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Mary Warnock and ‘Public Philosophy’

DAVID ARCHARD

ABSTRACT This article responds to the familiar characterisation of Mary Warnock as someone whose major achievements as a public intellectual, such as the Report on human fertilisation and embryology, were at the expense of philosophical rigour and integrity. I explicate her lifelong commitment to practical morality, and her understanding of ethics and of the role of feelings in moral judgments, before analysing her important distinction between the private and public moral attitude. ‘Public philosophy’ is what she believes is necessary for those seeking to make a difference in the world of law and policy. I highlight the importance for her of securing ‘acceptable’ legal outcomes, especially on issues of bioscientific development which are the subject of irreconcilable moral disagreements. I compare her distinction with others and contrast its use with relevant writing by John Rawls and Thomas Nagel. Finally, I defend her against misjudged criticism from her philosophical contemporaries, most notably Richard Hare.

1. Introduction

Mary Warnock is often described as a middling philosopher but an outstanding public intellectual, whose major achievements have been enduring, significant changes to the law. The somewhat pejorative judgment of her philosophical talents has not been helped by her own capacity for self-effacement. She described herself as never ‘a real blood and bones philosopher’ and just not ‘very good’ at the subject.1

Her modest opinion of her talents has also been reinforced by the scathing criticism to which her greatest public achievement, the Report on human fertilisation and embryology, has been subject by her fellow philosophers. Don Locke, for instance, reviewed A Question of Life in the Journal of Applied Philosophy by lamenting its lack of any real philosophy:

the ‘arguments’ offered for and against various practices are not what a philosopher would recognise as such. They are, rather, reasons or considerations, without much in the way of supporting justification or explanation, and the report abounds in unargued assumptions, assertions (especially psychological) without evidence, non-sequiturs, and other disputanda.2

She was, it is true, appointed to the Chair of the Committee of Inquiry into Fertilisation and Embryology (henceforward referred to as the Committee) that the British government set up to consider the developments in fertility treatment as one of the ‘great and the good’.3 This wonderfully English phrase characterises a recognised class of prominent, distinguished, and influential figures in civil society distinguished less by their intellectual prowess in their subject and more by their trustworthiness in public life. She did
not thus bring to the role of Chair the status of a leading philosopher that Bernard Williams did when he was asked to chair the Committee on Obscenity and Film Censorship.

It is in short understandable why John Harris, with whom, it must be noted, Mary Warnock engaged in robust philosophical debate about the moral status of the embryo in the *Philosophical Quarterly*, should nevertheless write an appreciation of her life which foregrounds her pioneering role in public affairs and concludes that her ‘lasting legacy will be the success of a demonstrably robust and trusted regulatory and licensing system for both assisted reproduction and Embryo research’.

This standard view is further emphasised by a simple binary contrast: there is moral philosophy and then there is political, public work. So, it will be said, Warnock excelled in the latter but did so at the expense of the former. Essentially, she was superb at negotiating the inevitable difficulties of effecting legal changes and policy initiatives. But this meant sacrificing philosophical integrity to practical expediency.

In this article I want to defend the *philosophical* importance of the work which she did as a public intellectual and argue that she developed an original and important thought about what is required of those doing ethics when they seek to formulate and defend policy: ‘public philosophy’. I will use her work on the fertility and embryology committee as the key example.

I want to spell out the thoughts she had about ‘public philosophy’, repeated across numerous published pieces, and interpret them in a charitable fashion. For what she has to say on this subject is not always pellucid and unambiguous, nor is it consistently expressed. Nevertheless, there is something here that is very interesting and original, namely a view that ‘public philosophy’ is properly contrasted with the ‘private’ ethical views of any philosopher considering a contentious moral issue. ‘Public philosophy’ is the ethical approach of someone who recognises moral disagreement in a liberal democracy but is concerned to recommend law and policy that will nevertheless be accepted by all.

2. Warnock the Philosopher and Ethics

First, however, I want to say something in favour of her philosophical writings and her understanding of ethics. Onora O’Neill, no mean judge of the abilities of other philosophers, notes Warnock’s modesty but comments on her self-deprecatory judgment that she was no good at philosophy:

but I do not believe that. She emerged from a very distinctive philosophical culture, as one of a formidable group of women in philosophy posts in Oxford who probably would not have got their jobs, or would have had a harder time getting them, had it not been for the war and large numbers of male philosophers off serving in the forces.

