hatred and cruelty, seem to coagulate around religious beliefs which advertise their necessary distinctiveness, and then are transmuted into communal militancy. As the hatreds expressive of conflicts between political ideologies seem to have dried up, militant

religion has stepped into the breach and now fuels murderous internecine conflicts worldwide – last year the former Yugoslavia, last month Indonesia, this week Nigeria. Doctors are murdered outside abortion clinics in the USA, and shoppers are blown up in Omagh. Hegel makes us shiver when he describes the mentality of the Terror in Revolutionary France as death, ‘the coldest and meanest of all deaths, with no more significance than cutting off a head of cabbage’.¹ Rarely does a week go by nowadays without our seeing some TV footage of bodies piled into trenches, disposed of in the manner of waste vegetables.

So now I am a partisan, even militant, liberal. I despair of the prospect of finding common ground with those whose religious beliefs prescind from civility, from the task of seeking, minimally, a *modus vivendi* or, maximally, substantial agreement. I no longer see the sole task of political philosophy as the Hegelian enterprise of exploring and refashioning a consensus. Nowadays, we have to give as much attention to the dire task of drawing lines in the sand, marking off values which we recognize that only *some* of our fellows deem worthy of defence, values that are all the more crucial for being seemingly parochial.

When my efforts are set against this agenda, I don’t claim to have accomplished much. On reflection, rarely do I reach definitive conclusions. What I do hope is to have placed some intellectual resources at the disposal of openly enquiring minds, raising questions, drafting lines of argument, provoking the kind of disagreement that challenges the reader to respond. I have concentrated on what I believe are the central areas of investigation. Though I am no card-carrying utilitarian, I examine the utilitarian theory in detail because I believe it is the most powerful, sophisticated and influential normative *theory* which is available to us, for better or worse. Next, I examine the core ideals of liberty, rights and justice in the distribution of goods. Next, I study the problem of political obligation, asking whether the state can make good its claim to rightful authority over its citizens. Finally, I look at constitutional issues, investigating the ethical credentials of democracy.

This self-directed focus has made it impossible for me to discuss many issues in political philosophy which have a direct bearing on practical and often urgent policy issues. So I don’t discuss separately the politics of race, the particular injustice of racial

discrimination or the legitimacy of affirmative action or reverse discrimination. I don't discuss justice between the sexes or the feminist contribution to political philosophy. I don't discuss the acceptability of nationalism, the ethical implications of multiculturalism, or the proper conduct of international relations, except by way of example when other issues are in focus. I regret all of these omissions, but hope that those who are encouraged to tackle the questions I haven't raised may find in the book materials to help them in their efforts.

It is impossible to complete a work of this sort without accumulating debts. Some of them are acknowledged in the text, some unfortunately not. The bibliography furnishes a partial guide to my reading, but I should record the books I have had alongside my desk throughout the period of composition. Unsurprisingly perhaps, these have been Hobbes's *Leviathan*, Locke's *Second Treatise*, Hume's *Treatise*, *Second Enquiry* and *Essays*, Rousseau's *Discourse on the Origins of Inequality* and *Social Contract*, Hegel's *Philosophy of Right*, J.S. Mill's *Utilitarianism* and *On Liberty*, Rawls's *Theory of Justice*. Temperamentally, I don't seem to make much progress in political philosophy without first stepping back and studying what these giants of the discipline have to say.

My acknowledgement of personal debts must also be patchy. Students can always be relied upon to prompt their teachers into rethinking positions which would otherwise solidify into nostrums. Colleagues who, after reading students' work or listening to them in tutorials, stop me in the corridor and ask 'Do you tell them *that*?', have similar effects – collapse of stout party and back to the drawing-board. Over the years, bits of this material have been read to philosophers in Glasgow and other universities, and I have welcomed and sometimes used their comments. Nick Zangwill read some of the manuscript material and I benefited from his advice. John Shand read early versions of the first five chapters, correcting errors and helping me clarify obscure material. Pat Shaw has read just about all of it; his criticisms, advice and encouragement have been invaluable. I am a duffer with a word processor and all things IT. My neighbours on the top floor of the philosophy department in Glasgow, Angus McKay and Susan Stuart, have responded kindly and patiently to my pathetic, panicky, pleas for assistance. John Shand, the series editor, and Tony Bruce and

Muna Khogali at Routledge, have been helpful and accommodating in the face of my prevarications and the anonymous referees they have recruited have improved the final version.

