GOODPOL Final conference

May 19-20 2022

This conference marks the end of the project *What is a Good Policy? Political Morality, Feasibility, and Democracy (GOODPOL)*, hosted and funded by the Center for Advanced Study at the Norwegian Academy of Science and Letters.

Thursday May 19: 09.30 – 17.00

09.30 – 10.00 Coffee and welcome

10.00 – 11.30 Keynote lecture - Simone Chambers (University of California, Irvine): "Contestation, Competition, and Opposition. Comparing procedural, minimalist, and partisan conceptions of democracy"

11.30 – 12.45 Lunch

13.00 – 15.00 Parallel sessions:

Panel 1

1. Torbjørn Gundersen (University of Oslo): "Policy recommendations, science advice, and well-placed trust"
2. Eilev Hegstad (Oslo Metropolitan University - OsloMet): "Normative models of ethics commissions"
3. Jon Christian Fløysvik Nordrum (University of Oslo): "Artificial intelligence in digital welfare administration and the rule of law"

Panel 2

1. Hallvard Fossheim (University of Bergen): "Politicians and experts: revisiting the epitactic dimension of statesmanship"
2. Sebastian Conte (University of Oslo): "The role of intuitions in the justification of moral and political ideals."

15.00 - 15.30 Coffee break

15.30 – 17.00 Keynote lecture – Jakob Elster (University of Oslo) and Cathrine Holst (University of Oslo): "Philosophy, Policy and Moral Expertise"

Friday May 20 10.00 – 15.30

10.00-11.30 Keynote lecture - Keith Dowding (Australian National University): "Government Manipulation: Regulation, Nudges and Liberty"

11.30-12.45 Lunch

13.00 – 15.00 Parallel sessions

Panel 3

1. Eli Feiring (University of Oslo): "The normative underpinnings of the comprehensive evaluations of COVID-19 responses in Scandinavia"
2. Mari Teigen (Institute for Social Research): "The resilience of gender equality: How COVID-19 was gendered in Norway"
3. Johan Christensen (Leiden University): "Expert participation in Nordic advisory commissions: a comparative analysis"

Panel 4

1. Trym Fjørtoft (University of Oslo): "Inductive risk and the legitimacy of non-majoritarian institutions"
2. Robert Huseby (University of Oslo): "The limits of limitarianism"
3. Sveinung Arnesen (University of Bergen): "How to be gracious about political loss – the importance of good loser messages in policy controversies"

15.00-15.30 Coffee and closing remarks

The conference is organized by GOODPOL, in collaboration with the Norwegian Centre for Human Rights (NCHR).

Abstracts

Simone Chambers (University of California, Irvine): "Contestation, Competition, and Opposition. Comparing procedural, minimalist, and partisan conceptions of democracy"

Democracies are full of conflict, contestation, competition, antagonism, opposition, and disagreement. What role or function do these non-consensual, non-cooperative, and adversarial modes of individual and collective action play within democracy? This paper critically investigates three competing answers to this question found in contemporary democratic theory. Procedural, minimalist, and partisan views of democracy represent three ways to conceptualize the structuring and channeling of pluralism, disagreement, and conflict of interests. The procedural views I canvas value adversarial and some non-cooperative political action as part of the story they tell about the rule of political equals. Here contestation originating in civil society is a counterweight to majority rule and a means (among many) through which citizens can potentially exercise and instantiate collective rule. Minimalist and realist theories of democracy often focus quite narrowly on the adversarial nature of electoral competition between political parties. Here the electoral "regulation of rivalry" takes center stage as the great achievement of democracy that tames and channels the ever-present temptation to use violence to further one's interest. Finally, I look at what I call partisan realists. They see adversarial aspects of democratic politics (both originating in civil society and via parties) as facilitating opposition to the enemies of democracy understood as oligarchs or the super wealthy. I conclude by arguing that although minimalist and partisan realists identify two serious threats to democracy, their view of adversarial behavior is negative and reactive and as such fails is limited. Proceduralists offer a more a fuller account of the function of non-cooperation that includes many of the realist features without the realist ontology.

