

## Critical Theory and Practice: Ideology and Morality

### 1. Where to Begin?

A study published in 2013 documented 413 cases in the United States between 1973-2005 in which pregnant women were deprived of their liberty through arrests or forced medical interventions. (Paltrow & Flavin 2013) In 368 cases, the race of the woman was documented: 59% were women of color; 52% (=191) were African-American. In almost three quarters of the cases the women qualified for indigent defense. In only 23% of cases was the father or woman's male partner even mentioned in case documents. Given the methodology of the study, this number is extremely conservative and the actual number may exceed this by hundreds. Two examples: (Paltrow & Flavin 2013)

- A woman who was in active labor when "A sheriff went to [her] home, took her into custody, strapped her legs together, and forced her to go to a hospital" where she was compelled, by order of a judge, to have a caesarean "which she had refused and believed to be unnecessary." What could possibly have warranted this? She was allegedly posing a risk to the fetus by planning a vaginal birth after caesarean (VBAC). Since that time she has given birth vaginally to three more children. (306-7)
- A juvenile court took custody of a fetus of a woman who was living in a trailer home that allegedly was being used or had been used in the manufacture of methamphetamine. Although there was no evidence that the woman was using any illegal drugs while pregnant, the case focused on whether she had inhaled dangerous fumes while in the trailer. Without any scientific evidence to support the allegation, a jury ruled that her "unborn child" was "deprived," i.e., at risk for injury, serious bodily injury, with defects or death." (319)

In recent years "feticide" legislation has been introduced with the goal of further protecting pregnant women from domestic violence by criminalizing assault that results in harm or death to the fetus. However, this has been turned against the pregnant woman herself, contrary to the intent of the law.

- This spring a woman in Indiana was sentenced to 20 years in prison for feticide – illegally inducing her own abortion. Although the facts are unclear, there was no evidence of the alleged "abortion pills" in her body or the body of the fetus. It is a reasonable hypothesis that she simply had a miscarriage. Recently, in the same state, a woman was charged with feticide for attempting suicide while pregnant. (Bazelton 2015).

Many other cases involve nothing more than alleged drug or alcohol use by the pregnant woman. Alarming, "...refusal to follow [a doctor's] treatment orders

was identified as part of the justification for the arrest, detention, or forced medical intervention in nearly one in five cases." (Paltrow & Flavin 2013, 316) All this, in spite of the fact that

...no state legislature has ever passed a law making it a crime for a woman to go to term in spite of a drug problem, nor has any state passed a law that would make women liable for the outcome of their pregnancies...Similarly, no state legislature has amended its criminal laws to make its child abuse laws applicable to pregnant women in relationship to the eggs, embryos, or fetuses that women carry, nurture, and sustain. No state has rewritten its drug delivery or distribution laws to apply to the transfer of drugs through the umbilical cord. (Paltrow & Flavin 2013, 320-21)

I have no doubt that in these cases, some of the police officers, sheriffs, judges, medical practitioners, and members of juries were, as individuals, sexist, racist, and classist. I also believe that there are problems with the laws that govern women's reproductive lives. However, at the heart of this pattern is a structure of social relations that is ideologically sustained. Today I am going to explore what that means and the basis for ideology critique.

### 2. Ideology and Pregnant Women

How do we locate ideology in the examples just described? What does it mean to say that the pattern of mistreatment of pregnant women is ideologically sustained? And on what basis do we target *ideology* for moral critique?

In my previous Spinoza Lecture I argued, drawing on prior work, that we should understand social practices as interdependent *schemas* and *resources*, and social structures as a network of social practices. Using the term 'ideology' in the pejorative sense,<sup>1</sup> I proposed that ideology consists in those schemas that organize us either (a) in relations of domination and subordination or (b) to resources whose value is misconceived. This offers two dimensions of ideology critique: we are valuing the wrong things, or the practices and structures that provide access to things of value are unjust.

Suppose for the moment that we can locate ideology in the schemas that constitute our practices. What, then, is the basis for ideology critique? One dimension is *epistemic*: the schemas are cognitively faulty, e.g., they rely on inapt concepts, draw our attention to problematic stereotypes, entrench misguided inferences. The epistemic flaws of ideology aren't simply a matter of false or inconsistent beliefs, but processes of thought and affect, and dispositions to act. Another dimension is

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<sup>1</sup> My preference is to use the term 'ideology' in the non-pejorative sense, but because I don't think that is at issue here, I will continue to use it with the critical or pejorative sense.

*socio-political*: the practices constituted by the schemas distribute resources in ways that are morally problematic or unjust.

Note, however, that this characterization of both the epistemic and political critique, points to the *forms* of critique (epistemic or political), but doesn't give us a substantive *bases* for critique. I have not yet provided the normative premises that would be required, for example, to critique the pattern of cases in which pregnant women are deprived of liberty.

