

She gives several examples, treating the proposals of the American Public Health Association in greatest detail.

In general, assuming the responsibility requires taking an ethical stance in the face of uncertainty. We know that pollution has caused considerable harm, although in many situations we don't know the specifics well, and we know from the historical record that technoscientific innovations involve risks to human and environmental well-being. But what we know is dwarfed by the uncertainties that remain. We can (and should) engage in research on these matters, but often we have to act now and, even with research, we may only be able to reduce the uncertainty—and regulations have to be developed under these conditions. Funders and participants in private-interest science often say that we should regulate only on the basis of science, that is, only regulate when positive evidence is at hand that harm is being caused (100). The author correctly shows how this stance secretes the flawed ethical viewpoint that we do not have the duty to investigate the harm caused by our actions and that ranks the value of technoscientific progress (and its benefits) over the defense of human rights. Instead of it, she recommends adopting the Precautionary Principle, that is, to delay implementation of technoscientific innovations (including the use of potential polluting agents) pending appropriate research being conducted on potential long-term environmental and social risks, including threats to human rights. While what constitutes "appropriate research" is something to be negotiated among parties with stakes in the outcomes, I found particularly interesting her reference to the research (tracking over the long term links between health problems and pollution sites) that would have been funded had the National Health Tracking Act been passed by the U.S. Congress (197–98).

The book is lucidly written. It is intended for and accessible to a wide audience, including students and thoughtful members of the general public, and it covers with depth and insight important themes that I have been unable to discuss in this review. Throughout, Shrader-Frechette's analysis is informed not only by her wide-ranging knowledge of relevant scientific material but also by her close familiarity with ethical theory. It is enlivened by a sense of indignation, compassion, and urgency and by a poignant hopefulness that derives from a sensitive portrayal of people who, in the face of powerful obstacles, have organized to deal with local pollution problems.

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Wood, Allen W. *Kantian Ethics*.

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In this book, Allen W. Wood's main aim is not to interpret Kant's ethical writings but rather to develop on their basis "the most defensible theory possible" (ix). It is hard to imagine a philosopher interested in Kantian ethics who would not learn from Wood's efforts. Perhaps no contemporary Kantian ethicist possesses his combination of sensitivity to Kant's concerns and acumen at illustrating their

enduring importance. An engaging and passionate writer, Wood proposes a theory that has considerable intuitive appeal. Nevertheless, both his defense of the theory and his application of it are less convincing than one might reasonably hope.

Wood devotes considerable space to championing particular interpretations of Kant's writings (e.g., 25–30, 82–84, 111–14). His interpretations, which are often innovative, are worthy of careful consideration by Kant scholars. But, given that his principal aim is not exegetical (1), his attention to interpretative issues seems disproportionate. In any case, I will focus not on Wood's Kant exegesis but instead on his effort to develop an attractive option in ethical theory. First, I will try to capture this effort in brief, and then I will attempt to illustrate how it falls short.

"The correct standard for an ethical theory is whether it gets things right at the level of basic principles and values" (12), Wood says. Readers of Kant, especially those who focus on the *Groundwork of the Metaphysics of Morals*, Section I, might conclude that the fundamental values in a Kantian ethics would be the moral worth of acting from duty and the unlimited goodness of the good will. But in Wood's brand of Kantian ethics, the fundamental value is the dignity of rational nature (94). For a being to have rational nature is for it to have a set of capacities, chief among them the capacities to set and pursue ends according to norms of instrumental, prudential, and moral reason (95). For a being to have dignity is for it to have a very special worth, as I will describe below.

But how are we to assess a proposal regarding what constitutes fundamental values and principles? One way would be to adopt what Wood calls the "standard," or "dominant," model of ethical theory (43–44). This model, which Wood associates with Rawls (especially his doctrine of reflective equilibrium) and Sidgwick (45–46), assesses accounts of basic values and principles based on the degree to which they give coherent overall explanations of our intuitions (44). The model does not, of course, take intuitions, that is, considered judgments regarding particular examples, to be infallible. It can license abandoning them, for example, if they fail to accord with principles or values that account for a wide range of other intuitions. But the standard model counts intuitions as data for moral theory (53).

According to Wood, the standard model is superficial: "It seeks only coherence among commonly held opinions. It therefore aims not at truth but only to systematize beliefs, which are left without any firm foundation" (51). Moreover, since the standard model aims at coherence among extant beliefs, it provides little basis for significant revisions in them (60 and 65). But Wood, following Kant, holds that some of our current beliefs are corrupted by "the radical evil of our social condition" and thus are in need of substantial change (5).

