

NOT FOR PUBLICATION

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IJS - 23      INSPECTING THE INSPECTORATE 8:  
                  PROFESSIONAL JUDGMENT IN A  
                  DEMOCRATIC STATE

44 Canfield Gardens,  
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Mr. Richard Nolte  
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Dear Mr. Nolte:

This newsletter is the eighth and final in a series of newsletters in which I examine the operation of Her Majesty's Inspectors of Schools in England and Wales.

In this section of the continuing essay, I attempt to provide a conceptual framework for evaluating the activities of the Inspectorate and then draw some conclusions based on the philosophical analysis. Although the focus of this discussion is the Inspectorate, the points made about the role of professional judgment in a democratic state seem to me to have more general application.

I remind you that the pagination of this newsletter follows the numbering of the essay as a whole.

With this newsletter I conclude the essay on the Inspectorate and hope that this series of newsletters has contributed to a better understanding of this unique group of men and women.

Sincerely,



Irving J. Spitzberg, Jr.

INSTITUTE OF CURRENT WORLD AFFAIRS

VIII. THE ROLE OF PROFESSIONAL JUDGMENT IN A DEMOCRATIC STATE.

The most important and difficult conceptual question raised by our analysis of the Inspectorate is: what weight do we assign to an "expert's" judgment about problems of political interest in a democracy? Educational policy is certainly of political interest, not just because parties are interested in educational issues, but because educational decisions involve value judgments which affect all members of the society. So a question about the character and role of various sorts of judgments in educational policy decisions seem to be in order. The question must be set in its most general context.

And if one can deal with the general question, then there are subsequent questions about the implications of the first answers for existing and proposed institutional arrangements for channeling expert opinion into the democratic decision making process. But first the general question.

The threshold conceptual problem of the general question is: what ought to be considered an "expert" or "professional" judgment? This is to say, what questions ought to be answered by those who have special knowledge?

The first and most important characteristic of a professional judgment is that it is a judgment: it must be justifiable and justified. What makes conclusions which we call professional judgments professional is that they are justifiable and justified by reference to a body of knowledge which is itself -- or at least its core ideas and concepts -- understood and to some degree accepted by those who deal with problems in a particular field on a regular basis. Although this account of professional judgments is based on an account of social organization and practice, it does not require agreement throughout a group of practitioners about any given proposition in the field, but it does require at the very least some acceptance of canons of discussion and disagreement: that is, how one goes about arguing about differences of judgment.

To classify a field as professional or expert is itself a difficult judgment. In the law of evidence as it exists in most Anglo-Saxon jurisdictions, one of the most disputed questions is what sort of testimony ought to qualify as "expert" and which should not. And philosophers of science have disputed for centuries what constitutes a "science," which, if there were agreement, might help us develop criteria for the concept of expert or professional knowledge and judgment.

In the context of these remarks, I shall not attempt to provide any detailed guidance in regard to the problem of classification. The important point to be made, and therefore repeated, is that what makes expert or professional judgments different from other sorts of judgments is the existence of an identifiable body of knowledge to some degree

accepted by a group of practitioners by reference to which various judgments can be justified and criticized. Also, that there is a recognized or recognizable group of people with a mastery of this corpus and its rules of argument to whom one can turn for advice or criticism.

A final point which should be made in regard to the conception of professional knowledge is that the model for "body of knowledge" is not necessarily the physical sciences. The knowledge need not be formulated in mathematical or experimental terms. Instead it may rest on shared experience, but experience which is subject to some sort of generalization and then challenged by reference to other experiences. In the educational sector, "professional knowledge" is a mixture of both scientific disciplines and generalized experience. This may be what is meant by the jargon phrase: education is both a science and an art.

Since the general issue is about the role of professional judgments in decisions in a democratic state, some brief discussion of democracy is in order. Without attempting to solve conceptual problems which have vexed politicians and philosophers for over 2500 years, one can say that a democratic state in the twentieth century is one where major social decisions are taken by those who must answer periodically to their constituents through a procedure which allows for majority rule: but that these decisions are limited by a constellation of values through reference to which certain rights of the individual are considered inviolable, even if contrary to the wishes of the majority. These values include at the very least: liberty, equality, justice, and a minimum level of health and wealth.