So we should ask: What is wrong in such cases? It might seem that we don't actually need anything like ideology critique to criticize the incidents. They are epistemically problematic because the sheriffs, judges, police officers, have false beliefs about the law, and probably also about the likelihood of harms to a fetus of a VBAC birth or drug use. And these false beliefs lead them to do bad things, viz to violate women's legal and moral rights. But notice that this answer says nothing about schemas, resources, practices, or ideology. Why worry about ideology?

As I see it, there may be false beliefs and violations of rights in these cases, but that is just the tip of the iceberg. Or, to switch metaphors, just a symptom of the disease. These individuals don't *just happen* to have these problematic beliefs, or *just happen* to respond in extreme ways to these incidents. In the contexts in question, pregnant women have a social meaning, and poor pregnant women and pregnant women of color violate that social meaning. The social meanings are a *source* of individual beliefs and attitudes, and explain a pattern of thought, emotion, and behavior.

What is the social meaning of pregnant women? Drawing on George Lakoff's (1999) idea of a cognitive model, we might begin by listing a number of distinct but overlapping associations: mother, caregiver, carrier of male seed, incubator of fetus, producer of the next generation, partnered (i.e., unavailable) female. To the extent that a pregnant woman does not fit these associations, or the values associated with them, the ideology has us respond by devaluing, criticizing and correcting her. Note:

- The particular weighting of factors will vary depending on context. The ideal, in many US contexts, is the white, relatively affluent, heterosexual, married, behaviorally cautious, young, fit, woman. In the rights violation cases, the dominant element of the model seems to be that of the fetal incubator.
- The social meaning of pregnancy governs a wide range of social practices that manage access to resources such as liberty, autonomy, infants, material/medical support, work, and even an individual's own body. Moreover, practices involving pregnant women are interlocked with other

practices involving sex education, childcare, marriage, property, citizenship.

### 3. Ideology and Epistemic Critique

If we are to take aim at ideology, it would seem that the first step would be to point out how the schemas fail us, e.g., the ways in which the ideology of pregnancy and the criminalization of poor women and women of color, relies on distorted stereotypes, a problematic emphasis on certain facts and neglect of others, background desires and other emotions. We could look for false or contradictory assumptions, hypocrisy, looping effects of power.

However, the epistemic goal cannot be to rid ourselves of schemas that organize how we select and process information, as if we could just let the facts speak for themselves. All cognition relies on the tools culture provides us. Jack Balkin (1998) has used the term "cultural software" for the cognitive dimension of culture. Although this term is clunky, it has several advantages: (i) it treats cognitive structures and processes as tools; (ii) it emphasizes that thinking is not a static representation such as a belief (though it produces beliefs) but a process or a practice; (iii) it highlights the fact that there are shared forms of cognition, but also variation with individual uses (plug-ins, patches); (iv) it highlights the mutability and contingency of cognitive processes, (v) it is more friendly to an information processing model of cognition that is compatible with content externalism. Balkin says:

To be sure, beliefs can be tools of understanding and can be used to create new tools. But more important objects of study are cognitive mechanisms that produce beliefs [and other attitudes?]. Examples include the tendency to structure experience in terms of narratives, psychological methods of categorization, varieties of metaphoric and metonymic thinking, strategies for reduction of cognitive dissonance, heuristics and biases employed in making judgments under uncertainty, and understanding by means of networks of conceptual oppositions in the form "A is to B as C is to D." (102)

Although this view deserves systematic development, here are a few points worth making here:

- Our cultural software is "installed" through ordinary (messy!) processes of socialization; although there are commonalities among us, there are also differences between us.
- Culturally shared cognitive mechanisms shape our capacities for and objects of attention, memory, emotion, expectation and imagination.

- The coordination of cognitive mechanisms is produced and reinforced by material prompts: signs, symbols, and their public meanings.<sup>2</sup>
- Such shared mechanisms result in shared attitudes. An attitude towards X is a complex disposition to perceive, have emotions, deliberate, and act in specific ways towards X. (Anderson & Pildes 2000, 1509)
- Shared attitudes, social meanings, and material resources are causally and constitutively interdependent. [This deserves much explanation I won't provide here.]
- The coordination of our attitudes identifies and distributes access to resources (things taken to have or lack value) and so distributes power.

All cognition involves shortcuts, selection, and compartmentalization; we cannot manage without this. And within the social realm, looping is ubiquitous and inevitable. So although correction is always possible, meaningful correction cannot just be a matter of pointing out the fact that our thinking is limited or biased (Antony 1995). For example, correcting your paradigm examples of birds to include ostriches is, at least in the northern hemisphere, usually pointless. But there might be contexts in which it matters, i.e., we might have a reason to make this correction if action or cognition hinges on it. Meaningful correction or critique is not neutral, even if it presents itself as simply “epistemic.”