The ‘formidable group of women’ O’Neill identifies has been the subject of recent collective biographies. But Mary Warnock is not one of the four thus identified: Philippa Foot, Iris Murdoch, Elizabeth Anscombe, and Mary Midgley. This is in part because Warnock left Oxford for a teaching career; and in part because she cannot be viewed as making the same kind of contribution to post-war English philosophy as the quartet did. But that should not diminish her philosophical abilities or acumen.
Her commitment – from the moment she first encountered philosophy – was to making practical moral judgments. The formation and sustaining of that commitment must be appreciated against a background of contemporary writing that diminished or simply wrote out moral philosophy as a credible enterprise. Warnock herself states that when she was a student at Oxford just after the Second World War, moral philosophy ‘was in very poor shape’. She gives two reasons: one was the ‘undeservedly influential’ work of G.E. Moore which she sharply summarises as reducing to the view that ‘either you saw what things were good or you were blind’. The other was the influence of logical positivism that generated, especially in the work of A.J. Ayer, a crude emotivism, pithily characterised as the ‘boo-hoorah’ theory of ethics.

In the concluding part of her survey of ethics since 1900 she laments the ‘triviality of the subject’ and a consequent ‘refusal of moral philosophers in England to commit themselves to any opinion’. She judges that by the time she publishes its second edition those ‘boring days’ are over, and she is astute enough to cite work by Philippa Foot that exemplifies the revival of ethics as a serious subject.

She consistently believed that ‘an enormously important part of the task of the moral philosophy [is] to try to engender practical judgments’. She herself strove to discharge that task. This should not be overlooked since although the Warnock Report might be charged – as it was at the time – with not making those judgments in a credible or defensible manner, she herself was clear in what she thought about certain matters and what was involved in doing practical moral philosophy.

She took the task in question to involve diligent attention to the facts. She always thought that you could not form a moral judgment on some issue without properly understanding what the issue was. She also took forming a moral judgment to require careful argumentation. Her quarrel with what she sometimes termed religious ‘absolutists’ was not their theological commitments but the absence of reasoned argument. She was not averse to hypothetical argument, the use of which frequently annoys non-philosophers. She often noted that Plato was the first to use a thought experiment in the form of the famous Ring of Gyges.

3. Moral Sentiments

She also took feelings seriously. For Warnock moral sentiments matter both in ethics and in the making of policy. Yet she is not always clear as to which she is talking about when insisting on their importance. Simply put, such feelings either matter for one who is making a moral judgment (‘This is how I am moved to judge the issue’) or they matter since people react in different ways to some question (‘These are the feelings of the public on this issue’). This difference is reflected in an ambiguous characterisation of the role of feelings in moral decision-making. Thus, when she says, ‘Ethical decisions cannot be taken without the examination of ethical feelings’, the context makes clear she is speaking about acknowledging the feelings of others. Yet when she says, ‘I believe that it is to offend against the concept of morality itself to refuse to take moral feelings or sentiments into account in decision-making’, the context – the citation of Hume’s famous adage that morality is ‘more properly felt than judg’d of’ and the notion of a ‘properly moral judgment’ – makes clear that she is talking about what must be the case for an individual to make a moral judgment.

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The following claim thus remains ambiguous: ‘morality cannot be divorced from sentiment; and … such a divorce, if attempted, would spell the end for morality itself’. For either she means that no one can make any moral judgment if it is not rooted in ‘sentiment’; or she means that no one can make policy without taking account of the sentiments of everyone else.

It is thus important to distinguish and separate the two roles of moral sentiment. Of course, if I should take account of how others judge a matter, I should also acknowledge the sentiment that grounds that judgment. But the fact that people feel differently about a matter does not of itself give me reason to share their judgments. Moreover, Warnock did not subscribe to a simple uncritical ‘sentimentalist’ view of a moral judgment. In her account of the Committee’s deliberations, she writes of trying ‘to sort out what our feelings were, and to justify them’. She took moral argument seriously, qualifying her reliance on feelings by saying, ‘For that a decision is based on sentiment by no means entails that arguments cannot be adduced to justify it’. She would thus probably not be too far from the standard contemporary view, due to John Rawls, that a well-founded moral judgment is a matter of reflective equilibrium between intuition and theory. However, she did not ever explicitly endorse such a view, and her account of the proper relation between moral judgment and feelings or intuitions is never fully and satisfactorily developed.