Jakob Elster (University of Oslo) and Cathrine Holst (University of Oslo): "Philosophy, Policy and Moral Expertise"

What characterizes the role of moral and political philosophers in contemporary policy-making? And what ought their role to be? Should we see philosophers in these areas as some kind of moral experts? If so, what kind of expertise are we talking about, and does the possession of such expertise imply that moral and political philosophers can legitimately be granted a special authority in the formulation of public policy?

These questions touch upon core philosophical issues concerning what constitutes political authority, political competence, good governance and democracy, and have broad societal interest in a time where public criticism of expert power and "elites" has intensified. Still, even if the role of moral and political philosophers is sometimes studied and explicitly

addressed in recent philosophical scholarship, contributions are scattered, and a number of questions merit further inquiry.

While the literature on the role of experts in policy development is large, it often takes the role of technical experts as its point of departure. This lecture asks how the arguments made in the general debates about the political role of experts are affected by the fact that the expert we have in mind is a moral expert. In particular, the lecture discusses how, on the one hand, epistemic worries about the quality of expert advice are affected when we talk about moral experts, and indeed, whether it makes sense to talk about moral experts at all; and on the other hand, whether democratic worries about the role of experts are exacerbated when what we discuss are moral experts.

Keith Dowding (Australian National University): "Government Manipulation: Regulation, Nudges and Liberty"

(Paper co-authored with Alexandra Oprea)

In his book *It's the Government Stupid: How Governments Blame Citizens for their Own Policies*, Dowding argues that policy failures such as the growing obesity crisis, gun crime, homelessness, drug addiction and gambling directly result from government regulatory failures given known human behavioral weaknesses. They blame citizens for their choices, when government has failed to regulate to provide a superior menu of choices. In joint work with Alexandra Oprea, Dowding queries the claims of behaviorial economists that government nudges are more libertarian than regulation by nudging citizen choice in welfare-enhancing ways. Here their work is expanded to consider in what sense, if at all, nudges and regulations manipulate people. Distinguishing communicative from situational nudges while developing a hypothetical disclosure test enables the assessment for the degree of manipulation of nudges and regulations.

Torbjørn Gundersen (University of Oslo): "Policy recommendations, science advice, and well-placed trust"

This paper examines the nature of public trust in science advice institutions' policy recommendations and what makes it well-placed. Despite their major political importance, the role and nature of expert recommendations are understudied in philosophy of science and social epistemology. Matthew Bennett has recently developed a notion of what he calls recommendation trust, according to which well-placed trust in experts' policy recommendations requires that recommendations are aligned with the interests of the trust-giver, be it citizens or policymakers. Against this principle, this paper argues that political bodies and citizens might have a kind of basic recommendation trust in a science advice institution based on an all things considered judgment regarding such things as possession of relevant competency, a sense of moral responsibility of the scientific experts, and its

institutional design. Moreover, by making conditional recommendations, scientists can base their recommendations on several values and interests, which makes the condition of interest alignment less significant. Policy recommendations should be seen as open-ended and dynamic proposals that can generate political deliberation leading up to a decision by political bodies.

Eilev Hegstad (Oslo Metropolitan University - OsloMet): "Normative models of ethics commissions"

Ethics commissions are government advisory commissions mandated to give expert advice on contentious moral issues. As this requires making explicit value judgments, members with expert knowledge of ethics have a natural place as members of such commissions. Ethics commissions raises questions concerning the nature of moral expertise and how such commissions should deal with the political contexts in which they operate. Through a reading of the relevant discussions in the literature I have reconstructed four normative models of the proper role of ethics commissions. In the presentation I will emphasis two, what I have labelled 'commission consensus model' and 'deep pluralism model'. They differ from each other along two main dimensions: the expert and the public/political dimension.

