

Public Policy and Respect

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In policy making and regulatory debates at all levels of government, issues of efficiency are widely discussed, but the fundamental moral and political issue of *respect* in the body politic is widely and tragically ignored. "Respect" is a concept that radical democrats can ill afford to sacrifice to the liberal-conservative, evangelical, or authoritarian right. In social and political practice, actual respect is a painfully vulnerable quality, two forms of which may be distinguished. Unconditional or "basic" respect is due to all persons as human beings; conditional or "deserved" respect is that which may be granted to exemplary, responsible, public actors. Both forms of respect are widely threatened today.

In our communities and schools, racism is alive and all too well. In the social services, professionals have often been attacked for failing to treat their "clients" respectfully. In government agencies, unions, and community organizations, leadership and authority are often denigrated. In the workplace, exploitation and job layoffs directly threaten workers' self-respect. And class structures institutionalize patterns of opportunity, control, and property that systematically distort the political and social respect so essential to any truly democratic public realm. This essay explores one strand in this complex of problems: the thesis that public policy making can either undermine or strengthen the nature of and capacity for the respect existing in our communities.

At stake here are questions of citizens' respect not only for democratic authority and government, but also for one another within a community. To illustrate the connection between public policy and the cultivation or weakening of respect in the body politic, we examine a policy issue with little obvious connection to issues of political and social interaction. What then, we may ask, does the fate of the Clean Air Act, presumably regulating air pollution, have to do with moral and political issues of respect?

Consider the arguments of those seeking to defend the Clean Air Act from the industrial and congressional efforts seeking to weaken it. Writing in the *New York Times*, Lewis Regenstein puts his case succinctly:¹ air pollution regulation has saved lives, prevented health problems, avoided property damage to crops, forests, and vegetation. He cites studies of prominent economists who find that strong enforcement of the Clean Air Act has resulted in *net* savings of billions of dollars from the regulation of stationary pollution sources alone. He cites further studies estimating that thousands of lives will be shortened if air pollution controls are cut back in regions such as the Ohio Valley. Regenstein acknowledges that enforcement and regulatory measures are expensive, but he cites evidence showing a *net* economic advantage produced by such regulation, in addition to the fundamental benefit of saving or extending thousands of lives. Weakening the act, he writes, "could damage the lives and health of tens of millions of Americans and unnecessarily cost us tens of billions of dollars a year."

Regenstein does not point out that the burden of regulatory costs may not be borne in the short term by those who stand to reap the benefits. Thus industry, as he says, has fought these regulations and sought to avoid costly antipollution requirements. In contrast, however, those people whose lives are to be protected may hardly be organized at all; indeed, they may not even know that they stand to be the beneficiaries of the legislation. Here government intervention may be warranted to protect unknowing and vulnerable citizens. What sort of intervention, though, is called for? How shall the government regard those anonymous persons whose health and lives are at stake—as citizens, consumers, residents, rational actors? In whatever way the government classifies or regulates these people, so does it institutionally recommend as right an official policy toward those affected.

Government policy not only produces regulations, incentives, or statements of intention, but it also recommends to its public a praiseworthy attitude to be adopted more generally. Antidiscrimination laws not only grant legal avenues of grievance to injured or complaining parties (apartment dwellers or job seekers,

1 "Clean Air: Defending a Law in Peril," August 4, 1981.

for example) and threaten sanctions to violators (landlords or employers as the case may be), but they also serve symbolically to encourage the virtue and legitimacy of nondiscrimination in general. Legislation granting the poor access to health care works both to provide services *and* to foster a broader public expectation of a political right to health care. And however ambiguous or colloquial that understanding of the "right" to decent health care may be, the basic point remains: legislation regulates, but it also educates.

Federal pollution policy that maintains, revises, or eliminates the Clean Air Act may produce widely differing images of the public it supposedly serves. For example, policy makers may treat the potentially affected as economically rational agents, as consumers who presumably will move away from dangerous sources of pollution when they choose to do so. Alternatively, policy makers may treat them as democratically entitled citizens who may be unknowing victims of severe environmental health hazards produced by yet other citizens. Consider now three ways that policy may have consequences extending far beyond the immediate demands of its rules and regulations to the constitution of respect in the broader society.

Policy making reflects an official stance toward an accounting of whose problems "count," whose problems merit regard by the public not merely as matters of personal concern, but rather as matters of public charge and responsibility. Directing the light of government attention to selected issues, symbolic, budgetary, and practical policy making may simultaneously cast the shadows of neglect upon other popular and pressing concerns.