Moreover, there is a tension between two impulses. On the one hand there is a commendable democratic view of all humans as equal. This means that all views should be taken seriously. She speaks thus of a ‘democratic regard for the moral views of the public’. Disagreement between those views must be taken seriously, and it is wrong to discount the views of some. In that vein she disputes Peter Singer’s view that moral philosophers are ethical experts whose judgments should be given priority. In fact, her carefully expressed view is that there may indeed be moral experts, in the sense of those who understand ethics and can reason well on ethical matters. But such individuals do not have authority such that their ‘conclusions should be accepted without question’, for ‘everyone is entitled to his or her own view’. If people feel strongly on some issue, we need to acknowledge this, ‘whether they were or were not good at argument’.

On the other hand, she displays an unwillingness to regard public outrage about some matter as a reliable guide to what is wrong, or, critically, what makes for good law. ‘Legislation’, she writes, ‘based on popular indignation or fear … is nearly always going to be bad legislation’. She also understood but did not endorse public anxieties or fears about new scientific developments. She might of course have said that the fear of science is empirically poorly grounded, but she cannot say the same of moral outrage. Thus, her scepticism about the import of such ‘indignation’ sits uneasily with her commitment to take strong feelings seriously.

In her concern to understand the proper role of public sentiment, she was obviously influenced by two of her Oxford contemporaries: H.L.A. Hart and Stuart Hampshire. She often cites the seminal debate between the former and Patrick Devlin, following Hart in being sceptical of Devlin’s view both that there is a simple shared public morality – ‘“common morality” is a myth’ – that can underpin the criminal law, and that this morality is founded on feelings of repugnance and disgust. The Hart–Devlin debate was principally about the proper source of the criminal law, and as it applied to questions of sexual morality. Warnock’s interest lay in the regulation of biotechnology. Moreover, Warnock started from a presumption that people disagreed about matters such as embryo research, and such disagreement, whilst not fatal to social order, necessitated finding regulation
acceptable to all. Devlin presumed that disagreement on matters of sexual morality demanded prohibition of some behaviours or society would collapse.

From Stuart Hampshire, she takes the thought that some deeply felt sentiments of outrage mark the outer limits of morality. She quotes with approval his view that such outrage should be seen as a ‘barrier’ indicating those firm principles beyond which we must not go. Here is her elegant if stark summary:

There are, in a society, things which must not be done, or, if done, must not be condoned … Different societies will regard different principles as inviolable … But if any society, at any given time, had no such principles, this would be the end of morality for that society.

We should note that, here, once again she appears to regard strong feelings as both constitutive of what is wrong – really wrong in both senses of ‘as a matter of fact’ and ‘very’ – and as what must be taken account of if any particular society is successfully to negotiate its ethical regulation of some issues. Yet she never specifies clearly and consistently which principles are inviolable, and which things if done and condoned would herald the end of morality. For instance, she thinks that some things should not be done to embryos but does think that surplus embryos may be created for both research and fertility treatment. In this she would be sharply at odds, as she is clearly aware, with a significant minority in society.

4. ‘Public Philosophy’

In several places Warnock cites a distinction between a private and a public moral viewpoint or outlook. She describes this as one of morality, but it should be obvious that she does not think there is a difference between the two in their underlying understanding of what good and right mean, hence my preference for a distinction in outlook. She clearly regards it as an important, overlooked, and key distinction, one that should underlie the appropriate attitude of anyone, not just a philosopher, who is engaged in decision-making on policy matters involving difficult, essentially contentious moral issues. Crucially, it is a distinction she makes as a philosopher that draws upon both her knowledge of ethics and her extensive experiences of being a public policy decision-maker. Made by her as a distinction within morality it gives the lie to the simplistic representation of Warnock the policy-maker as sacrificing morality in favour of practical expediency.

Having said all of that it is by no means an entirely clear distinction. Nevertheless, it is a highly suggestive one, worth spelling out and distinguishing from some other relevant accounts of what may be at stake.

It is not the distinction John Stuart Mill made in On Liberty – albeit not in these terms which he never used – between self-regarding and other-regarding choices. In the first place she is talking about the moral attitude an individual might take up to some matter, rather than the choices an individual might make. Second, the distinction of attitudes does not coincide with that between self- and other-regarding actions. Thus, I might make a ‘private’ decision about something that I think is right for me to do that clearly affects others; equally, I might make a ‘public’ decision about some issue of policy that does not affect my interests.
Warnock is also unsympathetic to a familiar and oft-expressed view that some moral view is ‘just what I think’ and in that sense ‘private’. She was no relativist and she had little time for the non-cognitivist views that dominated Oxford philosophy early in her career. She always thought it possible to acknowledge difference whilst insisting upon the need to argue for a moral view and display the reasons (as well as facts) which supported it. She was, to repeat, no simple ‘sentimentalist’ about morality.