I shall not here attempt to justify the preceding account of the democratic state or the relevance and importance of any component of it. Instead I shall assume the correctness of it and then ask what the implications of this formulation are for an account of judgments in the state and the role of expert or professional knowledge in them.

However, it is important to understand that although I would claim that all of these values and the two conditions of majority decisions and protected individual rights are part of a conception of a democratic state (or ought to be so), I would not claim that all of these values and conditions are mutually consistent. The acceptance of the possible conflict between values and the ad hoc working out of these conflicts is an additional condition of a democratic state. It is the role played by professional judgments in the working out of these conflicts and the role played by these conflicts in professional judgments which make the consideration of the relationship between professional judgments and social decisions so important.

I have been using the term judgments, but it is not clear exactly what this concept means. The search for an understanding about how one makes judgments -- what it is to talk about about judgments -- has

preoccupied philosophers at least since Aristotle. Yet some characteristics of judgments about social and political issues need to be identified, even in an essay about inspectors.

Judgments are decisions about alternatives: they are evaluations of possible choices. Judgments need not be about alternative courses of action: an aesthetic judgment about the beauty of a sunset is not a judgment about what to do about the sunset or because of the sunset, it is a comparative conclusion about the sunset in relation to other or other possible sunsets. Yet even aesthetic judgments have implications about particular courses of actions. And social and political judgments, which interest us here, are usually about alternative courses of action open to individuals and individuals as members of communities.

The judgments about actions and their implications are worked out by reference to scientific knowledge, practical experience, and values. To claim this basis for judgments in the social and political sphere is not to claim that this is necessarily how people go about making judgments but only that these areas of knowledge provide the conceptual framework for justifying these judgments. And justified judgments must be! Although colloquially one might speak of a judgment based on faith, one would find it rather odd for someone to claim to have made a judgment for which he cannot give reasons: instead of a judgment one would call such a statement of conclusion prejudiced or arbitrary. It is this requirement of justification which is the most important characteristic of judgments. And it is through justification that the relationship between professional knowledge and judgments with values and value judgments becomes important.

For purposes of analysis and comment we can distinguish between two different sorts of judgments: those which are mainly professional (expert, scientific, etc.), but which necessarily have value components; and those which are mainly value judgments but which necessarily make assumptions about factual situations which are based upon professional knowledge. Although we can distinguish between these two types of judgments, and we shall consider some examples in a moment, it is crucial that we understand that they are really part of the same continuum of overlapping considerations, so that one cannot have a clear division between those which are professional judgments and those which are value judgments. All of the conceptual problems which have bedeviled the analysis of the relationship between "is" and "ought" in the history of philosophy make clearcut divisions impossible.

Because of the educational theme of this essay, it will be helpful to look at examples of professional and value judgments drawn from educational problems. But first we must understand the difficulties in making the professional/value distinction in education. Education is itself a normative concept; that is, it entails a set of norms about what constitutes appropriate goals -- for example, the ability to reason,

the learning of truth, the acting in a way consistent with a range of moral values, etc. Therefore, it is difficult to say that any judgments about educational problems are professional or expert in any strong meaning of these terms, because of the necessary cluster of value judgments. Yet there are many process judgments which are also called educational which could be considered to be primarily professional: judgments ascertaining cognitive development, evaluating the efficacy of reading programs, assessing teaching techniques, and organizing curriculum materials in a logical progression. These could be considered professional in that they could be justified by reference to a body of scientific knowledge or extensive and generalizable personal experience of a group of people interested and experienced in the field. However, all of these "professional judgments" have crucial value implications. Such judgments must confront choices among limited resources which require value judgments: e.g. a decision to implement a particular reading program may take resources away from developing curriculum in reading for another sort of classroom or school; therefore, a judgment based upon reference to a whole set of moral values as well as conclusions about facts must be made in order to judge between two competing claims even in an area of admitted professional expertise. And much has been made about the way in which the moral perspective of the professional affects his conception of and choice among "facts." Although these value components of mainly professional judgments may not be subject to professional analysis, they are quite amenable to reasoned argument and require formal justification.