Jon Christian Fløysvik Nordrum (University of Oslo): "Artificial intelligence in digital welfare administration and the rule of law"

Artificial intelligence is increasingly used to streamline the welfare state. The use of artificial intelligence challenges the current mechanisms to ensure that the welfare state is kept within the rule of law. The capacity and digitization of the welfare services, and in particular the use of artificial intelligence, entails a high risk of systemic error. There are already manifold examples of things that can go spectacularly wrong. There is a need to articulate a new rule of law principle – the capacity to reduce the risk of systematic errors, and the fundamental question for the administration's further use of artificial intelligence must be: How can artificial intelligence strengthen democracy and the rule of law?

Hallvard Fossheim (University of Bergen): "Politicians and experts: revisiting the epitactic dimension of statesmanship"

(Paper co-authored with Cathrine Holst)

The politician has been a central figure in the government of states for millenniums; in democracies in the shape of the elected representative of parliaments or in government – a key symbol of the modern idea of a "rule by the people" and representative government. Yet, puzzlingly, recent debates in political theory on the role of experts in policy-making and

democracy, is almost silent on the role of politicians, and the relationship between politicians and experts. Moreover, even if we can derive some valuable insights regarding the characteristics of the distinctive roles of politicians and experts from the assumptions and subtext of these debates, the picture we are left with is still incomplete and insufficient. However, historically, philosophical discussions about the relationship between the politician and the expert are recurrent. Prominently, already ancient political philosophy regarded the more detailed divisions of roles between politicians and experts as a decisive issue. In this paper we will revisit the epitactic dimension of statesmanship in Plato, and argue that this dimension brings to the fore a distinction between the *responsibility* of politicians and experts that should be central also for our contemporary understanding and in present-day democracy.

Sebastian Conte (University of Oslo): "The role of intuitions in the justification of moral and political ideals."

It is a common idea that intuitions play a central role in the justification of moral and political principles. According to this idea, intuitions are treated as evidence for philosophical principles and play a role similar to that of observations in science. Recently, several philosophers have argued that the widespread view that philosophers treat intuitions as evidence is false. When carefully examining philosophical articles, they claim, there are no indications of intuitions being treated as evidence. Moreover, suggesting that the burden of evidence lies with those who believe that philosophers do treat intuitions as evidence, these philosophers have challenged them to come up with a strategy capable of providing positive evidence that intuitions are treated as evidence.

In this presentation, I present strategies for investigating whether intuitions are treated as evidence for moral and political capable of responding to the challenge of providing positive evidence. These strategies are developed and applied in two recently published articles.[1] One of the strategies is to develop and apply a new analytic framework for analyzing arguments in philosophical articles. I apply the strategies to articles by Ronald Dworkin, G. A. Cohen, and Judith J. Thomson and find that they treat intuitions as evidence for moral and political principles. Moreover, I suggest that the strategies applied by philosophers who argue that philosophers do not treat intuitions as evidence have several shortcomings. They do not capture central features of intuitionistic methods—or even mistakenly interpreting these features as suggesting that intuitions are not treated as evidence.

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[1] Conte, Sebastian J. 2022a. "Are Intuitions Treated as Evidence? Cases from Political Philosophy." *The Journal of Political Philosophy* 0 (0):1-23. doi: 10.1111/jopp.12277; Conte, Sebastian J. 2022b. "The Trolley Problem and Intuitional Evidence." *The Journal of Value Inquiry*. doi: 10.1007/s10790-021-09881-3.