She is clear that the moral outlook she describes as ‘private’ is one that is taken very seriously and adhered to with real passion and sense of certitude. In several places when explicating the distinction, she says that private moral choices or decisions can be ones of ‘conscience’ and ones that can run up against personal interests, indeed can involve their occasional ‘sacrifice’. A private moral decision may involve the individual in an intense and firm conviction – a sense of “I must do this though the heavens fall” and the possibility of ‘martyrdom’.27

By contrast Warnock thinks the ‘public’ attitude does not require such self-sacrifice and martyrdom. She allows that – on rare occasions – those in public life might make decisions that demand a great deal from them. However, this is rare, not because of the normal and far from selfless dispositions of politicians but rather because of the nature of the decisions they make.

It is easy to see how moral decisions on personal matters do engage, and conflict with self-interest. By contrast, public matters seem at a distance from the personal or private, and as such display individual moral decision-making as much more clearly distinct from prudential choice. Yet the contrast should not be overstated. There are obvious cases where what one believes to be morally justified public policy runs counter to one’s own interests and may indeed involve significant sacrifice (if not martyrdom). Consider a high earner who believes that a steeply progressive income tax is needed to fund public services.

What then is the distinction in outlooks Warnock has in mind? She defines the public moral attitude as one directed to what is in the public good. Philosophers have, especially in recent years, turned to a consideration of what as individuals we should do to promote a social good, for instance greater justice. The discussions prompted by William MacAskill’s ‘effective altruism’ initiative provide an excellent example of how some moral philosophers view the proper answer to the question, ‘What ought I to do?’28 The initiative has been influential, endorsed by many philosophers, and offers a relatively straightforward commitment to the twin principles of doing what one should (‘altruism’) and being sensitive to the empirical evidence of what works, and what does not (‘effective’).

Warnock would certainly have welcomed the attention to facts but did not think, as we have noted, that the discharge of a public role required any significant sacrifice of personal interest, or ‘martyrdom’. Moreover, there is this difference between what Warnock understands as ‘public philosophy’ and what ‘effective altruism’ requires. First, those who defend something like effective altruism are answering the question, ‘What ought, and can I do to promote justice?’ Warnock thinks the public attitude starts from the more impersonal, or better, interpersonal and public question, what is the best state of affairs that can be realised, more particularly what is the best feasible policy that can be justified and secure the support of the public and government.

As some critics have noted, ‘effective altruism’ by contrast does not engage with the questions of power structures, and the preconditions for real political change.29 It discharges a moral obligation on individuals to do good but does not rise to the level of an effective challenge to the perpetuation of social injustice.
Second, the resultant question, ‘What can I do to promote that desirable state of affairs?’ is not simple because the context in which Warnock wants to insist on the public–private distinction is that of collective decision-making. More particularly, it is that of the ethics committee with which she was familiar as a Chair, where a consensus is sought or an unresolvable dissensus negotiated. Here, one individual alone cannot promote what is desired – the best possible policy – but can only contribute indirectly through their relational role to others who collectively might recommend and adopt it. In short, Warnock’s public moral attitude is interpersonal and indirect in its focus.

It should be added that not everyone – and not every philosopher – can contribute to the design and promotion of public policy through membership (let alone chairing) of relevant committees. But Warnock’s approach can still ask us to reflect on what the public would want to happen and should do to bring it about. The public ‘conversation’ we can envisage is one with everyone in society, not just our fellow committee members.

Speaking in one place of the distinction between ‘private’ and ‘public’ philosophy she asks us to consider the ‘pub bore’ who concludes – and whose argument may, she concedes, be sound – that a thing is wrong, but errs then in believing that their ‘judgement should, or could, be instantly translated into a law which should govern everyone’. Where exactly does Warnock believe he goes wrong? Clearly, someone who thinks laws can be instantaneously brought into existence to enforce a moral judgment is in error. Clearly also, it is mistaken to believe that someone alone can make the legislative change.

However, consider the philosopher who publishes an article arguing for the permissibility of some new biotechnological practice and explicitly also argues that the case for its permissibility is necessary and sufficient for its legalisation. Where does that individual go wrong?

Such a person need not state or imply that legal change can be instant, nor presume that change can be brought about alone. But surely many a good article in applied ethics written in good faith can reasonably be read as arguing for a practical judgment that something is morally permissible, and should therefore be legal, or is morally impermissible, and for that reason should be legally prohibited.