So which biased and selective forms of cultural software are apt for ideology critique? Balkin (1998) suggests that ***ideology is a form of cultural software that consists of those cognitive processes that “create or sustain unjust social conditions or unjust relations of social power.”*** (104-6) There are two points to note about this view. First, cultural software is ideological by virtue of its unjust consequences (110). Second, to evaluate the consequences as unjust, we need to rely on a conception of justice. (105, 111, 118, 120).

How does this apply to the abuse of pregnant women? We might start with a theory of justice that affirms women's human rights to bodily integrity and autonomy with respect to health choices, and then show how the violations of these rights flow from the cognitive model of *pregnant woman* employed in the contexts in question. A critique would insist that *personhood* (and corresponding elements of autonomy and dignity) be included in the model for pregnant woman and problematized in the model for fetus. We might challenge, more generally, the practices of thought that govern the dominant thinking about women, pregnancy, and related matters, not just in the minds of individuals, but in the culture more broadly.

<sup>2</sup> In previous work I used the term ‘schema’ to refer both to public symbolic forms and meanings, and to the cognitive schemas that we rely on to produce and process them. Here I separate the two into social meanings and, following Balkin, cultural software.

### 3. Ideology and Moral Critique

There is a worry about such a critique however. Those who are invested in the practice of correcting and punishing pregnant women for being Black or poor will surely regard it as not only unmotivated, but as *ideological* itself, e.g., they will resist challenging the personhood of the fetus on grounds of justice. This raises the more general worry that ideology critique will never be “neutral,” (I indicated why in the previous section), but if not neutral, then won't any critique, itself, be problematically ideological? And how, then, can it carry moral weight? I will respond to this concern by considering how value is constituted through social practices, and what it means to “challenge” practices of thought and action.

#### A. Ideology and Moral Epistemology

If, as Balkin suggests, ideology is to be judged in terms of the injustice of its effects, it would seem that there must be a correct, non-ideological, theory of justice on the basis of which we can make these judgments. If *in fact*, women – and not fetuses – are entitled to the full rights of personhood, then a rights critique of our cultural models of *pregnant women* is not ideological, even if it relies on background values. And a cognitive shift that prevents such violations of rights, is warranted.

This approach shifts questions concerning the legitimacy of ideology critique to the question of moral epistemology: how do we know what is the right theory of justice? If we can figure out *what justice is*, then the proper target of ideology critique simply follows: we should change those forms of cognitive software that produce injustice. This shift to moral epistemology is useful, but stated in a way that is at least highly misleading.

- First, it is not necessary to *know what justice is*, or to have a complete theory of justice, to engage in critique. It may be sufficient to know that this particular practice, or structure, is unjust. (Mikkola; also Balkin 1998, 120)
- Second, moral knowledge and knowledge of value is at least partly an empirical matter. We cannot know what is valuable or good, or how to organize ourselves fairly, without reference to details of human experience, forms of understanding and cooperation, in our particular historical context. So philosophers are not especially well-equipped to know what justice is.
- Third, one reason why we gain knowledge of value and justice through experience is that actual historical practices constitute value, provide us with reasons for action, and coordinate our shared projects.

Cultural software allows human beings to articulate and concretize their values, to put flesh on the bones of their...inchoate urge to value and evaluate. Through cultural software our brute sense of the beautiful is

transformed into the many varieties of aesthetic judgment, some of which come into being and fade away at different points in history. Through culture software the inchoate sense of good and bad is transformed into the many varieties of moral and practical judgment, and the many virtues and vices are articulated and differentiated. (Balkin 1998, 17)

### *B. Practices, Values, Reasons*

Let's consider again the pattern of abuse we started with. Set aside "high theory" for a moment. What is really going wrong when a sheriff straps together the legs of a woman in labor or when a pregnant woman is taken into custody to protect her fetus from her. What is really going wrong when a woman is sentenced to 20 years in prison for not attempting to revive a non-viable stillborn? I think that the experiences and choices of the pregnant women *don't matter*; they aren't valued. This is captured in the actions of the individual police officers, sheriffs, and judges, but as I've said before, it isn't just their individual failing.

I want to suggest, more broadly, that the experiences and choices of Black and poor women don't matter within the dominant culture of the US, and that the experiences and choices of more affluent white women matter culturally only relative to their role in men's lives and their willingness and ability to fulfill those roles. These are bold claims. Remember, though, that I'm not talking about whether individual women matter to individual men. I'm not talking about what people *believe*. I'm talking about broad social meanings and the cognitive software that generates and sustains them.