The standard model of justifying ethical principles and values contrasts with a model that Wood attributes to Kant (as well as to Mill), namely, the "foundational or philosophic" model. This model sees the fundamental principle in ethical theory as resting on a fundamental value—a value that is not justified by appeal to considered moral judgments regarding particular cases. To ground adequately this fundamental value (the dignity of rational nature) is, according to this model, to show that we are committed to it "simply in rationally desiring ends and willing actions toward them" (55). Although Wood does not suggest

that we abandon entirely the dominant model, he incorporates into his Kantian ethics the foundational model (65). Below I examine in some detail Wood's attempt to justify the notion that rational nature has dignity, as well as his attempt to navigate some of the difficulties involved in any theory that makes rational nature's dignity its fundamental value.

Wood tells us that, in his Kantian ethics, as in the historical Kant and Mill's theories, the role of the basic principle of morality is not to prescribe directly what to do but rather to provide a "value-oriented background" for "justifying, modifying, and applying" rules that do this (57). These rules, which need not be exceptionless commands, must be sensitive to empirical facts about human nature and the circumstances of human life (61). Judgment is required in order to apply the rules in particular cases (60).

As one might expect in a book developing a Kantian ethics, Wood discusses various formulations of the categorical imperative. But, contrary to common practice among contemporary Kantians, Wood does not pick a favorite formulation and then try to show in detail how particular prescriptions follow from it. This practice is misguided, according to him. Formulations of the supreme principle of morality give us "a spirit in which to think about how to act and not a procedure for deducing actions or principles to act on. . . . Kantian ethics denies there could ever be such a procedure" (78).

In developing his variety of Kantian ethics, Wood rejects the metaethical antirealism prominent among contemporary Kantians. Wood characterizes the view he opposes as holding that "it is the very essence of Kantian autonomy that our will could never be subject to a set of truths or facts or realities 'out there.' . . . The universal validity of moral principles, or 'moral truth', has to be 'constructed' by us, using certain 'procedures' supplied by the Kantian formulas (especially [the Formula of Universal Law])" (107). Wood's rejection of Kantian constructivism could hardly be more emphatic. According to him, the moral law is grounded on the dignity of rational nature. No act of will whatsoever is necessary in order to give rational nature this worth because it has it essentially (112–13).

Wood focuses considerable effort on trying to show that, despite appearances to the contrary, Kant himself was a metaethical realist. But Wood says remarkably little about why, as a matter of ethical theory, realism is the way to go. His main concern seems to be that Kantian constructivism amounts in the end to a kind of moral relativism. Wood seems to believe that, try though they may, constructivists fail to provide a convincing rationale for constraining the principles that individuals can legitimately "legislate" through their wills (108–11, 283 n. 3).

Thus far I have tried to crystallize roughly the first half of the book, which I take to contain the core of Wood's proposal for a Kantian ethics. The book's second half develops the theory in areas that have traditionally been focal points for criticism of Kant's moral philosophy. In addition to offering engaging interpretations of Kant's texts, Wood here broadens our understanding of what, in his view, Kantian ethics ought to embrace. Space allows me only to offer some highlights.

Regarding freedom of the will, Wood argues that Kantian ethics should incorporate some form of compatibilism or soft determinism. Drawing on an

argument that Kant makes in *Groundwork* III, Wood contends that hard determinism “is a position no rational being could coherently adopt” (139). But Wood also rejects the “incompatibilist indeterminism” that Kant seems to uphold on the grounds that it forces us into supernaturalism and amounts to embracing superstition (139).

In a discussion of virtue, Wood contrasts Aristotle’s position with Kant’s. He reaches the somewhat surprising conclusion that, for Kant (and presumably in Wood’s Kantian ethics), “even if rational desire must overcome recalcitrant inclinations, the virtuous person, in acting virtuously, will be doing what he most truly wills to do and will therefore do it joyfully and cheerfully” (151).

Wood then turns to issues concerning Kant’s conception of duty. He clarifies distinctions between duties of right and duties of ethics, duties of respect and duties of love, and wide and narrow duties. In his Kantian ethics, Wood embraces the possibility that there can be conflicts of duty.

After a brief chapter on conscience, Wood focuses on two topics in political philosophy. First, according to him, Kant sketches arguments capable of establishing that natural right is consistent with the idea that political institutions have the authority to redistribute wealth in ways necessary to protect citizens from the loss of freedom they would suffer upon falling into poverty (204). Second, Wood concludes that Kantian moral philosophy has a plausible account of the state’s right to punish. With some regret, however, he finds that retributivism is inconsistent with fundamental tenets of Kantian ethics (219 and 223), in particular, with a duty of virtue to make others’ happiness an end (and thus, Wood believes, not to make others’ unhappiness an end).