If Warnock thinks this is, if not exactly philosophy in error, then insufficient for public morality, this is because she thinks such a morality requires attention ‘to the responsibilities of the legislators or politicians’. ‘Public philosophy’ attends to what is democratically acceptable. Warnock writes of the key moment in her chairing of the Committee when she changed her mind about her previous view that striving to secure what is ‘acceptable’ rather than what is ‘full-blooded’ ‘right’ was ‘mealy-mouthed’. This she acknowledges was very much the Oxford tutor’s view of what is warranted. The task of the Committee was to ‘try to assemble a coherent policy which might seem, if not right, then at least all right, to the largest possible number of people’. This does not just mean that what is judged the right law or policy is one that is democratically approved and not imposed. For a law must be feasible and enforceable. A good legislator will have the epistemic virtues of showing the reasons why the policy is justified, exhibiting caution and good sense in an appreciation of the consequences of any measure, and of being ‘seen to be steady and consistent in the stance they take’ as well as ‘principled’.

What in sum does it mean for a policy or law to be ‘acceptable’? What is ‘public philosophy’? It means the following: ‘a democratic regard for the moral views of the people at large’; the support of public opinion and government is sought; the disagreements on the issue are acknowledged but ‘the law cannot reflect this disagreement’, for the ‘law,
unlike moral opinion must be definite and unambiguous’. Law is acceptable not if all accept in the sense of endorse its terms but rather if, on a careful balance of relevant moral considerations, it can be confidently said that everyone would rather have this law than none at all. For, finally, on some matters, there has to be some law, one that ‘must apply equally to everyone in society, not merely those who happen to agree with its ethical basis’. It is ‘public philosophy’ in taking the public, and their views, seriously; in having the support of the public; and in aiming to bring about what the public would want and should do, not what individuals alone or in aggregate might do even as altruists devoted to the public good.

5. The Special Status of the Embryo

No issue more sharply illustrates the strengths and limits of ‘public philosophy’ than the moral status of the embryo. At the heart of the work done by her Committee it provoked diametrically opposed views between those who would forbid any use of embryos in research or the discarding, after fertility treatment, of surplus embryos, and those who could tolerate the creation and use of embryos, albeit at an early stage of development, because of the enormous benefits this brought to individuals seeking to have children.

Warnock believed that approaches invoking the notion of ‘personhood’ or an appeal to rights would not resolve that disagreement. Instead, she thought she could acknowledge but negotiate the disagreement within the Committee and the public at large with recommendations to government that had two elements: according the human embryo a ‘special’ status and setting a limit – 14 days from their creation – beyond which research could not be done on embryos. Fourteen days marks the development of the ‘primitive streak’, which can be understood as the point at which the embryo is both a single, identifiable human being and one capable of experiencing pain. Warnock thought that fixing on some precisely defined limit both satisfied the requirement that the law must have definite thresholds and would address public concern that her Committee might otherwise be prepared to tolerate any research on any embryos.

The charges of ‘fudge’ and ‘muddle’ have been directed at the claim the embryo has a ‘special’ status. What is special about embryos that are discarded if not used, and if not the status of a human being, what exactly is meant by ‘special’? Yet the recommended limit does have merit, albeit supported by an ‘amalgam of arguments’, including the necessity of a clear, precise, and feasible legal threshold beyond which embryo research would not be permitted, and a point at which the embryo is individuated and sentient. Using such an ‘amalgam’ approach is vulnerable to various criticisms, chiefly how we balance the different reasons offered for the threshold. Moreover, a need for a clear cut-off point to research is satisfied by a later time, and one which would, as many now argue, allow for research with prospects of greater benefits.

Yet criticisms of the recommendations for offering no robust intellectual defence of the threshold are unfair. Warnock was clear that its defence must be in terms of ethical or moral principles. Nevertheless, her ‘public philosophy’ did not resolve the question of the moral status of the embryo. In her later reflection on the Report, Warnock notes that it must have disappointed those who thought the ‘cool and reasonable voice of philosophy would reconcile the irreconcilable, … find compromise where none can exist’ and identify ‘a right solution’. ‘[I]n matters of morality’, she adds, ‘this is not possible’.

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‘Public philosophy’ worked to this extent. Whilst she did not end the moral disagreement her Report did propose, and get adopted, an acceptable legal solution to the question, one that could reassure the public and the government that the enormous benefits of the new biotechnology were not gained at the expense of a transgression of fundamental moral principles. Those benefits were substantial and evidenced in the research on and treatment of infertility in the three decades since the Human Fertilisation and Embryology Act was passed.