Since I expect that this book will be used largely for teaching, it is appropriate that I thank my teachers of political philosophy. I was first introduced to the subject at Kirkham Grammar School by Bernard Coates. There was no National Curriculum and political philosophy was certainly not on the examination syllabus, but Bernard thought it would be interesting for us to discuss the contract theories of Hobbes and Locke, so we did. I was so excited I immediately took the only valuable book in the house, a beautiful, many-volume work on *The Horse: Its Treatment in Health and Disease*, and swapped it for a tatty copy of Sabine's *History of Political Thought*. I suspect the booksellers, Messrs Halewood, of Friar-gate, Preston, are still laughing. This initial interest was rekindled in London, when I found myself preparing abstracts of material directed to questions my brother had spotted for his final exams at the LSE, but unfortunately had not had any time to study. It was fostered at Bedford College, London, by David Lloyd-Thomas, who had the wonderful, generous gift of finding good and interesting ideas in the most hurried and turgid essays I presented to him. My interests were further encouraged by Robin Downie when I came to Glasgow. It's a pleasure to acknowledge my debts to all of them and express my gratitude.

My wife, Anne, has had a lot to suffer in the preparation of this book. Mercifully she takes no interest at all in its contents, not having a philosophical bone in her body – so I thank her for the blessed relief.

Contents

<i>Preface</i>	xi
1 Introduction	1
The methods of ethics and political philosophy	3
A methodological impasse?	3
Reflective equilibrium	9
Political philosophy	14
2 Utilitarianism	23
The foundations of utilitarianism	24
Formal theory	25
Value theory	38
Utilitarian political philosophy	45
Liberty	45
Rights	49
Distributive justice	51
The state	58
Conclusion	64
3 Liberty	69
Introduction	69

CONTENTS

Liberty, liberalism, libertarianism	70
Analysis	71
Isaiah Berlin: negative and positive liberty	74
The republican theory of freedom	85
The value of freedom	88
Freedom of action	90
Autonomy	92
Moral freedom	98
Toleration	100
Free states and free citizens	104
Democratic freedom	105
Civil liberty	107
Mill's harm principle	108
Supplementary principles	113
Conclusion	129
4 Rights	133
Introduction	133
Analysis and definition	135
Preliminaries	135
Hohfeld's classification	138
The justification of rights	155
Lockean themes: modes of ownership	155
Autonomy again	159
Rights and interests	165
Rights and utility	169
The no-theory theory	174
5 Distributive justice	177
Entitlement	178
Nozick's theory of entitlement	179
F.A. Hayek	188
Private property	192
Human needs	195

Equality of what?	206
John Rawls's theory of justice	215
Justice as fairness	215
The Original Position	220
The principles of justice	225
Desert	232
The communitarian challenge	235
6 Political obligation	239
The problems	239
Anarchism and communitarianism	248
Consent and contract	260
Original contracts	263
Express consent	264
Tacit consent	266
Quasi-consent	271
Hypothetical consent and hypothetical contract	276
The benefits of good government	282
The principle of fairness	283
Gratitude and good government	288
Conclusion	296
7 Democracy	299
Introduction	299
Rousseau: freedom, equality and the general will	302
Direct and representative democracy	311
Democracy and majority tyranny	319
Democracy, deliberation and disagreement	326
<i>Notes</i>	343
<i>Bibliography</i>	375
<i>Index</i>	387

