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The ethics of waste policy

Wallimann-Helmer, Ivo

Abstract: One of the major ethical issues in waste policy concerns the just distribution of waste facilities and the associated environmental risks. This essay provides an overview of the most important aspects to consider when assessing whether unequal exposure to waste facilities is unjust. It claims that the ethical principles that might warrant such injustices are problematic due to feasibility constraints. This is why appropriate democratic involvement in policy decisions about waste facilities is crucial. However, equal recognition of all affected is given only if they all can have an effective and equal voice in policy-making about waste facilities.

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ZORA URL: <https://doi.org/10.5167/uzh-160043>
Book Section

Originally published at:

Wallimann-Helmer, Ivo (2019). The ethics of waste policy. In: Lever, Annabelle; Poama, Andrei. The Routledge handbook of ethics and public policy. Oxon / New York: Taylor Francis, 501-512.

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THE ROUTLEDGE HANDBOOK OF ETHICS AND PUBLIC POLICY

Edited by Annabelle Lever and Andrei Poama

First published 2019
by Routledge
2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN
and by Routledge
52 Vanderbilt Avenue, New York, NY 10017

Routledge is an imprint of the Taylor & Francis Group, an informa business

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British Library Cataloguing-in-Publication Data

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

Library of Congress Cataloging-in-Publication Data

Names: Lever, Annabelle, editor. | Poama, Andrei, editor.

Title: The Routledge handbook of ethics and public policy / edited by
Annabelle Lever and Andrei Poama.

Description: Abingdon, Oxon ; New York, NY : Routledge, 2019. |
Series: Routledge handbooks in applied ethics | Includes
bibliographical references and index.

Identifiers: LCCN 2018028489 | ISBN 9781138201279
(hardback : alk. paper) | ISBN 9781315461731 (e-book)

Subjects: LCSH: Policy sciences—Moral and ethical aspects. |
Political planning—Moral and ethical aspects.

Classification: LCC H97 .R6774 2019 | DDC 172—dc23
LC record available at <https://lcn.loc.gov/2018028489>

ISBN: 978-1-138-20127-9 (hbk)

ISBN: 978-1-315-46173-1 (ebk)

Typeset in Bembo
by Apex CoVantage, LLC

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ACKNOWLEDGEMENTS

We thank our authors, more than a few of whom have struggled with serious illness during the time that our collection came to life. Several authors kindly came on board at the last moment, agreeing to write and revise their chapters on extremely tight schedules, while maintaining the accelerated rhythm of teaching, research, and grant-writing that characterises life in our competitive, worldly, and global ‘ivory tower’. Richard Bellamy, Jonathan Wolff, Albert Weale, and Dennis F. Thompson provided support throughout, and the former helped us with valuable comments that allowed us to revise our introduction. Our team of editors at Routledge – Tony Bruce and Adam Johnson – supported us through the many bumps that, we now know, are inevitable in such a big project. Yoann Della Croce and Mélis Pinar Akdag helped to prepare this huge manuscript for publication. Their contribution has been exceptional, as has their good humour and equanimity throughout. As editors as well as contributors, we have benefited from the support of our respective universities and research agencies – the Swiss National Science Foundation, the *Centre de Recherche en Éthique* in Montreal, the Max Weber Programme at the EUI, and Leiden University. We are very grateful to them all.

This *Handbook* is dedicated to Dennis F. Thompson, with gratitude and admiration. His book *Political Ethics and Public Office* (1987) remains one of the classics of the field, and the interdisciplinary ethics centre that he started and ran for many years at Harvard University has been an inspiration for numerous institutes, summer schools, books, articles, and courses ever since. His important work in democratic political theory and wide-ranging interests in public ethics have shaped our field, as well as our own work, as academics. We are happy to have been able to include his chapter on the ethics of electoral campaigns for this collection, a chapter that was originally written before all the recent revelations about the funding and manipulative tactics of Brexit and the 2016 US presidential election, but which remains timely for all that. It is a pleasure to be able to dedicate this volume to him.

INTRODUCTION

Annabelle Lever and Andrei Poama

Is public policy ethics possible and, if so, is it desirable? This twofold question can – and sometimes does – elicit a smile or a frown. The smile implies that ethical theorising rests on a naïve idea of policy-making; the frown implies that there is something tasteless or incongruous in expecting philosophy to engage with problems of policy, and with the political bargaining and compromise that policy-making involves.¹ These reactions – familiar to many working in this academic discipline – point to the ways in which ethics and public policy have been taken to be separate areas of practical concern and theoretical inquiry.

For some philosophers, the very idea of public policy ethics rests on a category mistake, confusing proper reflection on moral ideals with thinking about what is practically feasible. Gerald Gaus's qualms that 'participation in public controversy masked as philosophy corrupts philosophy' captures this worry well, reflecting the anxiety that 'a sophisticated, rational, ideological advocacy is conducted as if it were philosophy, giving the impression (both to ourselves and our students) that philosophy is merely an intellectual game in which you defend what you want to believe' (Gaus 2005: 67). Public policy ethics, on this account, diverts the moral philosopher from doing philosophically relevant work and downgrades ethical theorising to the level of wishy-washy opinion and rhetorical hot air.² The worry, of course, is that the only way for philosophers to gain the ear of policy-makers is to betray the commitment to the reasoned evaluation of abstract arguments that defines philosophical ethics in the first place. In short, public policy ethics is no *ethics* at all – or so the argument for policy-free ethics implies.

Other philosophers occasionally point to the fact that the rubber of ethical theory never quite meets the road of policy. The contention here is that proper ethical reflection rarely plays more than a minor or decorative role in the actual policy-making process. One of the reasons for this alleged disconnect between ethics and public policy is that moral philosophy is not the kind of material that typically matters for policy work. Jonathan Wolff (2011) comes close to this position when he notes that it is not so much the philosophical quality of an argument that informs policy as the philosopher's ability to play the language game of the policy *status quo*.³ Wolff notes that 'it is very rare for a policy to have been introduced for clear and principled reasons', which means that 'to have any effect on immediate policy, philosophers will have to swallow hard and accept that the discussion will often have to take place within the terms and space set by political and pragmatic concerns' (80). Following this reading, rigorous ethical

theorising as currently practised often fails to capture the real concerns of actual policy-makers, thus raising the spectre of irrelevance for public policy ethics as a distinct discipline.

Public policy experts have their own versions of these concerns. After all, if policy analysis is a scientific pursuit, with its own standards for success, philosophical analysis will seem at best like unnecessary hand-waving, and at worst, like a distraction from the work to be done. This might explain why, as Henry Shue remarked (2006: 709), experts in public policy often treat ‘specialists on ethics or normative issues’ as unfortunate additions to the main event, ‘like the wilted salad that comes whether requested or not’ with one’s meal, or as matters of taste, to be taken or left, ‘like the pepper that is entirely optional’. Worse still, philosophy can sometimes seem like a threat to public policy, encouraging us to focus on the desirable rather than the practicable, and, in a famous phrase, making ‘the perfect the enemy of the good’. Hence, students are encouraged carefully to distinguish *policy analysis* – which is about ‘learning why governments do what they do and what the consequences of their actions are’ through ‘the tools of systematic inquiry’ – with *policy advocacy*, which is about ‘saying what governments *ought* to do’ using ‘the skills of rhetoric, persuasion, organization and activism’ (Dye 1981: 6–7). Since, by definition, ethics deals with *oughts*, this widely taught view of public policy tends to equate policy ethics with the promotion of partisan agendas and ideological advocacy. Thus, those working in ethics and public policy can feel like an unloved child, disparaged and disowned by its parents.

