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## Ethics, Public Policy and Criminal Justice

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ETHICS, PUBLIC POLICY AND CRIMINAL JUSTICE. Edited by *Frederick Elliston* and *Norman Bowie*. Cambridge, Mass.: Oelgeschlager, Gunn & Hain. 1982. Pp. xvi, 495. \$30.

Although one may argue that philosophy has solved none of its

problems in thousands of years of attempts, its contributions should not be overlooked. While philosophy may not have settled on any answers, it has explicated the questions and has exposed the difficulties in the underlying assumptions of other fields. Legal scholars and political scientists speak of justice, but it is the work of philosophers from Plato<sup>1</sup> to Rawls<sup>2</sup> that lends definition to the concept. Researchers practice the scientific method, but a determination of what is accomplished is only as certain as the conclusions of Hempel<sup>3</sup> or Kuhn.<sup>4</sup> Because it is so important to uncover our preconceptions and bring to light the foundations of our learned studies, the appearance of a work in the philosophical basis of a new area is a welcome occurrence.

Frederick Elliston and Norman Bowie follow the trend toward applied philosophy — the philosophical analysis of the problems of everyday life rather than analysis of the concepts of purely intellectual fields. Adopting the spirit of recent work in the philosophies of sex,<sup>5</sup> women,<sup>6</sup> and war,<sup>7</sup> they attempt to apply philosophy to the area of criminal justice. Their attempt, a collection of essays, meets with varying degrees of success — a variance seemingly due not so much to the analytic or writing abilities of the individual authors, but rather to the wide scope that the field occupies in the view of the editors.

When a philosopher turns to analyze another field, his or her work can fit anywhere along a continuum of approaches. At one end, the more purely philosophical, one may expound upon the philosophical concepts that underlie a field.<sup>8</sup> At the other end, which is only arguably philosophy, the philosopher may make use of his or her analytic skills to examine an area with no apparent philosophical content. Most applied philosophy, naturally enough, falls between these endpoints and applies philosophical concepts and conclusions to other fields. To the extent that applied philosophy approaches the purely philosophical end, it is not truly applied. To the extent it approaches the other end of the continuum, it is not philosophy. While the essays presented stand in various places along this range, too much of the book's content approaches "non-philosophy."

Joseph Betz's essay "Moral Consideration Concerning the Police

1. See PLATO, *THE REPUBLIC*.

2. See J. RAWLS, *A THEORY OF JUSTICE* (1971).

3. See C. HEMPEL, *ASPECTS OF SCIENTIFIC EXPLANATION* (1965).

4. See T. KUHN, *THE STRUCTURE OF SCIENTIFIC REVOLUTIONS* (2d ed. 1970).

5. See, e.g., *THE PHILOSOPHY OF SEX* (A. Soble ed. 1980).

6. See, e.g., *FEMINISM AND PHILOSOPHY* (M. Vetterling-Braggin, F. Elliston & J. English eds. 1977).

7. See, e.g., *WAR AND MORALITY* (R. Wasserstrom ed. 1970).

8. See, e.g., Warren, *On the Moral and Legal Status of Abortion*, 57 *THE MONIST* 43 (1973). Ms. Warren discusses the definition of "person" in the context of the abortion question.

Response to Hostage Takers" (pp. 110-32) is a good example of this non-philosophy. Betz proposes a moral ideal that "it is better to negotiate than to attack, better to negotiate honestly than dishonestly, and better to make small concessions to the hostage takers demands than to adopt a policy of no concessions" (p. 111). While this ideal may be a proposition of morals or ethics, the analysis supporting the conclusion is not moral philosophy but simply an examination of consequences.

While exploration of the consequences of various options is important, what makes Betz's conclusions more compelling than anyone else's? His philosophical training and his writing would indicate that he thinks clearly, but so, one would hope, do our political leaders. His expertise as a philosopher should lend no special weight to his non-philosophical analysis. Indeed, conclusions based on the reactions that hostage takers might have to different approaches seem to fall within the domain of the clinical studies of psychologists rather than the non-empirical analysis of philosophers.

Nearer the other, more philosophical, end of the scale is Hugo Adam Bedau's essay "Prisoners' Rights" (pp. 321-46). Bedau begins with a look at the historical development of natural rights theory. He then turns to the question of whether punishment — particularly imprisonment — of the guilty is a violation of their rights, as well as the issue of what rights they retain as prisoners. His analysis throughout is clearly philosophical and his choice of topic is firmly within his area of expertise. Thus, while one may or may not agree with Bedau's positions, his work is certainly a contribution to applied philosophy. It is both philosophical and a valuable comment on criminal justice.

Most of the remaining essays fit somewhere between Betz's and Bedau's papers but generally stand too close to the non-philosophical end of the spectrum. Many seem to represent efforts by philosophers to write outside their area of expertise. Indeed, a philosophical gloss often appears to be placed on topics purely to justify expeditions into foreign territory.<sup>9</sup>

In addition to the more or less philosophical offerings, several essays that make no pretense of being philosophical deserve mention. Those essays are instead sociological and, on the whole, are better sociology than the applied philosophy essays are philosophy.<sup>10</sup> Criminologist Dwight C. Smith, Jr., in "Ideology and the Ethics of Economic Crime Control" (pp. 133-55), discusses the correlation be-

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9. For example, Andrew Reck's essay "The Concept of White Collar Crime" (pp. 59-72) dresses up his explanation of white collar crime with the philosophical trappings of Aristotle's efficient, material, formal, and final causes. P. 62.

10. It is, of course, dangerous to find fault with a book's contribution to one's own area, while extolling its contribution to others. For that reason, this reviewer will defer to any contrary evaluation by a sociologist.

tween political positions and attitudes toward crime. He notes that, and explains why, organized crime appears to be an issue of the right, while white-collar crime is an issue of the left (pp. 133-35). In a different sociological vein, Robert Johnson, in "Capital Punishment: The View from Death Row" (pp. 305-20), provides some insights on the views and experiences of death row prisoners.

While the essays throughout the book are generally interesting and well written, *Ethics, Public Policy, and Criminal Justice* fails to make a significant contribution to the philosophical underpinnings of criminal justice. It is perhaps not surprising that an attempt to collect essays in a new area of applied philosophy would meet with limited success. An undeveloped field implies a lack of work in the area and an attempt to gather the number of essays presented in this book inevitably leads to the inclusion of papers whose contribution is questionable. However, despite its shortcomings, the collection is groundbreaking and should encourage philosophers to turn their attention to a new area that may well benefit from their insight.