Eli Feiring (University of Oslo): "The normative underpinnings of the comprehensive evaluations of COVID-19 responses in Scandinavia"

(Paper co-authored with Jakob Elster and Cathrine Holst)

Background. As was the case for governments across the world, the Scandinavian countries' responses to the COVID-19 pandemic were made under great time pressure and had far-reaching implications on individual and population health, economic activity and social life. While the pandemic is curbed in this part of the world, the range of interventions used had deep adverse consequences for individual wellbeing, civil liberties, and the economy. Furthermore, disadvantaged groups were disproportionately negatively affected. Thus, the political decisions during the pandemic were rife with ethical challenges. Commissions were established to conduct comprehensive reviews and assessments of the authorities' handling of the COVID-19 pandemic in all the Scandinavian countries. It is salient to ask descriptively, which moral values and considerations actually played a role in these evaluations of government action and normatively, which normative commitments should underlie welfare state activity in a crisis like a pandemic. We sought to explore these questions inspired by Joseph Heath's reconstruction of modern welfare states' normative underpinnings, detailing "the implicit morality of the state".

Aim. This paper has a twofold aim. The first is to describe the evaluative standards, and their interpretation and ranking, as we find them in the comprehensive evaluation reports of COVID-19 responses in the Scandinavian countries. The second is to illustrate the potential implications of the evaluation reports from the perspective of public administrative ethics.

Method. We designed this study as a qualitative cross-country comparison of comprehensive evaluation reports of COVID-19 responses in Norway, Denmark and Sweden. The reports provided empirical data suitable for the intensive study of national evaluation commissions' assessments of the political handling of the pandemic. Thematic analysis was used to systematically identify, organise and analyse patterns of meanings associated with normative principles, such as equality, freedom, efficiency and democracy, across the datasets.

Preliminary results (based on analysis of Norway and Denmark). Our analysis suggests that some important normative considerations were similarly taken into account across the data. For example, there was a strong emphasis on the importance of "accountability to the parliament" in the reports. However, there were also significant differences. In particular, considerations of various aspects of equality and freedom seemed to differ. For example, while the Danish report put great emphasis on "rule of law" assessment, this feature was less accentuated in the Norwegian report. Moreover, compared to the Norwegian report, anti-paternalism seemed to carry more weight in the overall assessment of the Danish COVID-19 response.

Conclusion. Normative ideals that seem to underlie modern welfare states are to a certain degree articulated in evaluations reports of COVID-19 responses in Scandinavia. The concrete understanding, weighing, and balancing of different aspects of important norms

differ across countries. These findings may have implications for the further development of a conceptualisation of what "good policy" looks like.

Mari Teigen (Institute for Social Research): "The resilience of gender equality: How COVID-19 was gendered in Norway"

(Paper co-authored with Kjersti Misje Østbakken)

The outbreak of the COVID-19 pandemic led to the largest market disruption in modern times. Our empirical analyses show that the COVID-19 crisis hit women's employment levels harder than previous crises, such as the financial crisis 2008/09 and the oil-price crisis 2014, but women were not worse off than men. Employment responses for both women and men are linked to gender-segregated structures of the labor market, and these structures are an important factor behind women's stronger exposure to the COVID-19 crisis compared to previous crises. Gender-balanced industries have experienced large employment drops, in contrast to the financial crisis and the oil-price crisis that mainly affected male-dominated industries. A central question is what factors have mitigated gendered effects of the pandemic in Norway.

Key features of the Norwegian society have provided resilience to the unprecedented economic crisis the COVID-19 pandemic caused. Factors such as universal access to affordable, high-quality childcare enables high uptake and support work-family reconciliation; the social security system is well developed, and unemployment benefits are set at a level, which incentivizes work, but still ensures economic independence in the event of unemployment or furlough; Norway's well-developed digital infrastructure, have all been important. Although, it is too early to evaluate long-term effects of the pandemic on gender equality, the empirical evidence so far indicates that the COVID-19 crisis has not weakened gender equality in the labor market substantially. Still, we would have expected the authorities to consider how the pandemic affected men and women differently. Our analysis of the evaluation of the authorities' handling of the pandemic indicates that the evaluation has not been gender mainstreamed, which we considered to express a significant weakness.