Weakening the Clean Air Act, by postponing deadlines for industry to meet health standards, for example, will direct attention to the "needs" and "plight" of those corporations and industries who would otherwise have to pay the short-term expense and bear the inconvenience of meeting pollution regulations. Yet at the same time, weakening air pollution regulations will allow the already anonymous citizens whose lives will be endangered by increasing levels of pollution to sink further from public view, to fade out of public attention altogether. These thousands of victims of preventable industrial pollution would then be recognized not as citizens bearing the costs of "tough decisions," not as citizens who might have acted to protect themselves had they been better informed of the risks they faced, but as the personal tragedies of families, as if industrial pollution abetted by weakened national policy had nothing to do with their lives. Stigmatizing or supportive, the attention paid by policy making can often be direct, explicit, and noisy—witness the attention paid to corporate concerns about regulations supposedly hampering industrial development. Yet as more diffuse preventable health problems suggest, the neglect fostered by policy making can be

quieter and far more subtle while no less influential, if not at all necessarily benign. As policies direct attention selectively, so may they dignify or stigmatize, encourage or discourage "basic" respect for those citizens they serve or regulate.

Second, policy making creates patterns of entitlements, sanctions, and incentives that define the responsibilities and culpabilities of citizens, of polluters and polluted, business and broader community interests, industrialists and environmentalists. Policy adoption creates a political or legal setting, a context of rules and obligations in which citizen and corporate actions each have newly constituted meanings. If the Clean Air Act is weakened, a decision to emit a level of pollutants (sulfur emissions, for example) that might have brought stiff penalties in the past might now be made without sanction. Policy making thus alters the practical conditions of responsibility of citizens and corporations alike. Strong pollution legislation defines the responsibilities of industry to the public and the responsibilities of taxpayers to their government and one another. Weakened legislation shifts the responsibility for protecting health and property to scattered, poorly informed, and anonymous consumers in diverse economic markets. Political responsibility for public health protection would be thereby diffused by pollution deregulation and then replaced by the apparent yet invisible equity of market interactions, supposedly "free" choices.

If the Clean Air Act is weakened, by cutting back standards for industrial emissions, for example, the federal regulatory and enforcement role would correspondingly diminish. Businesses might indeed be free of some regulatory obligations and proscriptions; yet health problems in a diffuse and poorly identified citizenry would quite likely increase. Government would then be less visible, less frequently seen in a role responsible for protecting the public health and welfare, if still imagined by some perhaps to be promoting an even more abstract "health of the economy." Air pollution and acid rain would increase; the hidden hand of the market presumably would act to distribute that pollution and its effects "optimally." Under such conditions of deregulation, it may be difficult for citizens to respect a hidden hand whose actions they cannot see. Vigorous and visible health-protecting enforcement activity might work to engender "deserved" public respect for democratic authority; deregulation in contrast may, under such conditions, undermine that public respect. And were one to think that perhaps government regulatory action and policy might regain that respect in the future by responding to subsequent health problems, ridicule seems a more likely prospect, once it became known how preventable so many problems of the public health were (as we already know them to be).

Policy making, then, may either create political and legal responsibilities that specify citizens' and industries' duties as those of members of a common polity; or it may slight these issues of responsible membership and treat all parties essentially as economic entities, guided by the hidden hand of the market, yet

having no particular, definitive public responsibilities of their own. If policy making follows the latter course, citizens may be able to act, however imperfectly, as consumers, evaluating the products of various producers, but those citizens will then be less able to evaluate the political responsibility (or irresponsibility) of industrial and government actions alike. In principle, of course, market preferences for cleaner air may be expressible in the housing market; preferences for health care may be expressible in principle in the private health-care sector. Yet in practice, in the context of public concern about health and environmental quality, if health-protecting policy interventions are replaced by invisible market forces, the "respect-ability" of responsible public action will be undermined. Citizens would then be encouraged by public policy to regard themselves as consumers at a market rather than as members of a political sphere constituted by common duties and responsibilities.

Public policy would then serve market mechanisms and the search for *utility* just as it would simultaneously subvert the citizenry's political sense of itself, its political *identity*, and its capacity for maintaining, not to say, deepening, the respect it may have for itself, for democratic authority, and for law.