Other familiar concerns with public policy ethics reflect the fact that public policy is a political activity, and espouse the belief that politics is fundamentally amoral. Such a separation of ethics and policy draws on familiar images of politicians and public officials as Machiavelian creatures, who must be willing to set their moral scruples aside, and to ‘dirty their hands’, climbing ‘the greasy pole’ of power, in order to achieve their objectives. Couched in the language of Weber, rather than Machiavelli, good politicians and apt public officials must be concerned with the choice of means to given ends, and not with the evaluation of ends. It is not for them to ‘turn the other cheek’, nor to pursue the ‘ethics of conviction’,⁴ however permissible, even admirable, such behaviour may be in private life.

Now, if politics were really amoral, there would be little point in examining the moral principles that should guide it, however enjoyable it might be to play a parlour game called ‘imagining the good polity’ or ‘choosing principles of social justice’. Some moralists might relish arguing among themselves about where, how far, and why our actual world departs from the ideal. But were politics and, with it, policy-making, reducible to a scramble for power and influence, it is hard to see why most people should interest themselves in ethical arguments about policy. Perhaps morality might have a place in private life – or those spaces for personal choice and action that happen to be free from political struggles – but to suppose that public policy might be subject to ethical reflection, choice, and control would seem delusional at best, and manipulative and deceptive at worst.

However, many people reject such amoral views of politics as incoherent and reductive, and accept that a normative approach to politics can be helpful, and even desirable. Thus, there has been a veritable explosion in normative political philosophy since the 1970s and the pathbreaking work of analytic political philosophers, such as John Rawls, Robert Nozick, and Ronald Dworkin, of critical theorists, such as Jürgen Habermas and Axel Honneth, and feminist philosophers, such as Iris Marion Young, Nancy Fraser, and Anne Phillips.⁵ Yet, until recently, this explosion had produced no systematic interest in ethics and public policy. Indeed, it is only very recently that a debate has started to take place on the distinctive methods, if any, of ethics and public policy, and the different approaches, styles, or ways in which it might be developed. However, to date, there is no collective publication – handbook or otherwise – on the current state of the discipline.⁶

Introduction

It is not that moral, political, or legal philosophers do not engage in ethical discussions of public policy, or that they are never asked to participate in public inquiries on matters of controversy. On the contrary, we can think of the contributions of Bernard Williams on obscenity, Mary Warnock and Onora O'Neill on bioethics, Salvatore Veca on 'Feeding the Planet', or the contributions of Jürgen Habermas, Ronald Dworkin, Charles Taylor, and Amartya Sen to see that philosophers play an important public role.⁷ Indeed, several contributors to this volume have been involved in public commissions, or in policy-making bodies concerned with public health, education, and security. Nonetheless, the dominant approach to ethics and public policy, until recently, has seemed to be more concerned with 'sex, drugs, and rock and roll' than with the ethics of public policy as most politicians, policy-makers, civil servants, and citizens understand or experience it. Thus, publications and teaching on ethics and policy would centre on popular controversy around prostitution, abortion, homosexuality, euthanasia, recreational drug use, pornography, and 'hate speech' – all seen, correctly, as meriting normative attention, but treated as though they had nothing much to do with more mundane and less contentious issues.

Interesting and important though such discussions have been, for philosophers as for other people, this traditional approach to ethics and public policy suffers from two problems. The first is that a focus on the more sensational issues reinforces the idea that 'ordinary' matters of policy raise no interesting or complex ethical questions in themselves, and none that need affect our approach to abortion, euthanasia, or free speech. But as feminists and disability activists have insisted, we cannot easily separate the assumptions about the value of life or the best way to distinguish public and private matters when it comes to the regulation of sexuality or speech from those that shape our practices of security, health care, education, and transport.⁸ In addition, a focus on 'sexy' topics plays into an idea of public ethics as merely an extension, or application of, familiar moral theories, rather than as a subject which may lead us to rethink our moral categories, conceptual distinctions, and normative approaches.

Our collection, therefore, adopts a perspective on ethics and public policy which is at once broader, and narrower, than is usual. It is broader, because we wanted to bring together work on the ethical dimensions of public policy spanning issues of domestic and international politics, intergenerational politics, and such ordinary or technical, but nonetheless central, topics as the siting of nuclear waste, the ethics of taxation, and policies on disability and poverty. Ideally, we would have loved to have had chapters examining the ethical dimensions of every policy issue as instantiated in current governmental practice – but that, of course, would have been overwhelming, as well as impossible. So, instead, we tried to focus our attention on the breadth of work that is now being done in ethics and public policy in order to highlight the range and quality of research in the area, and to illuminate the ethical dimensions of public policy that many of us – the editors included – have never considered and have no idea how to handle.

Nevertheless, if our collection is very much broader in its conception of ethics and public policy than is usual, it is narrower in its focus on one important dimension. Following theorists such as Dennis F. Thompson, Jonathan Wolff, and Richard Bellamy, we take the political dimensions of policy-making to play an important role in determining the ethical content, dynamics, and types of justification that can be offered for public policy.⁹ Moreover, because that content and those justifications will depend on whether we think of people as political equals, and on the forms of freedom, well-being, and opportunity which that equality requires, permits, or forbids, we focus explicitly on issues of ethics and public policy that arise as a result of democratic political struggles and ideals, and that can be resolved domestically and internationally in ways consistent with democratic government.

It is not that undemocratic governments are of no interest to us, nor that they cannot improve our understanding of morality and politics. Given that democratic societies are imperfect in many ways, as is our understanding of democratic values and institutions, it would be absurd to cut ourselves off from potential sources of knowledge based on current ideas about what is, and is not, democratic. However, for practical and for philosophical reasons, we believe it best to centre this collection on problems of ethics and public policy that arise in democracies, and on democratically-informed or democratically-sensitive principles, broadly conceived. Practically, we hope that this will give our collection a substantive coherence and a methodological focus that it might otherwise lack, given the breadth of its subject matter. We also hope that it might provide some consistency of factual and normative assumptions across chapters dealing with very different moral and political problems.