Regarding sexual morality, Wood finds in Kant’s own work a basis for rejecting his objections to masturbation and homosexuality. He also finds grounds for rejecting Kant’s implicit assumption that “it is only just for women to be subordinated to men” (229).

Wood believes that Kant’s views on lying are far more plausible than most philosophers hold. He seems to embrace what he takes to be Kant’s main point in his infamous response to Benjamin Constant on the topic, namely, that lying in the course of making a declaration in a political context violates a duty of right (243 and 249). According to Wood, Kant’s claim that all intentionally false statements violate an ethical duty to oneself should be read as rhetorical exaggeration (253).

As this (unfortunately incomplete) summary illustrates, Wood states his views on a wide range of topics. Readers interested in ethical theory, regardless of whether they have Kantian leanings, stand to profit from his thought. But perhaps because Wood addresses so many issues (and delves into so many points of exegesis), central arguments in his *Kantian Ethics* are underdeveloped. Space limits me to considering just two examples.

Wood builds his Kantian ethics on the view that there is a single fundamental value upon which all value is based, the dignity of rational nature (94 and 257). He recognizes an obvious concern raised by this approach, namely, that it seems to grant full moral status only to beings who have rational nature, that is, only to persons. But some beings who fail to have rational nature, for example, small children, seem to have such status. Wood thinks that his Kantian ethics can meet

this concern, even claiming that the “right account” of the moral status of such beings “can best be derived from Kantian principles” (95).

Wood holds that, “in order properly to respect rational nature, we are required to treat some beings who are not persons in the strict sense in certain respects just exactly as if they were persons in the strict sense” (97). But why does proper respect for rational nature require us to do this? Wood’s answer is that our treatment of beings who are not persons sometimes expresses disrespect for persons. “For instance,” he says, “it would surely show disrespect for rational nature not to further its development to maturity in a child in whom it has already begun to develop” (97).

But this last point is questionable, to say the least. It would not show disrespect to the child’s rational nature to refrain from furthering its development, for by stipulation the child does not possess rational nature. Perhaps refraining from furthering the child’s development would express disrespect for the rational nature of others, namely, those who aim to promote this child’s thriving. But what if, unfortunately for the child, no one has this aim?

Of course, not furthering the child’s development might express disrespect for the child’s capacity to develop rational nature. But that capacity, which is presumably possessed by human embryos, is obviously not the same thing as rational nature itself, which is presumably not possessed by these embryos. And Wood gives us no reason to believe that expressing disrespect for the capacity to develop rational nature amounts to expressing disrespect for rational nature itself. He himself suggests that that which has a value to be respected just is the rational nature in persons (94 and 168).

In any case, as an advocate of the “foundational” model of justification in ethical theory, as opposed to the “standard” model, Wood defends his view that the dignity of rational nature is the fundamental value—not via an appeal to our intuitions but through an argument that is designed to show that, rationally speaking, we commit ourselves to holding rational nature to have dignity simply by setting ends according to reason. The argument, which resembles ones made by Christine Korsgaard and by Wood himself in earlier work, is remarkably brief. One key stretch of it seems to unfold as follows. Suppose you set an end. Rationally speaking, you thereby commit yourself to it being good (i.e., rationally required no matter what you might be inclined to do) to take the means necessary to realize it. But, if you think of the means to your end as good, then you must also think of your end as good. Moreover, you must regard your own rational capacities “as authoritative for what is good in general” (91), for you treat these capacities as capable of determining which ends are good. But, in thinking of your own rational capacities as authoritative in this way, you also esteem yourself as unconditionally good. So, in short, if you take yourself rationally to set ends, then you are committed to the unconditional value of your rational nature. As Wood is well aware, a further step is needed to show that you are committed to the unconditional goodness of everyone’s rational nature. But let us just assume that, if Wood’s argument establishes that each of us must think of himself as having such goodness, then he must also think of all other persons as having it as well.

Even if we assume this, as an argument for the dignity of rational nature this reasoning contains at least two gaps. The first is internal to it. According

to a key step, your thinking that you have the capacity to determine which ends are good commits you to the view that you yourself are good. But your thinking this does not commit you to that view any more than your thinking that you have the capacity to determine which ends are bad commits you to the view that you yourself are bad. Neither in general nor, so far as I can tell, in this case does your being committed to holding that you have a capacity to determine whether something has a certain property rationally compel you to conclude that you possess that property.