Chapter 1

Introduction

Young children, we understand, are born philosophers. They ask exasperated parents such deep questions as ‘Where is my mind?’ or ‘Is Granny living with all the other dead people in the churchyard?’. The spirit for philosophy which is born out of naïveté is soon extinguished, so the taste for philosophical reflection has to be rediscovered. I conjecture that it is an acquired taste, prompted by some strange contingency. Who knows the story behind your picking up this book? Still, some brands of philosophical enquiry are more likely to be prompted than others. An adolescent who found himself pondering the nature of numbers would be a splendid eccentric. By contrast, youthful rebellion can be relied upon to kindle low-level philosophical musings about the rules of behaviour. If parents say such and such is the right thing to do and the teenager insists that he does no wrong in not doing it, the conflict of views is likely to raise all sorts of philosophical questions: What is the nature and extent of parents’ authority? What sort of respect is required for their rules? They can enforce their demands and prudence may dictate compliance, but does that

make it right? If the question of who decides what behaviour is acceptable and what is not seems up for grabs, the question of how to decide will surely follow. Is it a matter of choice or preference or personal belief? And so on.

Such questions (and many more) comprise the subject of ethics, and I suspect that most people dip their toes into the water in the minimal sense of recognizing that there are questions to be answered, issues to be debated. Political life has the same character of putting philosophical questions up front. Authoritarian regimes prompt the same reflections as authoritarian parents. Democratic regimes conduct debates about competing policies in terms of the values such policies embody. Liberty may be opposed to justice. The public interest may require the sacrifice of persons' rights. This is the diet of editorials in tabloids as well as the broadsheet newspapers. Questions of ethics and political philosophy are ubiquitous, in the very air we breathe. The surprise for many is that the problems are not novel, that there is a rich history of careful deliberation about them, that the questions which seem fresh in 2000AD have often been recorded as debated for the last two and a half millenia.

We are heirs to this rich tradition of philosophical dispute. Though philosophical problems seemingly spring up afresh each day like mushrooms, similar problems have been worrying folks for as long as intellectual problems have been recorded. When we take seriously the philosophical questions posed directly in political life, we encounter immediately a vast literature organized around the problems mankind has encountered, the philosophers who have contributed to their solution and the theories that have been recurrently proposed as the means of tackling them.

The prospect can appear dismal. You ask: Do I have an obligation to obey the law? and one of nature's teachers gives you a reading-list – as they say, from Plato to NATO. In truth, this should be a source of excitement, since the history of philosophy does not parade itself as a progressive discipline in the manner of the history of science. You can learn from the Ancient Greeks, not least because the present is a small parish inhibited by parochial concerns. Escape into past ways of thinking, in philosophy if not in physics, can be a liberation. What a marvel it is to read Plato's report in the *Republic* of Socrates working out why might is not

right, or Hobbes at the time of the English Civil War describing anarchy and arguing for the necessity of an absolute or unrestricted sovereign power. These are people you will want to argue with and you will find, to your pleasure, that it can be hard to do so.

Everyone who studies political philosophy has to know something about the history of the subject because that history is a priceless resource as much as it is an antiquarian interest. But this book will not address this history directly. Rather we shall concentrate on the central questions of political philosophy and the leading theories that have been employed to answer them. For the moment, I want to examine the methodology of political philosophy, to say a little more about the relationship of theory to judgement in the sphere of ethics – of which political philosophy is evidently a part.

The methods of ethics and political philosophy

A methodological impasse?

Let's begin our reflections with a hackneyed example. Suppose we have a sheriff who, along with utilitarian thinkers, believes the right action is the one that produces the greatest human welfare. Faced with a rioting mob, he decides a scapegoat is required to prevent widespread harm. He selects a plausible (but innocent) culprit for punishment and calm is restored. Harm and injustice is done to the poor innocent – but the greater evil is averted. The utilitarian sheriff defends his action as the right thing to do in the circumstances. A critic objects. The sheriff's action was wrong because it was unjust. No amount of benefit to any number of third parties can vindicate the punishment of an innocent man or woman. That principle is inviolable.