Philosophically, this selection on the basis of democratic considerations reflects our conviction that ethics and public policy can no more adopt ‘the view from nowhere’ than other branches of philosophy, but need not therefore be limited to the presentation and evaluation of ‘the way we do things around here’, to borrow a famous phrase from Richard Rorty.¹⁰ Instead, we hope that combining the ethical evaluation of policy with democratic theory and practice, quite broadly understood, will enable our collection to speak to all those for whom the right to participate in the government of one’s society is an essential right, and a defeasible constraint on the legitimacy of any government.¹¹

Democracies are quite varied political arrangements, and the adjective ‘democratic’ can be applied to associations, individuals, institutions, and ideals. Nonetheless, democratic governments are committed to the belief that all citizens are, in principle, entitled to participate in government, and this makes democracies different from other forms of government, in which wealth, virtue, sex, religion, or parentage is thought to justify limiting political participation to a few, select, individuals. Importantly, for our purposes, it means that democracies cannot evaluate public policies purely on the assumption that citizens are the subjects of government, or the objects of government policy. In addition – and this is a distinctive implication of democratic government – ethical evaluation has to consider the effects of policy on citizens as governors, or potential governors, of their society and, therefore, the consequences of policy on people’s ability to see themselves as active participants in government rather than passive beneficiaries of public policy.¹² Hence, democracies must find ways of selecting people for positions of power and influence that reflect democratic ideas about political ends and means, as opposed to theocratic, aristocratic, plutocratic, or epistocratic ones.

The ethics of public policy in a democratic society involves meeting at least two important constraints that other societies might avoid. The first is that, in its design and implementation, public policy must reflect “equal respect and concern” for citizen’s well-being and rights, to borrow Ronald Dworkin’s fortunate phrase.¹³ The second is that it must also protect and foster people’s capacities to share in the process of governing, however that process is conceived. Hence, as this collection shows, while democratic government comes in many forms, reflecting different political ideals, circumstances, and needs, the differences between democratic and undemocratic government provide a fruitful lens for envisaging the ethics of public policy and may, on occasion, be necessary, not merely useful.

Our aim is not to replace the currently contending moralities of utility, liberal rights, republican virtue, contractualist counterfactuals, or care relationships with a distinct (and presumably preferable) democratic ethics. Rather, we seek to show that it can be morally illuminating and politically helpful to understand the constraints that democracy places on public ethics, regardless of whether those constraints differ markedly from those suggested by alternative ethical perspectives. To put it in slightly more technical terms, we aim to investigate how democratic

values, conceived as *pro tanto* or *prima facie* reasons for government action, might inform ethical reflection on public policy, bearing in mind that they may have little or no distinctive significance in some cases.

There is no one favoured view of democracy that unites the 41 chapters of this *Handbook*. Authors were not asked to take a particular 'line', and they were selected, as far as possible, not just for their obvious expertise but also to reflect the geographical, professional, and personal variety of scholars working in the field. Collections of this sort tend to be dominated by scholars who are already well known. However, much new work in ethics and public policy is being done by relatively young scholars, for whom public ethics is central to their academic work, rather than being of sporadic interest, or an outgrowth of the more traditional philosophical concerns with which they are principally occupied. Thus, while the chapters in each part complement each other and, we hope, provide an accessible introduction to recent work in ethics and public policy, they are written in different styles, and draw on the experience of different countries, and the ideas of different thinkers. Their effect is panoramic, as well as synthetic, in ways that defy simple summary.

Our refusal to commit to a specific view of democracy should hardly come as a surprise, given the extent of philosophical and political controversy about its nature and value. Even when different authors agree in their general normative positions about what democracy is, or ought to be, they nonetheless end up disagreeing on the exact implications that these positions have for particular public policies. Some of these disagreements emerge, we think, as a natural consequence of what Rawls calls the 'burdens of judgment' (Rawls 1996: 54),¹⁴ an expression meant to capture the difficulties we confront in prioritising competing moral values and principles, the hard selection and weighing of complex evidential matters, or decisions about the least implausible instantiations of vague normative concepts. But disagreements will also arise because of the substantive variations across distinct policy areas and issues, even in cases where those areas and issues are contiguous or otherwise connected. As many of the chapters in this *Handbook* show, democratic commitments play out differently in different areas of policy – for example, in the area of warfare as compared to the field of foreign policy, and democracy does not direct us to the same kinds of decisions in the domain of waste disposal policies as it does when it comes to matters of climate change.¹⁵ Hence, our *Handbook* comprises different perspectives on democracy, as well as different facets of public policy.

The absence of a unifying democratic view is furthermore motivated by theoretical considerations pertaining to the conceptual structure of democracy. Since the publication of Kenneth Arrow's *Social Choice and Individual Values* in 1951, a rich literature has demonstrated the logical impossibility for any decision-making system to be simultaneously fully inclusive and pluralistic, respectful of majoritarian preferences, and collectively rational, although these are all democratic values, which we may want our institutions to realise.¹⁶ We have therefore encouraged our authors to focus on those democratic desiderata (if any) that seem most pertinent to the policy areas with which they are concerned. The result is a sequencing of the chapters that is meant to provide a helpful introduction to contemporary ethics and public policy, rather than tell a particular story about democracy.

Part I is dedicated to questions of methodology. It explores what it means to do public policy ethics today, raises questions about the contours and content of public policy ethics as a distinctive discipline, examines the ethical dimensions of cognate disciplines such as policy analysis and the place of policy ethics in the wider landscape of ethical theorising, and considers contrasting approaches to the place and role of philosophers in the public policy process, and the public arena more generally.

Parts II, III, and IV cover various substantive areas of public policy. The parts mirror a quasi-historical sequence in the theory and practice of public policy, starting from the basic idea that the public policy domain consists in whatever governments happen to be doing at any particular moment,¹⁷ while at the same time reflecting the changes in democratic policies and modes of government since the Second World War.¹⁸ Drawing on an analogy with Ian Hacking's notion of 'styles of reasoning', one could see these three parts of the *Handbook* as instantiating different *styles of governing*. For Hacking, it is characteristic of styles of reasoning that they 'introduce new ways of being a candidate for truth and for falsehood' (Hacking 1994: 42). Similarly, we take a style of governing to establish new dimensions whereby practical subject matters become matters of policy concern. Though styles of governing can change the substance or scope of various policy areas, styles are also about different *ways of doing government* that underlie, define, control, or revise what are considered to be the proper bounds and inner dynamic of the public policy domain.

Part II corresponds to a vision of government centred on the state's *de jure* monopolising of some basic domestic functions, such as the organisation of domestic security, criminal justice, and education; the mediation of economic interests; and the regulation of finance as well as of military security in the international realm. Intuitively, these are policy areas which seem inseparable from the contemporary idea of government, the *sine qua non* of public policy.

Part III is concerned with a more expansive conception of government than the first, taking us from a mode of government tightly associated with the *pouvoirs régaliens*, as the French helpfully describe them, to a vision of government as a privileged agent for securing the well-being of individuals, no matter the ascriptive and voluntary associations to which they otherwise belong. Government has a duty to prevent poverty and to help the poor but, beyond that, it has the responsibility to dismantle those social distinctions which keep people 'in their place' and make government the preserve of a privileged elite. Thus, the chapters in this third part are concerned with a mode of governing, as much as the content of actual policies – a mode which assumes that government has a special duty to foster social solidarity and inclusion, and to enable people to have an active say – for instance, *via* electoral participation – in the way that they are governed.

Part IV brings together a group of public policies concerned with both existential issues and questions of identity which, until recently, would have been the preserve of individuals, or of churches and other secondary associations, rather than of government. Thus, some of the policies in this part are concerned with the future existence, quality of life, and sustainability of future citizens, as instantiated in the chapters on intergenerational justice, youth policies, new reproductive technologies, behavioural nudges, climate change, and waste policies. Others are concerned with the responsibilities of government, faced with the inevitable, albeit often unintended, effects of government on the civic and cultural identities of citizens, and on the social standing and respect for minority ethnic, racial, and religious groups. The chapters on citizenship tests, family reunification programs, language policies, and policies on religious diversity and accommodation reflect this strand of contemporary public policy, with its concern for the nature and identity of citizens, and with the existential choices and threats that they face.