If it succeeded, the argument we just canvassed would show that we are committed to thinking rational nature to be valuable in every possible context in which it exists. But unconditional value is not the same thing as dignity. A being with dignity “has a value that may not be rationally traded away or sacrificed, not even for something else that has dignity” (94), and a value that “cannot be surpassed or added to” (180), says Wood. Indeed, he suggests, a being with dignity has “the maximal degree of worth conceivable” (180). Yet that some being, say a person, is unconditionally valuable falls far short of entailing that it is never legitimate to sacrifice her for the sake of preserving other unconditionally valuable beings, say several hundred other persons. And it does not follow from a person’s having unconditional value that she has a value that cannot be surpassed, let alone that she has the maximal degree of worth conceivable. There is nothing self-contradictory, for example, in thinking that some other unconditionally valuable being has more worth than she has. But Wood provides no argument that bridges the gap between unconditional value and dignity. He says simply that, in “combining [the Formula of Universal Law] with [the Formula of Humanity] and advancing to [the Formula of Autonomy], Kant makes a further claim about the moral status of rational nature in persons: he claims that it has ‘dignity’ (*Würde*)” (94).

Wood holds that Kant’s argument for the unconditional value of rational nature “does as much as can possibly be required of any argument purporting to establish a claim about what has ultimate value” (93). But the weakness of this argument, as well as the absence of an argument for the dignity of rational nature (insofar as having dignity differs from simply having unconditional value), puts into question the very “foundational model” of justification Wood advocates. If employing it yields such unconvincing reasoning, then it is hard to see what advantage doing so would have over using the standard model. Would we be any more justified in holding our theory to be true and thus in making it a basis for a radical critique of our ethical practice? It is partly because the foundational model tends to yield such weak arguments that many philosophers have adopted the standard model, or so it seems to me.

In the end, Wood himself displays little confidence in the foundational model he advocates: “We justifiably believe that it would be wrong to tell a lie. . . . But I do not think we are justified in *believing* any philosophical theory about ethics” (272). However, Wood suggests that it is legitimate to assent to such a theory if the arguments supporting it are stronger than the objections against it and it is a better guide to ethics than any other theory we know (272). By developing intuitively attractive yet recognizably Kantian views on a variety of topics, Wood makes some progress toward showing that his theory fulfills these conditions of legitimate assent. But his attention to exegetical issues comes

at the expense of the more detailed, painstaking argumentation needed to bring his project closer to its goal. *Kantian Ethics* contains too much Kant and not enough ethics.

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Zurn, Christopher F. *Deliberative Democracy and the Institutions of Judicial Review*. Cambridge: Cambridge University Press, 2007. Pp. 366. \$91.00 (cloth).

This book is imaginatively conceived, well written and researched, and tightly argued. It engages with two practically important theoretical questions that divide liberal democratic theorists. First, is it possible to square democratic ideals with the practice of entrenching legal provisions in a constitution and empowering public officials with the authority to rule on the constitutionality of various policies and laws that are passed by legislatures or chosen through referenda and other democratic fora? Second, are democratic ideals consistent with so-called strong judicial review of legislation? These questions are clearly interconnected, but they are also distinct. Zurn rightly insists that one can consistently affirm the importance of constitutional review but deny that the judiciary (or only the judiciary) ought to have the power to carry it out. Zurn answers both of these questions in the affirmative. He argues that constitutionalism can and should play an important role in the structuring of democratic societies, that constitutional review is required to sustain healthy constitutional democracies, and that the judiciary can play an important role in constitutional review. Both Zurn's arguments for these conclusions and the position that he develops are, however, quite different than those offered by most advocates of constitutional and judicial review. Indeed, he shares the view—argued most forcefully in recent years by Jeremy Waldron and Robert Dahl—that common defences of the institution of judicial review are based on badly flawed empirical analyses of the way courts and legislatures actually work, the capacities of judges and the character of legislative politics, and highly questionable normative presuppositions. He argues, further, that the scope of the legislation that should be subject to judicial review ought to be quite a bit narrower than is currently practiced in countries such as the United States. Indeed, he finds the judiciary to be often very poorly suited to reviewing legislation that involves matters of interpretation of broad moral and political principle—precisely the issues that staunch supporters of judicial review typically wish to entrust to it.

Why do critics of judicial review think that it is incompatible with or undermines democracy? Well, if judges are appointed rather than elected, granted life terms once appointed, and enjoy the power to overturn laws and policies that have been endorsed by legislatures and other popular fora, then they would seem to enjoy the power to overrule what the people themselves have chosen through majoritarian or supermajoritarian procedures. Whatever else democracy is, it certainly seems to require, as Zurn puts it, the “in-principle contestability of any policy decisions” (104). Yet U.S.-style institutions of judicial review would seem to deny to ordinary citizens just such powers of contestation. There