6. Warnock and Rawlsian Liberalism

Warnock name-checks John Rawls rarely, and her writings on ethics and policy show no signs of being influenced by his work. However, it is interesting to compare her view of ‘public philosophy’ with that of Rawls and others influenced by his work.

In the first place, Warnock’s commendation of ‘public philosophy’ might seem to evoke Rawls’s view of ‘public reason’. By this Rawls meant that citizens in a liberal democratic polity should show respect for their co-citizens by presenting and defending the shared rules to which all are subject in terms that everyone can find acceptable. Rawls thinks ‘public reason’ is also public in the sense that its subject is the good of the public. He explicitly contrasts the use of public reason by citizens with the expression of their preferences and interests. However, although Warnock does think that ‘public philosophy’ should concern itself with what is good for society, her contrasted ‘private philosophy’ is not the expression of mere individual preferences (including, Rawls adds, ‘dislikes and hatreds’) but moral attitudes.

Moreover, there are least three further differences between Warnock and Rawls: first, Rawls is concerned with the justification of fundamental matters such as the justice of society, whereas Warnock’s concern is with the regulation of particular matters, such as for instance the use of artificial reproduction; second, Rawls sees public reason as the rationalisation of citizens, whereas Warnock has a far less strict understanding of how individuals might express their moral views and indeed, as we have seen, speaks of feelings rather than reasoned statements; and third, Rawls sees the use of public reason as realising the ideal of ‘citizens governing themselves in ways that each thinks the others might reasonably be expected to accept’, whereas Warnock does not seek to avoid disagreement, only rather to find legal measures that do not reflect that disagreement. For Rawls, the ideal outcome is one in which all can reasonably accept the content of any law. For Warnock, the ideal is a legal outcome ‘acceptable to all’ which need not be, and probably will not be, one in which the content of the law is endorsed by everyone.

It is worth noting, given the previous section’s discussion of ‘public philosophy’ and the status of the embryo, that Rawls’s own attempt to resolve disagreement about abortion by public reason has been extensively criticised by those opposed to its legalisation.

Thomas Nagel’s ‘Moral Conflict and Political Legitimacy’ also offers an interesting contrast with Warnock’s account of ‘public philosophy’. Nagel starts from the familiar conflict between the personal standpoint and the moral requirement of impartiality. He then notes that this conflict ‘is compounded when we move from personal ethics to political theory’ (Ibid., 215). It is compounded because at the level of politics we are seeking to justify social arrangements – laws, institutions, and fundamental principles of justice – that apply to all and, crucially, involve their freedom-limiting imposition on all.
He follows Rawls in thinking that such social arrangements must be justifiable to all. Here he endorses a familiar liberal principle of political legitimacy whereby a coercive state that limits our original liberty can only be justified if it is freely agreed to by all those subject to its rule.

Nagel asks what this means for the individual citizen who has beliefs about which laws are justified and which are not. He thinks that the liberal principle of legitimacy imposes a higher-order constraint of impartiality on each of us whereby, recognising that the law I support is one that will be imposed on everyone including those who do not support it, I must distinguish ‘between what justifies individual belief and what justifies appealing to that belief in support of the exercise of political power’. 48

Nagel is at pains to say this is not a demand for scepticism for I have no reason not to believe that the law I endorse is the right one. Rather, I am required to think about my belief in a different way:

> We accept a kind of epistemological division between the private and the public domains: in certain contexts I am constrained to consider my beliefs merely as beliefs rather than as truths, however convinced I may be that they are true, and that I know it. This is not the same thing as skepticism. 49

How does this distinction between ‘public’ and ‘private’ domains of belief compare with Warnock’s between ‘public’ and private philosophy? They are clearly and interestingly different. For Nagel, an individual must reason as follows: ‘I believe that Ø-ing (obtaining an abortion, engaging in homosexual sex, doing research on embryos, etc.) is wrong and should be legally prohibited. I have no reason not to think that my belief is other than correct. However, I do have reason to view it as a belief which would, if it led to legal prohibition, constrain the liberty of everyone, including those who do not share my belief. Moreover, my belief that it is wrong does not give them any reason to accept the constraint on their liberty’.

For Warnock, the ‘private philosophy’ comprises personal beliefs as to what is morally permissible or forbidden. The ‘public philosophy’ by contrast concerns what, given that people feel differently about some matter, would be the best law (feasible, robust, clear, and generally acceptable). In effect, an individual must reason as follows: ‘I believe that Ø-ing is wrong and should be prohibited (or permissible and legally allowed). But I must set aside that belief and ask myself, what, given there are disagreements on this matter, would make for the best law, that would neither ignore nor reflect those disagreements, but command broad public support’.