We hope that this sequencing of chapters will make the *Handbook* easier for readers, be they practitioners, academics, students, or simply citizens interested in particular policies. The four parts are not meant to deploy a precise historical narrative – which would in any case be impossible given the different political trajectories of contemporary democracies – and some chapters could fit in more than one part. For instance, the chapter on education could have been included in Part III, the chapter on privacy and surveillance or the chapter on death policies in

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Part IV, and the chapter on language policies or the one on religious accommodations could have been inserted in Part II. However, we hope that this ordering of the 41 chapters that make up this *Handbook* will benefit readers and facilitate future scholarly debate.¹⁹

Notes

- 1 This is the position underlying much of the political realism about foreign policy defended by E.H. Carr or Hans Morgenthau. For an analysis of and reply to political realism, see Coady (2008).
- 2 The tenet that practical ethics (and, with it, public policy ethics) is not philosophy proper can be traced back to Bertrand Russell, who equates it with preaching. In a 1944 text where he defends his emotivist meta-ethics against Buchler's critique, Russell writes that "persuasion in ethical questions is necessarily different from persuasion in scientific matters. According to me, the person who judges that A is good is wishing others to feel certain desires. He will therefore, if not hindered by other activities, try to rouse these desires in other people if he thinks he knows how to do so. This is the purpose of preaching, and it was my purpose in the various books in which I have expressed ethical opinions"; in Russell (1999: 149).
- 3 Wolff (2011) does not believe that the gap between philosophy and politics makes public policy ethics non-sensical or pointless, as both his book and his chapter in this collection reveal.
- 4 Weber himself is more nuanced when he reflects on the relation between the "ethics of conviction" (which focuses on the morality of ends) and the "ethics of responsibility" (which concentrates on the morality of effective ends). In *Politics as a Vocation* he finds it "immeasurably moving when a mature human being (. . .) who feels the responsibility he bears for the consequences of his own actions with his entire soul and who acts in harmony with an ethics of responsibility reaches the point where he says, 'Here I stand, I can do no other'". That is authentically human and cannot fail to move us. For this is a situation that may befall any of us at some point, if we are not inwardly dead. In this sense an ethics of conviction and an ethics of responsibility are not absolute antitheses but are mutually complementary, and only when taken together do they constitute the authentic human being who is capable of having a 'vocation for politics'"; in Weber (2004: 92).
- 5 For an interesting attempt at carving out a *sui generis* moral space for public policy and political activity, see also Palumbo and Bellamy (2010).
- 6 There are, to be sure, quite a few public policy *analysis* handbooks, like the ones edited by Moran, Rein, and Goodin (2006), Peters and Pierre (2006), or Fischer, Miller, and Sidney (2007). Add to this the existence of a handbook that examines issues of administrative ethics (Cooper 2000, 2nd ed.), that of a handbook on the ethics of economics (Wilber 1997), that of a handbook of policy evaluation (Nagel 2002), that of a more general companion looking at global policy issues (Lawton, Van Der Wal, and Huberts 2015), and, finally, that of a collective publication that adopts a general philosophical approach to public policy (Gehring and Galston 2002). There is also a series of publications that focuses on the morality of particular public policy areas. These include: Aaron, Mann, and Taylor (1994); Preston and Sampford (2012); Little (2004); Kahn and Kasachkoff (2002); Bluhm and Heine-man (2007); Stewart (2009); Boston, Bradstock, and Eng (2011); Bradstock, Eng, and Boston (2011); Wolff (2011); Weber (2011); Cohen (2014); Searing and Searing (2016). This indicates that public policy ethics is thriving, but in a state of disciplinary fragmentation that we wish to alleviate in and through this handbook.
- 7 An abridged version of Williams's report on obscenity and film censorship is available at https://assets.cambridge.org/97811071/13770/frontmatter/9781107113770_frontmatter.pdf, a link to Mary Warnock's 1978 report on special educational needs can be found here: www.educationengland.org.uk/documents/warnock/, and the link to Warnock's 1984 Report on Human Fertilisation and Embryology is available here: <https://embryo.asu.edu/pages/report-committee-inquiry-human-fertilisation-and-embryology-1984-mary-warnock-and-committee>; the 2007 Bouchard-Taylor report on 'reasonable accommodation' can be found at www.mce.gouv.qc.ca/publications/CCPARDC/rapport-final-integral-en.pdf; the Report of the Stiglitz-Sen-Fitoussi Commission on the Measurement of Economic Performance and Social Progress is available at <http://ec.europa.eu/eurostat/documents/118025/118123/Fitoussi+Commission+report>.
- 8 See, in particular, MacKinnon (1997); Minow (1990); Roberts (1997; 2002), and Tremain (1999).
- 9 See Thompson (1987), Palumbo and Bellamy (2010), and Wolff (2011).
- 10 Rorty initially uses the phrase to deflate thick conceptions of objectivity and science, but he later extends it to (liberal) moral and political normativity as well. See Rorty (1991: 101). This comes close,

- but differs from, Bernard Williams's contention that liberalism is the way we make sense of political legitimacy "now and around here"; in Williams (2005: 7–12).
- 11 Democratic legitimacy is defeasible in that there may be forms of undemocratic government which are properly considered legitimate. On this issue, see Rawls (2001b), Cohen (2009: 349–372), and Miller (2015: 177–192). Moreover, democratic governments may lose their legitimacy through such grave violations of human rights that citizens are released from their duty to obey. So even if it is reasonable to grant democracies a presumptive legitimacy that other forms of government lack, being democratic is neither necessary nor sufficient for legitimacy.
 - 12 In this respect, we find ourselves concurring with democratic approaches to public policy analysis, like the one formulated by Schneider and Ingram (1997), who describe policies that fail to involve ordinary citizens as degenerative processes.
 - 13 Dworkin (1977).
 - 14 Rawls (1971, 2001a).
 - 15 Thus, Christopher Kutz points to democracy working as a side-constraint on warfare, while Michael Blake focuses on equality and toleration as values that should be promoted *via* foreign policy.
 - 16 See, in particular, List (2011).
 - 17 On definitions of *public policy*, see, most notably, Dye (1972), and, for a useful recent discussion, Howlett and Cashore (2014).
 - 18 We would like to thank Toon Kerkhoff, Frits van der Meer, Natascha van der Zwan, Alexandre Afonso, and Elena Bondarouk for useful discussions on this quasi-historical ordering.
 - 19 Another advantage of this normatively non-committal ordering is that it lends itself to multiple scholarly interpretations. For instance, one could read it as deploying a narrative about the metamorphosis of the state's scope of action and intervention, moving from a watchman state (Part II) to a welfare state (Part III) to an enabling state (parts of Part III and Part IV). Alternatively, for those who might choose to assess the morality of public policy on the basis of a human rights standard, one could draw a rough parallel between our three parts and Karel Vasak's (1977) famous division of human rights into three generations (civil and political, social and economic, and developmental human rights) or connect our ordering to the lively debates prompted by T.H. Marshall (1949/1950) about the state's evolving responsibilities toward its citizens.