The failure to develop or maintain strong pollution policies may have two sides, then. Cutting back environmental regulations in the name of the health of business represents an appeal to market mechanisms that no one is directly responsible for and for which no one can be held accountable. Therefore no one may be recognized as responsible and *respected for his or her actions*. It is also a retreat by government from visible public action in response to recognized hazards to the public's health—action that might well have earned it a modicum of public respect, to say nothing of allegiance, loyalty, and continued support.

In the absence of such a public policy, the government not only gives greater rein to industry, it throws to the winds yet another basis upon which it might gain and cultivate the respect of its citizens. Policy makers would fail here, as Simon Neustein suggests, to make the accumulation of wealth a matter of commonwealth. Throwing off the burdens of public action, such privatizing and depoliticizing public policy may not cultivate, but may rather slowly poison, respect for what is claimed to be democratic administration and governance.

Third, then, in addition to the attention paid and the responsibilities constituted and publicized in policy making, public policies redefine the conditions, procedures, practices, and possibilities of political membership of those included within the scope of the policy. Drawing together industrial polluters and potentially affected citizens, the Clean Air Act defined these parties to be interdependent members of a political realm with not only legal responsibilities to one another, but with particular means available to act toward one another or toward their government as members of a common polity.

Citizens have been required to pay taxes for regulatory enforcement, inspec-

tions, and administration of the law. Industry has been recently required to act to meet pollution regulations or run the risk of fines and public embarrassment. When either party failed to act in these elementary political duties, political and judicial measures were in principle available: the IRS might pursue tax evaders; the EPA would pursue polluters; environmentalists might file complaints about pollution violations or bring these to the attention of regulatory bodies; industries and environmentalists alike might work through the courts to challenge regulatory agencies' interpretations of the law. Government policy minimally created the conditions defining channels of responsible public action and political membership for citizens at large as well as for specific industrial concerns—though certainly specific polluting industries were far more aware of their specific responsibilities created by the Act than were the masses of taxpayers (unless they happened to be active environmentalists). Nonetheless, the policy provided political means of citizen and industrial action—administrative complaints or appeal processes, public legal recourse to challenge interpretations, and so on.

Not only did the Clean Air Act focus attention upon a problem and assign formal responsibilities, it also created for the public record a history of industrial actions since its original passage. This public record demonstrates the character of publicly responsible—or irresponsible, as specific cases may be—action by those industries held by government to be possibly significant polluters of the public environment. Were the Act to be abolished and the invisible market mechanisms to “regulate” pollution instead, this record of responsible and irresponsible action and political membership would be eliminated, rendered simply an anachronism of a period in which the poisoning of the public environment was regarded as an act for which the polluting agent was to be considered and held publicly responsible. Were this weakening of the Act to occur, the possible public scrutiny of polluting industries would be crippled: the result would be not only greater public ignorance but, in Ralph Hummel’s words, “the privatization of public tragedy.”

Still more significantly, new levels of pollution would no longer have the public meaning—declared safe or dangerous as a matter of public policy and not simply environmentalist complaint—that they previously had. Where even industry might have sought to bury questions of class by appealing to public sentiments of respect for pollution-abating and law-abiding behavior before, now the weakening of the law would render even that public judgment of respect impossible. Industries would be seen anew as purely private economic concerns; their membership in a shared political world of interdependent citizens would be obscured, rendered less visible as a matter of public policy. Citizens’ fears of polluted skies and waters would no longer be mitigated by respect for public-

protecting air pollution policy, but would become instead a more general suspicion of industrial action. Industry may escape the short-run costs of such distrust, but the longer-term result is likely to be the loss of that public image and support that industry itself often seeks when still other issues of taxation, regulation, or labor relations arise. Here lies a paradoxical problem for radical democrats: corporate policy compliance may be used practically to appeal to public respect just as it simultaneously is used to obscure further questions of corporate power, accountability, and control.

Furthermore, weakening the Clean Air Act will effectively promote severe, though preventable, problems of public health. Yet lacking explicit policy measure to address them, these problems are likely to be regarded as accidental, providential, random, or personal. Our neighbors will be sick, ailing, and some will die of pollution-related illnesses; we will wonder if they ate properly, drank too much, played too carelessly as children. We will hold them responsible as individuals, and we may never know if these health problems were effectively abetted by our government's refusal to maintain strong pollution policies. In effect, subtly, our personal evaluations of one another will likely change, without our realizing why. We may blame one another for problems and suffering largely beyond our individual control. We may respect our sick neighbors less than we ought, not because we are mean-spirited, but because public policy has made us less able to evaluate properly the responsibilities and interdependencies of all parties involved, of all members of our common political world.