Why don't poor pregnant women's experiences matter or Black pregnant women's choices count for anything? It is tempting to say that from the dominant perspective, these experiences, choices, even these individuals, are not *seen* or not seen *as such*; they are eclipsed by attention to other features of the situation. Of course it is likely that the sheriff and officers hear the women's cries of resistance. But they aren't understood; they aren't meaningful in the way they should be.

Let's attempt to apply the ideas I've been sketching to understand this. Cultural software shapes our experience through selection, attention, memory. Recalling Balkin's examples, it provides such things as a shared set of narratives to structure experience, modes and terms of categorization, varieties of metaphoric and metonymic thinking, strategies for reduction of cognitive dissonance, heuristics and biases employed in making judgments under uncertainty. These tools occlude some phenomena and highlight others. In the context of evaluation, they give shape to what we value, and consequently our reasons for action.

Values are not so much what people have as what they do and feel. Human beings possess an inexhaustible drive to evaluate, to pronounce what is good and bad, beautiful and ugly, advantageous and disadvantageous. Without

culture, human values are inchoate and indeterminate; through culture they become differentiated, articulated, refined. (Balkin 1998, 27-8)

What Balkin might have gone on to say is that valuing and reasoning are human practices. They are tutored, guided, responses to things *and people* around us. They organize us to solve coordination problems, to establish and affirm relationships and identities, and to distribute power, resources, knowledge.

Just as we can criticize forms of reasoning because they don't take into account relevant information, so we can criticize patterns of valuing. We might say to the police officer or judge: your valuing of the fetus in this context is not adequately informed; it is selective in what it takes into account; it is missing the significance and relevance of the woman's autonomy. You are not interpreting the meaning of the woman's cries of resistance because you cannot hear her. And this is not accidental. This is a practice of valuing you have learned; it is shared with others because it is encoded in the cultural software.

Consider Rawls (1955) on promising. In being committed to the practice of promising, individuals commit themselves to forego calculations of individual self-interest when the time comes to make good on the promise. If you are good at promising, if you have been socialized properly, your dispositions to break the promise are hardly noticeable. You may want to do something else, but you ignore the want, and rightly so. White Supremacy teaches us to be selective in what we notice, what we respond to, what we value. Just as the promisor ignores the desire to act in self-interest and takes this to be called for, the police officer ignores or interpretively skews the cries of the Black woman. She is not what matters.

On what basis can we say that she does matter, that women matter, that Black lives matter? Of course we cannot make the defenders of White Supremacy care about Black women. But as a first step, we can legitimately demand that their practices of valuing be less selective – we might say less problematically biased – in taking into account features of the situation. This, again, is not just a matter of asking individuals to improve their cognitive processes (though that would be good). It involves changing a practice, a frame of social meanings, rewriting our cultural software. But on what basis do I say that we can "legitimately demand" this? There are several possible bases for such a demand, allowing that their relevance will depend on context:

- You should want your practices of valuing – the ones you are committed to – to be open to new information and to avoid misinformation.
- If you are going to coordinate effectively, you should be attentive to the reasons that all parties have to maintain the coordination. If others have good reason to defect, you are at risk of losing the benefits of coordination.

Both, you might think, are a matter of rational self-interest. One problem, however, is that these considerations are less than compelling when there are substantial differences of power. If you can coerce me to conform to the terms of coordination, then self-interest doesn't require you to listen to me or take in information that challenges your power.

But note that it is not our only option to "ask" those in power to take us seriously, as if our only option is to reason with them. The question is: what justifies us in undertaking cultural change, engaging in social movement work, with the intention of disrupting the social order? Are we simply attempting to take control, to restructure social life so that our interests dominate? What justifies our efforts if we cannot rely on shared knowledge of what justice requires? Although fragile and uncertain, I think we should begin here:

- If you (the dominant) were to hear the demands of the currently disenfranchised, you would gain moral knowledge; you would have reason to and want to be responsive to them and change your practices of valuing – and the further practices (of distribution, relating, etc.) that depend on them – to be more open and inclusive.
- If you were to change your practices to take the disenfranchised into account, this would result in new forms of coordination that you yourselves would recognize to be an improvement.

One might worry that such claims are (a) paternalistic and (b) unrealistic. Re (a): I don't think that such a demand or hope can be paternalistic. What we are saying to the powerful is that we do matter, and that if we are recognized to have value and treated humanely, we will all be better off. That may not be true. But it is what we have to offer. Re (b): whether it is unrealistic depends on the contingencies of history and our efforts to work in solidarity with the disenfranchised for social change. At this stage of social injustice, we cannot make promises. We will have accomplished a lot, however, even if hope can provide a basis for action.

### **Key References**

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