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THE ETHICS OF WASTE POLICY

Ivo Wallimann-Helmer

Introduction

Human beings produce waste, and this waste must be handled in some way or other. In modern societies, it is depolluted or recycled. Depollution and recycling of waste require facilities for reclaiming, incineration, or storage, such as aluminium processing plants, incinerators, and repositories for nuclear waste. For efficiency, technical, and security reasons, these facilities cannot be equally distributed across society. Ideally, however, their distribution would not lead to an unfair burdening for any social groups in society. The unjust distribution of waste facilities was a major driver at the beginning of the environmental justice movement in the United States. Proponents of this movement found an unequal burdening of the socio-economically disadvantaged with waste facilities and landfills and argued that this was unjust. Since then, research on waste policy has most often been conducted within the framing of environmental justice. That is why this essay on the ethics of waste policy focuses on the environmental justice issues arising from waste facilities and associated risks. It is divided into four sections.

The bulk of research on environmental justice is empirical. The aim of this essay is to investigate its ethical implications. The first section provides an overview of the most important aspects to consider when assessing whether inequalities in exposure to waste facilities are unjust. It explains the relevance of distinguishing between empirical findings and their ethical evaluation. At first sight, avoidable unequal burdening of the socio-economically disadvantaged seems to be unjust. The second section discusses how such an evaluation may be warranted and shows why it is often problematic for efficiency, technical, and security reasons. This is why policy issues about waste facilities should not only concern the fairness of their geographical distribution. The third section discusses the conditions of procedural justice – that is, democratic participation – in policy decisions about the siting of waste facilities and about compensation for increased environmental risks. Since appropriate involvement of all affected by a waste facility should play a crucial role in decisions about waste facilities, the essay closes with two challenges of inclusion. The first challenge concerns the conditions of equal citizenship, the second challenge the appropriate extension of the decision-making body.

While the first section is mainly concerned with conceptual issues, the three sections that follow deal with three different kinds of justice considerations. In so doing, I follow Schlossberg, who claims that considerations of environmental justice can be divided into three categories

(Schlosberg, 2007): distributive justice, procedural justice, and justice as recognition. In the case of waste facilities, distributive justice concerns the geographical distribution of risks due to these facilities. In the environmental justice literature, procedural justice defines the fairness conditions for the democratic processes of making policy decisions. Finally, justice as recognition aims to go beyond the distributive and procedural frameworks (Young, 1990). In environmental justice debates, justice as recognition considers forms of disrespect towards ethnic minorities and the socio-economically disadvantaged. It is often concerned with securing effective political participation of all affected.

Empirical research and ethical evaluation

The environmental justice movement and environmental justice research are relatively young; both emerged only in the 1970s. One important landmark of their emergence was protests in Warren County in North Carolina against the siting of toxic waste in the predominantly black and low-income community (Johnson, 2009). During these protests, more than 500 protesters were arrested. Even though not successful, the protests gave rise to the formation of a nationwide movement against environmental injustices in the United States. Waste policy was an important issue at the beginning, but neither the political movement nor environmental justice research has been concerned purely with waste policy and waste facility siting; both have also investigated such issues as exposure to pollution, flooding risks, and more recently the adverse effects of climate change (Schlosberg, 2013). Nonetheless, unfair waste policy is still one of the main topics in empirical research on environmental justice. This research often finds a strong statistical correlation between unequal exposure to waste facilities and socio-economic disadvantage, which is commonly interpreted as an injustice (Agyeman et al., 2016). To interpret such a correlation as indicative of an injustice, however, it is necessary to be clear about what supports such an evaluation.

In the following, I first introduce the main indicators investigated by empirical environmental justice research to determine an injustice in the statistical correlation between unequal exposure to waste facilities and socio-economic disadvantage. I argue that these indicators are insufficient to assess whether an injustice is at issue; they only indicate inequalities. In order for such inequalities to indicate injustices, it must be shown that exposure to waste facilities constitutes a normatively relevant disadvantage. Furthermore, socio-economic disadvantage must be shown to increase risks in a normatively significant way. Finally, principles of justice are required as an ethical standard against which these inequalities can be assessed as injustices.

Inequality in exposure is defined by several indicators (Evans and Kantrowitz, 2002). The simplest is geographical proximity. The closer one lives to a waste facility, the more likely one is to be exposed to any threats it poses. Another indicator of this type concerns the nature of the facilities that individuals and communities may be exposed to. It makes a difference whether a waste facility is a recycling facility, an incinerator for non-hazardous or hazardous waste, a waste dump, or a repository for nuclear waste. The kind of facility one is exposed to affects the evaluation because the threats posed by the by-products of a facility determine the severity of the exposure. These threats may also be increased by the kind of waste being recycled or depolluted, which thus makes a difference for the assessment of exposure as well. The more dangerous the waste recycled or depolluted, the more severe is the exposure. A final important indicator is how long the waste will remain dangerous. Living near a nuclear waste repository is obviously more significant than living close to a bottle bank.

Incorporating all these indicators leads to geographies of exposure, which map out inequalities in exposure to waste facilities (Jerrett and Finkelstein, 2005). However, these geographies do not themselves display any injustices (Walker et al., 2007). They do so only if they display a normatively relevant disadvantage, such as risks for health or other potential harm due to exposure to waste facilities. The nexus between proximity to waste facilities and health is perhaps the most prominent indicator of a normatively relevant disadvantage (Martuzzi et al., 2010). If the by-products of waste facilities like toxins and pollution increase health risks for those living nearby, then exposure to these facilities displays a normatively relevant disadvantage. Another normatively relevant disadvantage concerns the risk of accidental harm. Depending on the waste processed in a facility, such risk can range from contamination of water and land to the destruction or loss of valued assets. Other normatively relevant harmful by-products of waste facilities include increased noise and air pollution due to the operation of a facility or transportation of waste to or from facilities (Fernandez Rysavy and Floyd, 2016).

At the beginning of empirical environmental justice research in the United States, the strong statistical correlation between race and exposure to waste facilities led researchers to claim that in the US there is environmental racism (Bullard and Johnson, 2000). However, other studies argue that the broader category of socio-economic class rather than ethnicity is better suited to capturing these differences in disadvantage (Krieg and Faber, 2004). According to these studies, the relevant socio-economic differences concern education, social and cultural circumstances, and economic capacities rather than differences in ethnicity. While for the United States the relevance of ethnicity for environmental injustice is still debated (Bullard et al., 2008), in many European countries differences in ethnicity are less relevant. However, an important exception concerns the environmental discrimination of Roma communities (Harper et al., 2009).

Similarly to exposure itself, a strong statistical correlation between exposure to waste facilities and socio-economic disadvantage must be shown to be problematic in a normatively relevant sense as well. It must be shown why socio-economic disadvantage increases the risks related specifically to the exposure to waste facilities. This is why empirical environmental justice research often investigates not only the statistical correlation between socio-economic disadvantage and exposure but also how socio-economic disadvantage aggravates the negative side effects of waste facilities (Martuzzi et al., 2010).