It is notable that Warnock’s own ‘private’ views on the ethics of fertility treatment and embryo research are fairly evident to a careful reader. However, what is important is her recognition of what it meant to chair, and steer, a Committee of individuals with diverse backgrounds and commitments to some kind of consensus on the divisive issues.

7. **Warnock’s Philosophical Critics**

As noted at the outset, Warnock’s work – especially the writing of the Report on human fertilisation and embryology – was subject to severe criticism from her philosophical contemporaries. I want here to reply to one of the most significant of those critics, R.M. Hare. First, let me rebuke one critic cited earlier, Don Locke. In his review of *A Question of Life*
Locke deplores the Report’s lack of philosophical rigour. At one point in the review, Locke writes that ‘the Warnock Report ‘fails through being insufficiently philosophical in its approach (among other things, it rejects consequentialism as, by definition, not a moral theory!)’.

The exclamation mark might be warranted if the Report did make the attributed claim. It does not.

Warnock talks a great deal about utilitarianism throughout her writings. Overall, and like many others of her generation, she viewed utilitarianism as the dominant, orthodox moral theory and certainly the starting point of any ethical evaluation of some law or policy. She was aware of the major influence of utilitarian thinking in a great deal of academic bioethics. Nevertheless, her problems with utilitarianism were twofold. First, as she argued with respect to the problem of the moral status of the embryo, utilitarianism does not as a theory specify whether something has pains or pleasures that should count in the utility calculus. Someone could reasonably deny that the embryo does have pains and pleasures that count. In general, consequentialism – of which utilitarianism is the major variant – construed as the theoretical claim that only consequences matter morally leaves out of its basic account which consequences are to be included. For Warnock, saying that the embryo has moral status because its pains and pleasures count morally simply begs the key question or mistakenly takes a moral question to be a factual one.

Second, and this is the criticism made in paragraph 4 of the Report and the place where a ‘calculation of consequences’ is mentioned, the conclusions of a ‘strict utilitarian’ may run counter to strongly held convictions, or feelings, about what is right. This criticism is a familiar one: utilitarianism (and by ‘strict’ she evidently means one that allows no conditions or qualifications of its conclusions) yields counterintuitive judgments. Hence, her sharply expressed scepticism about the ‘breezy utilitarianism of some philosophers’ who write on medical ethics.

In none of this does Warnock or her Report allege that consequentialism is ‘by definition, not a moral theory’. She does, like many others, view it as an inadequate moral theory.

Richard Hare was a prominent and distinguished contemporary philosophical critic of Warnock and her Report. Hare was by disposition unwilling to acknowledge that anyone else correctly understood the nature of morality and of moral language. Those who disagreed with him had simply failed properly to appreciate what he had argued. In his reply to Warnock’s article, ‘Do Human Cells Have Rights?’, Hare notes that she feels utilitarianism ‘breaks down’ if ‘we take into account people’s moral sentiments’. He acknowledges that Warnock is arguing against a prominent medical defender of fertility treatment and embryo research, Dr. Edwards, who saw the case for allowing these in straightforward utilitarian terms. Hare comments,

I must add that I do not myself support the very unsophisticated kind of utilitarianism which she attributes to Edwards; nor shall I ask whether he actually does subscribe to it. My own variety is a good deal more defensible.

The last sentence is characteristically Hare-ean.

Hare has in this response one basic complaint against Warnock. This is that she fails to distinguish two roles that sentiments might have in moral analysis and argument. The first is that the case for a law prohibiting some practice should take account of the ‘distress’ and ‘outrage’ occasioned by the knowledge that such a practice exists. The second role of
sentiments Hare attributes to Warnock is a sentimentalist argument ‘from the fact that people think something wrong to the conclusion that it is wrong’.\(^{54}\)

Warnock does not argue this. She was, as noted earlier, influenced by the work of Stuart Hampshire to believe that strong feelings of outrage do mark the outer limits of morality. But this is a different claim from that attributed to her by Hare. If there is an ambiguity in her view of moral sentiments it is that set out earlier – namely between the role that sentiments play in any individual moral view and the role that the feelings of everybody must play in an acceptable ‘public philosophy.’