If this occurs, the failure of public policy will be more than a failure to protect the public's health; it will be a failure to educate its citizens to the meaning of their common political membership, to their public responsibilities *and* vulnerabilities, and this failure in turn can only lead to a weakening of public understanding and mutual respect. When public policy hides the responsibilities of industry to the citizenry at large from public view, the moral ambiguities of market ideology will replace political understanding, and the social capacity for respect will be diminished. And as political respect weakens among members of the body politic, of course, the general sense of membership and political responsibility can only decline as well; respect for law and truly democratic government will naturally be further eroded. Turning democratic policy *responsibilities* over to the presumably virtuous or beneficent private sector may only exacerbate this process, undermining public respect for government all the more.

We should now ask if public policy makers can avoid such problems. Must not any policy be selective, paying attention to some problems and neglecting others? Public policy must indeed be highly selective, but this does not yet mean that it must be neglectful. To recognize and consider particularly worthy

of attention coal miners threatened by black lung disease does not mean that other working-class groups, for example, must be denigrated or considered less worthy of public respect. What is at issue here is precisely the prior claim of citizens to government attention, whether to service or protection. The question of preventable health hazards has been widely raised in our society; government inattention in this context would both neglect citizens at risk and diminish the public respect due to their concerns. Yet if citizens were better protected, would the concerns of industry then be neglected? Hardly, for the actions of industry, including the actions of production, marketing, and pollution-generation, receive quite a bit of attention: regulatory attention designed not to eliminate production but to render it safe to the community and polity with which it shares a common environment.

Not all policy presents a simple choice between the regulatory mechanisms of the market and those of the state agency. In any case a choice here is not at issue. Rather, to recognize each public policy and the processes of policy making as undermining or strengthening the social capacity for respect, each policy must be understood to redefine citizen responsibilities, the meaning of citizen actions, and the character of responsible political membership in the polity. This identity-constituting character of policy can be found in socialist or capitalist political economies. Only as policy defines legitimate responsibilities, does it enable citizens to recognize responsible public performances and thus to respect those responsible actors.

Again, policies that serve markets but hide politics may ironically obscure significant questions of political membership and responsibility: the pursuit of economic utility can threaten the respect for citizens' political identities. Private utility may overwhelm public identity; mutual respect will suffer. Policies that obscure the interdependencies and thus the possible responsibilities inherent in modern societies will undermine and diminish the political capacities of citizens to develop and nurture respect for law, democratic government, or any form of public authority, to say nothing of one another.

What, finally, does this analysis mean practically for policy making? First, it calls for attention to all claims made in the policy area at hand. The denial of a hearing or a voice to interested parties will be perceived as an act of neglect, and democratic policy makers can avoid such consequences through formal representatives, hearings, and investigations, or through less formal contacts or consultations. Second, policy proposals must clearly define citizens' responsibilities, the means of government evaluation and regulation, and the procedures of citizen grievance or appeal in cases of disputed findings. Evaluation procedures must be specified, or charges of government arbitrariness will rightly be pressed. Appeal procedures should be specified and justified, or charges of pseudodemocratic, bureaucratic tyranny will be made. And implementing responsibilities

created by the policy must be clearly specified, or the policy may never be carried out, creating instead a twisted history of administrative nightmares, public confusion, protracted legal battles, and more general bureaucratic malaise. Third, policy makers must seek to demonstrate the legitimacy of policy proposals by embedding them into the democratic political traditions shared by affected citizens. Lacking genuine legitimation, the authority of the policy maker and the policy will become elements only of the play of power; public respect and support, whether for environmental or economic policies, for example, may well be diminished.²

Far more is at stake in public policy making than the pursuit of efficiency. As policies are won or lost, so are public attention, responsibility, and membership restructured. Radical democrats ought not to ignore the ways that policies deepen or weaken the character of respect in the body politic. For if they do, their "democratic politics," their own policy proposals, and the common polity may be weakened as well.

² John Forester, "A Critical Empirical Framework for the Analysis of Public Policy," *New Political Science* (Summer 1982); idem, "The Policy Analysis-Critical Theory Affair: Wildavsky and Habermas as Bedfellows?" *Journal of Public Policy* 2, no. 2 (May 1982).