One normatively relevant factor that aggravates risks arising from socio-economic disadvantage and exposure to waste facilities concerns social gradients in health (Brulle and Pellow, 2006). Socio-economic disadvantage has been shown to be accompanied by increased vulnerability to ill health. For this reason, exposure to waste facilities that increases the risk of ill health is more problematic since it tends to exacerbate the vulnerability of those already at higher risk. Other normatively relevant circumstances aggravating risks concern economic capacity. Lower economic capacity diminishes the ability to insure valued assets against loss and damage as a consequence of the failure of waste facilities. Lower economic capacity also limits opportunities to move from a neighbourhood and thus binds the socio-economically disadvantaged to the place they already inhabit. Moreover, some empirical studies have shown that areas exposed to waste facilities tend to attract poorer people since waste facilities and their accompanying environmental drawbacks lower rents nearby (Pastor et al., 2001).

Taken together, social gradients in health and differences in economic capacity establish geographies of vulnerability that signal normatively relevant unequal distributions of aggravated risks due to waste facilities. The highest environmental risks occur where geographies of exposure and geographies of vulnerability overlap. This is so because in these neighbourhoods the most vulnerable face the highest risks due to waste facilities. Mapping out these overlaps,

geographies of risk or ‘risk-scapes’ can be argued to display environmental injustices, since they indicate a geographically unfair unequal distribution of environmental risks (Morello-Frosch et al., 2011).

Whether such unequal distributions in fact signal injustices, however, depends on the normative principles employed for their evaluation. This is so for two reasons. First, the fact that the risks accompanying waste facilities are distributed unequally is not an injustice per se. There may be reasons that justify these inequalities. Second, if communities agree to have waste facilities in their neighbourhood under the condition of being compensated for the increased risk, for example, this is a legitimate reason warranting a heavier exposure to environmental risks for these communities. These two reasons are the focal perspectives of the next two sections that follow.

Distributive justice and feasibility constraints

Empirical environmental justice research often considers cases of unequal burdening of disadvantaged social groups as instances of injustice. However, these inequalities do not necessarily display any injustice. For such a claim of injustice to be valid it must be shown that an unequal distribution of burdens conflicts with some principle of distributive justice (Schuppert and Wallimann-Helmer, 2014). In case of waste policy, principles of distributive justice define the conditions under which the geographical distribution of waste facilities in society can be deemed just. At least three principles of just outcome distribution may become relevant here (Watson and Bulkeley, 2007).¹ First, the principle of equality demands that all members of society should be equally exposed to waste facilities. Second, the polluter-pays principle demands that exposure to waste facilities should be in proportion to the waste produced by individuals or communities. Third, the beneficiary-pays principle demands that exposure to waste facilities should correlate to the differing amount of benefits extracted from waste production.

In empirical environmental justice research, the most prominent principle is that of equality. According to this principle, waste facilities should be distributed equally across society (Walker, 2012). A correlation between socio-economic disadvantage and the unequal geographic distribution of waste facilities is often taken to be sufficient to claim an injustice. However, whether the distribution of waste facilities can indeed be deemed unjust depends not on their geographical distribution alone but on the distribution of the overall risk they engender. As argued earlier, an unequal geographical distribution of waste facilities is unjust only if the environmental risks are actually distributed in a way that aggravates normatively relevant disadvantage. This is especially the case if a distribution of waste facilities places a heavier burden on parts of society that are already more vulnerable due to increased health risks and lower economic capacity. Thus, it is more plausible to demand that the risks of exposure and vulnerability are distributed equally rather than the waste facilities themselves.

One common argument in defence of the principle of equality is the presumption of equality. According to this presumption, the default distribution when distributing goods and burdens is equality (Gosepath, 2015). This is so because an equal distribution of goods and burdens is the only pattern of distribution which is not in need of justification. However, this presumption can be questioned in the case of waste facilities. Our different lifestyles do not all produce equal amounts of waste, and we tend not to produce the same kinds of waste. Therefore, it seems more plausible to demand that environmental risks of waste facilities be distributed in accordance with the differing production of waste. This is where the polluter-pays principle comes in (Gardiner, 2004). According to the polluter-pays principle, a just distribution of waste

facilities is one that distributes them so that those producing the most and the most dangerous waste are those that face the greatest risks. Whereas the principle of equality seems to presume that the production of waste is equally or similarly distributed all over society, the polluter-pays principle takes inequalities in the production of waste as the starting point for defining a just outcome distribution of waste facilities.

The polluter-pays principle has some intuitive appeal. Most believe that those who produce a mess have the duty to tidy it up; in the case of waste, this means that they should accept the higher risks of depollution (Shue, 1999). However, waste often accumulates not only in the use of goods but also in their production. Consequently, those consuming the goods do not directly produce the waste. If understood this way, the polluter-pays principle can foster injustices, since the affluent are usually those who consume more goods but do not work in the production of these goods and thus do not directly produce the waste. The consumers of goods often only benefit from others, who are most often the socio-economically disadvantaged, producing waste, as they create the goods that others subsequently consume. According to a third principle of distributive justice, the beneficiary-pays principle, it is therefore not those who produce the waste that should face higher environmental risks but those who benefit from the production of goods leading to waste (Page, 2008). The affluent consuming the most waste-intensive goods should be most exposed to waste facilities and their associated risks.

According to all three principles of distributive justice mentioned thus far, an unequal burdening of the socio-economically disadvantaged seems to be unfair. Higher environmental risks due to an unequal distribution of waste facilities are deemed unfair either if the socio-economically disadvantaged face unjustifiably higher risks than the affluent or if they face risks disproportionate to the waste they produce or the benefits they extract from waste production. As plausible as these claims of injustice might seem at first sight, they can be challenged, because due to feasibility constraints a just outcome distribution of waste facilities is difficult if not impossible to achieve.

The most obvious of these constraints on feasibility are those of efficiency (Nakazawa, 2016). Logistically, it is simply more efficient to gather waste in a small number of facilities than to have many facilities in many neighbourhoods and backyards. Logistical reasons also justify siting waste facilities in regions that are easily accessible for waste transportation. Furthermore, large incineration plants and recycling facilities are better suited not only to processing larger amounts of waste more efficiently but also to ensuring better security for the surrounding neighbourhoods. Security and technical reasons are especially important in the cases of nuclear waste and other hazardous and toxic wastes (Krütli et al., 2015). The danger of contamination of land and water by these kinds of waste is very high, and storage is possible only under specific geological conditions. These considerations show that strict outcome justice in the distribution of waste facilities is difficult if not impossible to achieve. Consequently, it is necessary to consider how injustices in the distribution of waste facilities can be legitimised or made socially acceptable to those exposed to waste facilities.

Although efficiency, technical, and security reasons may become relevant, they must be weighed against considerations of outcome justice and vulnerability, since they take into account neither the distribution of overall environmental risks nor the differences in producing waste or in benefiting from waste. Thus, communities living in geographical regions that allow more efficient waste depollution or more secure and technically more feasible storage of waste cannot simply be said to be better able to accept waste facilities. Such claims would amount to another principle of justice, the ability-to-pay principle (Caney, 2010). However, this principle seems to be implausible in the case of waste facility siting.