Johan Christensen (Leiden University): "Expert participation in Nordic advisory commissions: a comparative analysis"

It is often argued that the Nordic countries share a distinct governance model, with high administrative capacity, extensive interest group involvement and strong channels for incorporating expert input in policy-making. Yet, while we know a lot about recent changes to the statist and corporatist elements of this model, we know little about the changing role of expertise. How has the reliance on academic expertise in Nordic policy-making systems changed in recent decades? This paper investigates this question by tracing changes in the participation of academics on ad hoc advisory commissions in the Nordic countries over the

last half-century. Drawing on a unique data set with information on more than 6000 advisory commissions with more than 73000 members across four countries, the paper finds significant differences across the Nordic countries in academic participation on advisory groups. While academic participation increased steeply in Norway and to some extent also in Denmark, it remained low in Sweden and even decreased in Finland. The paper also discusses potential explanations for this remarkable divergence in the reliance on academic experts in policy-preparing bodies. The paper contributes both to debates about the Nordic governance model and to research on expertise and policy-making.

Trym Fjørtoft (University of Oslo): "Inductive risk and the legitimacy of non-majoritarian institutions"

This paper provides a new answer to an old question: When is the delegation of power to non-majoritarian institutions legitimate? It is common, in accounts that aspire to justify the legitimacy of institutions outside of majoritarian democratic input and control, to claim that such institutions are *value free*. The value-free ideal is the subject of a large literature in philosophy of science. But the literature has not, so far, been applied systematically to the debate over non-majoritarian institutions in political theory. This paper aims to change that. It argues that the argument from *inductive risk,* arguably the strongest argument against the value-free ideal, (1) can be used to show why a naïve claim to value-freedom is a poor general foundation for non-majoritarian institutions' legitimacy; (2) provides a device to assess the *degree* of democratic value inputs required for an institution to be legitimate; which (3) shows why, and under what conditions, a claim to *technical legitimacy* might still be normatively acceptable.

Robert Huseby (University of Oslo): "The limits of limitarianism"

This paper assesses intrinsic and instrumental versions of limitarianism, a principle of distributive justice according to which there is an upper limit to the amount of goods that people can permissibly have. I start by examining Ingrid Robeyns' instrumental form of limitarianism, and argue that this theory is not limitarian as such. It might have limitarian-like implications when applied under some non-ideal conditions, but the intrinsic values to be promoted are better served by other instrumental principles. Next, I argue that it is difficult to envision a compelling version of intrinsic limitarianism. The reason is first that the possible versions of intrinsic limitarianism suggested (but not endorsed) by Robeyns really rest on other values, pushing limitarianism back into the instrumental realm. Second, a version of limitarianism that flows directly from the (supposed) badness of having too much, is not convincing. Subsequently, I return to instrumental views (other than Robeyns' own), and argue that there might be several plausible forms of instrumental limitarianism. However, any instrumental limitarianism must of course rely on some other intrinsic value. Moreover, since this value cannot be limitarian (because limitarianism is not plausibly seen as an intrinsic

value), it might just be a distraction to propose limitarianism as a distinct principle of distributive justice, to the extent that it is merely a principle for promoting some other intrinsic value under a certain range of non-ideal circumstances. Thus limitarianism is of very limited value.

Sveinung Arnesen (University of Bergen): "How to be gracious about political loss – the importance of good loser messages in policy controversies"

(Paper co-authored with Peter Esaiasson and Hannah Werner)

Accepting defeat in political decision-making is crucial for the health of democracies. At the same time, being a good loser is challenging. How can citizens be motivated to be gracious about various types of political loss? In this paper we study whether political leaders can play an important role in boosting the perceived quality of decision-making processes among losers in policy conflicts. We propose and test the impact of a simple intervention post-decision: good loser messages delivered by co-partisan leaders that remind citizens about the rules of the game. Three survey experiments on probability samples of the Norwegian and Swedish population (total n =4700) show that good loser messages can indeed boost the process evaluations of policy losers. These findings emphasize the potential of procedural messaging to build loser's consent between elections