How are we to adjudicate the issue? On the side of the sheriff, supposing all the facts of the case are right, is a deep and plausible moral theory. The pity is that this theory of what constitutes right action commits him to doing what would normally be judged a wrong action. On the side of the critic is the principle ('intuition' is the term often used here) that it is unjust, and therefore wrong,

to punish the innocent. The sheriff has a theory, which he can defend if pressed, which enables him to judge what is right in tricky cases like this. She (the critic) thinks that his theory is indefensible if it justifies him acting in a way that violates her principle. So – do we keep the theory and sacrifice the principle or do we jettison the theory because we cannot find it in us to reject the principle?

This question, often posed in the discussion of utilitarianism, is, at bottom a dispute about *methodology*. There are many ways forward and all of them are controversial since philosophical dispute reaches into the methods of ethical and political theory as well as the diet of problems which give rise to speculation about the appropriate method for tackling them. First, we need to understand the notion of a *theory* as the sheriff is employing it. The first, simplest, conception takes the theory to be a systematization of the moral and political judgements we are inclined to make. We find ourselves judging that this action is right, that action wrong, that this system is fair, that unjust. And we accord these judgements considerable status. They are not self-evident or absolutely unrevisable, but we are more likely to stick to them than we are to accept a theory which is inconsistent with them. We recognize that we operate with a great and complex stack of moral principles and reflection suggests that such judgements are the product of a deeper principle – in the case of the sheriff, the utilitarian view that actions and practices are right if they maximize well-being. We have explained the judgements we reach, but this explanation may serve wider purposes. It may guide us when we find ourselves in a difficult dilemma. In entirely novel circumstances, of the sort that medical advances seem to throw up daily, the theory may show us the way forward. Obviously, this conception of moral theory cannot help us if we review the above example. The sheriff and his critic differ precisely on whether the case represents a decisive example which should cause us to reject or qualify the theory. Since both agree that what is decisive is the authority of the particular moral judgement or rule, I shall dub this view ‘particularist’.¹

A different conception of moral theory regards the task of the theorist very differently. On this account, the task of moral theory is to validate or generate moral principles, to serve as a

foundation for them. Utilitarianism may be viewed in this light, too, since, as we shall see, its techniques may be employed to assess not just specific actions and practices, but moral rules as well. If this is right, if some such theory finds conviction, whether it is utilitarianism, Kantian formalism which uses the test of the categorical imperative, contractualism or the theory of Divine Command, it follows that our intuitions regarding subordinate principles are all revisable in light of the theory to hand. Possession of such a theory would settle the dilemma posed by the sheriff's actions and the critic's challenge. We can dub this notion of theory 'foundationalist' – again with warnings about incautious use of the terminology. Unfortunately, I have no such theory to hand, believing that all attempts to delineate such an ambitious project have failed.

We have two different conceptions of moral theory and two different accounts of the status and revisability of the moral judgments and principles that such theories (in their different ways) encompass. It is worth noticing that these disputes about the nature of normative ethics find an echo in deep disputes about the appropriate methods of political philosophy. Hegel noticed that modern subjects claim what he described as '*the right of the subjective will*', a distinctively modern attitude which claims 'that whatever it is to recognize as valid should be *perceived* by it as *good*'. (Alternatively: 'The right to recognize nothing that I do not perceive as rational is the highest right of the subject.')

² This stance may be dubbed 'individualist' or even 'liberal'. It echoes Kant's claim that 'Our age is the genuine age of criticism, to which everything must submit'.³ In this context, the thought is that the individual who seeks the credentials of principles or institutions has detached himself from their moral 'pull' in order to conduct his investigation. He has placed himself above the *mêlée*, abstracting from all prejudice and allegiance in order to carry out a judicious review of what theory (in the guise of reason) requires. Suppose I find myself questioning the obligations I hitherto felt to a parent or a child. I see others behaving differently and wonder if perhaps I can legitimately do the same. It looks as though the only way I can examine these questions is by stepping outside of the institutions of domesticity and subjecting them to an external assessment. Or suppose I find myself breaking the law with