In his review of the Warnock Report Hare reaffirms his view that its author fails to distinguish the proper role of feelings in moral understanding of an issue. But his more general – and astringently expressed – criticism is that Warnock simply failed to do what a philosophical Chair of a committee should have done. For Hare this would be to clarify the issues, as well as the arguments on both sides, before assessing them and ‘making clear the reasons which have led the committee to make its own conclusions’. Warnock, he charges, was ‘content with a second-best alternative’ of presenting the generally agreed conclusions, ‘without finding defensible reasons for them’.\(^{55}\) ‘In default of reasons, people fell back on their prejudices’.\(^{56}\)

Hare unfavourably contrasts Warnock’s Report with the Wolfenden Committee’s Report on homosexual offences and prostitution (1957)\(^{57}\) and the Williams Committee’s Report on obscenity and film censorship (1979).\(^{58}\) Hare sees the latter as a paragon of philosophical work. Of course, Bernard Williams’s Report was not taken up by law makers. But this, Hare ventures with no hint of irony, might be ‘because it was so enlightened’. Moreover, unsurprisingly, Hare sees the virtues of both the Wolfenden and Williams Reports in their having argued ‘in a consistently utilitarian way’. Warnock by contrast ‘is not a utilitarian, and all the reasons that in the end will hold water are utilitarian ones’.\(^{59}\) In passing Hare notes, again with no trace of irony, that the adoption of the right philosophical approach in Williams’s case is ‘surprising’ given Williams’s antipathy to utilitarianism.

When Hare asserts that Williams’s Report is ‘a very good example of what can be done by a philosopher who is determined to get a committee to think rationally,’\(^{61}\) he both displays the attitude of a moral tutor that Warnock was so clear in her autobiography would not work, and at the same time ironically acknowledges that such pedagogic determination will not in fact secure a desirable change in law and policy.

Warnock’s ‘public philosophy’ did work. It is also worth adding that Hare’s claim that Warnock’s Report offers no reasons for its conclusions, only ‘no more than expressions of moral conviction without any support’,\(^{62}\) is, like Locke’s review, unjust. Warnock is clear that the Committee did make a moral judgment on what might be permissible in respect of a human embryo and carefully weighed reasons for and against its use.\(^{63}\) She did not simply ‘abjure utilitarianism and consequentialism’ as the ‘only rational and sensible way of handling these questions’.\(^{64}\) Rather, she consistently acknowledged the importance of a utilitarian approach whilst cautioning against its limits, especially when its conclusions run up against strong counterintuitions.

8. Conclusion

Warnock’s ‘public philosophy’ seeks to inform effective policy-making. It is not the altruism of individuals but philosophising about what the public feels and could accept. It is not
the public reason of Rawls’s ideal citizen, nor the epistemic caution of Nagel’s private citizen making law for all. ‘Public philosophy’ is also not the ‘breezy utilitarianism’ of other philosophers. It does bear comparison with Jonathan Wolff’s ‘engaged philosophy’. Like Warnock, Wolff thinks ethical public policy starts from the issue. It is not the rule of the Platonic philosopher-king, nor the simple ‘application’ of ethics to any matter. Both give an important role to the analysis, proper understanding, and evaluation of any contentious issue. Wolff is more optimistic than Warnock about the prospects for resolving or dissolving moral disagreement. Wolff is also clearer than Warnock about what moral philosophy can contribute, for she is characteristically modest and cautious in her hopes for what can be achieved by the philosopher rather than simply the intelligent lay person skilled in analysis and argument. Both ultimately agree that public policy should be ethical, and that the philosopher who would ensure this must be sensitive both to the facts of any matter, and to the need for careful and respectful argument with those who disagree about it.

In recent years expressions of unhappiness with the purported idealism and unworldliness of normative practical theory has been expressed through work on realism and feasibility. If this unhappiness is worth exploring it is also worth returning in the centenary of her birth to Mary Warnock for a highly intelligent, very thoughtful, and original set of ideas informed by both philosophical literacy, and a well-developed sense of what ‘public philosophy’ in the real world means.

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NOTES

1 O’Neill, ‘Mary Warnock Remembered’; see also Wilson, Making, 144.
3 Wilson, Making, 156.
4 Harris, “Guest Editorial,” 583.
5 O’Neill, ‘Mary Warnock Remembered’.
6 MacCumhaill and Wiseman, Metaphysical Animals; Lipscomb, Women.
8 Warnock, Ethics Since 1900, 144.
11 Warnock, “Moral Thinking,” 520.
12 Warnock, “In Vitro Fertilization,” 246 (?).
13 Hume, Treatise of Human Nature, 3.2.2.1.
15 Warnock, Question of Life, ix–x.
17 Warnock, “Regulation of Technology,” 175.
18 Warnock, Question of Life, 95–96.
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