Risk and the importance of procedural justice

From the previous section, it appears that due to efficiency, technical, and security reasons it is highly probable that a just outcome distribution of the risks from waste facilities cannot be achieved, at least not in the foreseeable future. Two further considerations of justice can correct this kind of injustice – that is, they can legitimise and increase the social acceptability of such unjust siting: procedural justice and compensatory justice. Procedural justice, to wit democratic participation in policy decisions about waste facility siting, could help legitimise the unequal burdening of certain parts of society. Compensating the neighbourhoods of waste facilities would allow the unjust distribution of overall environmental risks due to waste facilities to be rectified. In the following, I argue that procedural justice must be guaranteed not only in policy decisions about the siting of waste facilities but also in decisions about what kind of compensation is just for increased environmental risks.

Empirical environmental justice research not only detects injustices in the outcome distribution of waste facilities. In many cases, it also finds that the communities exposed to waste facilities have not been properly involved in the political processes leading to their siting. For instance, it has been shown that in Eastwick only after the socio-economically disadvantaged gained influence in policy decisions more just results in land-use could have been reached (Sicotte, 2010). Before that, land-use decisions discriminated against local residents in favour of industry displacing many residents from their homes. Coordinated protests by locals allowed for more influence in these decisions leading to the abandonment of several waste disposal facilities, including facilities for nuclear and hazardous waste.

The lack of involving those potentially affected by waste facilities in policy decisions is problematic for at least three reasons. First, failing to appropriately involve those affected means discriminating against their interests unjustifiably. According to the all-affected principle, it is illegitimate to deny a voice in policy decisions to those who have an interest at stake (Goodin, 2007). Second, it is unacceptable to expose others to risks if they have not had the possibility to consent (Hansson, 2013). This is especially important when more hazardous risks are at stake because the potential harm is more severe. Third, there is an empirical argument why democratic involvement is important: social-psychological justice research on nuclear waste repository siting in Switzerland has shown that transparency and involvement of those affected can substantially increase social acceptance (Krütli et al., 2015).

These three arguments indicate three conditions of procedural justice applicable to policy decisions about the siting of waste facilities. Firstly, according to the all-affected principle, all those exposed to waste facilities should be involved. Secondly, it is important to secure appropriate scientific information for all affected since it is only those affected who can decide how to evaluate the risks they face (Wallimann-Helmer, 2016). Thirdly, to increase the social acceptance of siting decisions, it is important to make the rules for decision-making as transparent and as inclusive as possible. Taken together, these three conditions can be said to define the core of what it means to ensure procedural justice in waste facility siting but also in many other occasions in which the increased imposition of environmental risks is at issue.

In fact, many waste facilities have been sited without ensuring appropriate democratic involvement of those affected, and in many protests relevant for the formation of the environmental justice movement claims for more involvement in policy decisions were part of the campaigning (Johnson, 2009). In these kinds of cases, communities were often faced with increased risks to their health or damage to and loss of valued assets. To remedy such injustice, compensation seems to be the most appropriate course of action. Those facing

increased environmental risks of waste facilities must find themselves in circumstances as if the increased environmental risk had never occurred. Similarly, given appropriate democratic involvement in siting decisions, those potentially facing increased risks due to the future siting of waste facilities will most probably demand some kind of compensation for the fact that they will be burdened more heavily with environmental risks. However, what compensation is appropriate in these kinds of cases is not as straightforward as it might seem (O'Neill, 2017). It depends not only on how the environmental risks can be determined empirically but also on the individual assessment of those facing these risks. This is for the following reasons.

Generally speaking, the goal of compensation should be that those affected subjectively feel as well off as before they were injured (O'Neill, 1987). The meaning of this claim is most straightforward in cases of monetisable harm. If someone is harmed and must be compensated, then it is appropriate that that person receives enough money to be able to pursue the same ends as before. In Goodin's words, this is means-replacing compensation (Goodin, 1989). In this case, money allows the means damaged or lost to be repaired or replaced. However, not all harm is monetisable, and it is not even clear in all cases of monetisable harm what amount of money makes good for the damaged or lost assets. And in some cases, the assets lost cannot be replaced at all. The ends usually realised by these assets must be modified. According to Goodin, this demands another kind of compensation: ends-displacement compensation (e.g., assistance in changing livelihood due to contaminated agricultural land).

This distinction between two kinds of compensation is especially important if waste facilities increase health risks or other risks of harm not readily monetisable. It is not straightforward what amount of money makes good for bad health or an increased risk thereof. It is difficult to say what amount of money appropriately compensates for the loss of livelihood due to, for instance, contamination of agricultural land. In these kinds of cases, it might be better not even to try to replace means but to compensate by helping those affected to change their valued objectives. That is, the best goal of compensation might be assisting in modifying ends so that those being compensated no longer depend on the means damaged or lost to feel subjectively as well off as before.²

These considerations show why involvement of legitimate claimants for compensation in policy decisions is key. They should not only assess the tolerability of the environmental risks they face but also determine what compensatory measures are most appropriate and, in order to avoid paternalism, in what way they want to modify their valued objectives. Admittedly, democratic involvement of all affected cannot outweigh an unjust outcome distribution of waste facilities, even if accompanied by appropriate compensation. At best, it can legitimise an unjust distribution of waste facilities and, if fair and transparent decision procedures are applied, increase the social acceptability of a facility in a neighbourhood. However, since efficiency, technical, and security reasons render a just outcome distribution unfeasible, in many cases this will be the best approximation to justice reachable.

But, as discussed previously, higher socio-economic vulnerability tends to reinforce environmental risks from waste facilities. Therefore, procedural justice and appropriate compensation seem to be especially important in these cases. Since members of vulnerable communities tend to be less well educated, capacity building in these neighbourhoods becomes particularly important. Only under conditions of adequate capacity can members of vulnerable communities appropriately influence the policy decisions to be taken, whether it is about the siting of waste facilities or about compensating for increased environmental risks. This is one of the issues that concerns justice as recognition, to which we now turn.

Recognition, citizenship, and inclusion

Following the argument thus far, unequal exposure of parts of society to the higher environmental risks of waste facilities can become acceptable if all affected have been appropriately involved in policy decisions, in deciding either about the siting of waste facilities or about the compensation for increased risks. This condition demands that those affected can have an effective voice in the decisions concerning waste facilities. Too much socio-economic inequality undermines this condition, because voicing one's beliefs about increased environmental risks demands at least some basic social and economic capacities. However, social and economic capacities for information gathering and campaigning tend to be significantly lower for the socio-economically disadvantaged than for the affluent. Consequently, to ensure an effective voice for all affected it becomes necessary to reduce socio-economic inequalities.

This requirement to reduce socio-economic inequalities incorporates one of the two issues I discuss in this section. The first issue concerns the conditions of effective and equal voice in policy decisions about waste facilities. I argue that, depending on how these conditions are defined, not only must socio-economic inequalities be reduced to a greater or lesser extent, but also the inequalities that are acceptable in the distribution of environmental risks vary. The second issue is the appropriate extension of the decision-making body. This is the question of who should be involved in policy decisions related to waste facilities and their siting. While at first sight, these challenges might seem clearly distinct from each other, they are usually discussed in environmental justice research as part of the third category of justice mentioned at the beginning: justice as recognition. Among other things, appropriate recognition means granting all those affected by waste facilities an effective voice in the policy process leading to their siting or to agreements on compensatory measures for increased environmental risks (Walker, 2009).

Many different approaches could be deemed relevant to evaluating the requirements for appropriate recognition of those affected by the siting of waste facilities. What I take to be a promising approach is to look at different understandings of democratic citizenship through the lens of justice (Schuppert and Wallimann-Helmer, 2014). This lens makes it possible to show why it depends on our understandings of democracy and citizenship that more or less deviation from a just outcome distribution in waste policy is acceptable. We can think of democratic citizenship as a formal or a substantial requirement of justice.³ Formal and substantial requirements demand different conditions for citizens to secure effective and equal voice in policy decisions. In doing so, they demand more or less extensive reduction of socio-economic inequalities. It is this demand that defines the space for unequal yet legitimate distributions of waste facilities and accompanying environmental risks.

According to the formal requirement, citizenship is defined by the formal and legal rights every citizen enjoys (Downs, 1957). These include the right to vote, the right to life, and all other rights usually considered basic rights. Following this account, once formal rights to vote have been given, any policy decision is acceptable if it does not undermine these basic rights. This means that policy decisions about the siting of waste facilities and potential compensatory claims are acceptable as long as all citizens affected had a formal right to participate in the processes leading to these decisions. This account faces two challenges. First, the socio-economic inequalities between the parties involved in policy decisions need not be counterbalanced. Although these inequalities most probably increase the unfairness in waste policy decisions, according to the formal requirement of citizenship the right to vote is enough to ensure legitimate decisions. Second, under the condition that the resulting policy does not infringe upon basic rights, it is deemed acceptable irrespective of how bad the consequences are for those exposed and most vulnerable to environmental risks.

The substantial requirement of citizenship can remedy these unfavourable implications by demanding that policy decisions are acceptable only if citizens are substantially equal in their powers during policy-making and remain so thereafter. According to this account, unequal distributions of waste facilities and associated risks would be acceptable only to the extent that they do not undermine substantial conditions of justice (Van Parijs, 2011). However, while the formal requirement leaves great leeway for inequalities, such a stringent substantial requirement is far too demanding. It claims that policy decisions are acceptable only if they are in line with comprehensive conditions of outcome justice. In the case of the siting of waste facilities, their unequal geographical distribution would be acceptable only if their associated environmental risks could be distributed according to principles of distributive justice. As argued earlier, however, efficiency, technical, and security considerations render this infeasible. Therefore, for the siting of waste facilities to be possible the substantial requirement of citizenship should not be interpreted too restrictively.

What seems to be needed is a middle-ground position that incorporates both requirements of citizenship. One version of this position could be called the social-egalitarian account (Anderson, 1999). It allows for inequalities in the siting of waste facilities and associated risks but demands that, to be fair, policy procedures presuppose substantial conditions of free and equal citizenship. These conditions should not be undermined by any inequalities resulting from the siting of waste facilities. If these conditions are not undermined, any inequalities in the distribution of environmental risks resulting from appropriate decision procedures are acceptable. I take this conception of citizenship to be attractive because it secures at least some basic substantial equality between citizens while leaving enough space for acceptable policy decisions not fully aligned with the principles of just outcome distribution (Schuppert and Wallimann-Helmer, 2014).

But, just as with any other account of citizenship, it remains silent about the second challenge of inclusion mentioned before. The question about the appropriate extension of the decision-making body incorporates two aspects. First, exposure to waste facilities and vulnerability to their associated environmental risks are not restricted to the boundaries of a jurisdiction or a state. Second, risks from waste facilities do not exclusively concern those living at the time of policy decisions about waste facilities; generations living far in the future are affected too (e.g., in the case of nuclear waste this is thousands of years). The first aspect deals with the relevance of geographical proximity to waste facilities and how to recognise interests beyond the boundaries of given jurisdictions and states. The second aspect concerns the inclusion of future generations in the policy decisions of those living today. Similarly to the geographical challenge of inclusion, the interests of future generations tend to be ignored by those actually involved in policy decisions today. Consequently, both aspects of inclusion investigate whether the policy-making body should be expanded, and if so how.

The geographical challenge of inclusion may plausibly be answered by involving all those geographically exposed to the consequences of policy-making irrespective of boundaries (Valentini, 2012). However, although not so difficult to imagine, such a solution is quite unusual for states as we know them today, because their boundaries of jurisdiction usually remain stable and do not vary depending on the policy issue. The lack of inclusion of future generations cannot be overcome by varying the decision-making body as currently constituted. What would be needed for their inclusion is some kind of proxy representation in the policy-making process and corresponding changes in institutional structures (Wallimann-Helmer et al., 2016).

However, in most countries, institutional change for both challenges of inclusion as envisaged here needs more time than is available to deal smoothly with pressing policy issues like the siting of waste facilities. As a consequence, those deciding about the siting of waste facilities and probable compensatory measures should be ready to recognise that the people potentially

vulnerable to these facilities are not only those officially involved in the decision-making process but also born or unborn others beyond the jurisdiction or the state concerned.

Conclusion

In this essay I argued that the ethics of waste policy mainly concerns three different kinds of justice considerations. First, it concerns the just geographical distribution of environmental risks from waste facilities. Second, the fair procedural involvement of all those potentially affected is key because due to efficiency, technical, and security reasons waste facilities cannot be distributed in a way fully corresponding with principles of outcome justice. Third, recognition of all those potentially affected by waste facilities, either to be involved in the decision-making process on fair terms or being legitimate claimants of compensation, demands securing an effective voice and careful consideration about the extension of the decision-making body. However, to assess whether inequalities in exposure and vulnerability can be deemed injustices, it is necessary to clarify whether they are normatively significant.⁴

Notes

- 1 Proponents of the environmental justice movement and empirical environmental justice researchers are often not very explicit about the principles they invoke to warrant injustices in the distribution of waste facilities. This differs from the debate about climate justice in which the principles discussed here are more prominent (Gardiner et al., 2010).
- 2 This reasoning faces at least two challenges I cannot comprehensively discuss here. First, assisting people to modify their ends readily tends to be overly paternalistic, since helping changing ends involves directives from those who assist. This is one important reason why I believe that regarding compensatory issues procedural justice is of key importance. Second, the costs of monetisable compensation are clearly restricted by the amount of money lost. In the case of revising ends, the limit for resources to be spent on assistance is not as clear-cut as in the first case. Here letting only those affected decide about the compensatory measures to be taken might be more problematic.
- 3 In political theory, the distinction between liberal and republican conceptions of citizenship is common. I use the distinction between formal and substantial requirements of citizenship because I believe that the social-egalitarian account I favour cannot be captured by distinguishing between liberal and republican accounts of citizenship only.
- 4 I would like to thank Leandra Bräuninger, Annabelle Lever, Simon Milligan, Andrei Poama, Fabian Schuppert, Stefan Wallaschek, and participants of the Colloquium “Politische Philosophie” in Zurich for comments and feedback on early and earliest versions of this essay.

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