The second category of judgments is that involving issues which require mainly value judgments. This category includes, for example, judgments that comprehensive schools are better than schools which are socio-economically or by ability selective; a judgment that integrated schools are better than racially segregated institutions; or a means/ends judgment, such as that busing is an unwarranted means of achieving either comprehensive or racially integrated schools. These judgments are first and foremost justified by reference to a hierarchy of values--particularly ranking freedom and equality -- which requires justification of the particular values and their ranking in order to justify the particular judgment. Also these judgments make assumptions about the nature of education which require justification by reference to both values and scientific and experiential knowledge, such as the impact on rates of learning of various combinations of peer groups or the effect of various amounts of travel time on the performance of certain skills in schools. But the character of the argument in all of the cases in this category is such that a strong value justification will overrule a negative scientific or experiential judgment, if the argument is assumed to be between two reasonable men.

This distinction between judgments which are primarily professional and those which are primarily value related, in spite of

the qualifications on both, will allow us to suggest different constraints which the context of a democratic state imposes on each. Delegation is quite consistent with the theory of a democratic state which requires accountability to an electorate for the most general value decisions. Those who are most knowledgeable may be delegated decisions which involve judgments about professional issues, if the value implications of such judgments are explicitly considered and stated by the professionals and are not inconsistent with the general social values of the state. In order to support this delegation, professionals must identify the professional foundations of a decision for the rest of us lay people to see and to understand. This requires the professional to translate his professional justification for an action into non-technical language understandable by those outside of the profession. As well the professional must clearly state the value implications of his decisions, at least in his own view. Only if both of these demands are met can one justify the delegation of certain policy judgments to professionals.

A further constraint placed upon the process of professional judgment by democratic ideals is one which looks to the manner in which the professional deals with his peers and his clients. Although the authority of the professional rests upon his mastery of a body of knowledge and/or long experience in dealing with professional problems, the manner in which the expert treats his peers and clients must be consistent with the demand for individual rights inherent in our conception of democracy. Especially important in this regard is equality of access to professional expertise by all those peers and clients who need it.

Another constraint is respect for the individual's right to disagree: if one is dealing with professional clients -- such as HMI's dealing with teachers -- then the assumption ought to be that the client has adequate knowledge to accept or reject the professional judgment of the expert; and if he does not, then it is the obligation of the expert to provide enough contextual knowledge to allow the client to make an informed judgment about the expert's advice. Although I have characterized this limitation as a democratic constraint on the professional judgment process internal to the larger profession, I would not suggest that there is any demand for a majority rule procedure in making professional decisions. Indeed, the distinctive feature of judgments primarily professional is that they are justified not with reference to a formalized procedure of decision-making but instead by reference to canons of investigation and validation encapsulated in a body of knowledge. But having said this, one still must conclude that there are and ought to be certain democratic constraints on the process of professional judgment even among professional peers and clients, which can best be summarized as constraints of respect for others' professional autonomy.

Related to the constraints of the professional in relation to professional clients and peers is the responsibility of the professional to those who do not have the knowledge or ability to evaluate professional judgments. This relationship is one of trust which places on the professional a burden of strict responsibility to look out for the interests of the lay members of society in judgments and advice on their behalf. It should be noted that it is the responsibility of other professionals to enforce this obligation on their peers in the interest of the lay audience, because only they have sufficient knowledge to do so. This compounds the responsibility of trust which a democratic society places on the professional. If the demands of the values of a democratic society place constraints on the making of professional judgments, then the requirements of sound professional judgments place limitations on the making of value judgments as well. The majority rule of decision and the minimum conditions of individual rights operate in a social context where the actual facts of life throw up the alternatives involved in a judgment. So a judgment can be made only if the facts of the alternatives are understood. And a good judgment can be made only with the most complete possible knowledge of the field of enquiry. "Good" in this situation involves considerations of consistency of understanding with factual conditions as well as values. So even where value considerations are uppermost, the value judgments made through the democratic process require, as a necessary though not sufficient condition, sound professional judgments about the alternatives for decision.

If my preceding analysis of the appropriate role for professional judgments in a democratic state is correct, then it has a number of implications for the structure as well as the substance of the provision of professional knowledge in a democratic society. Because of the importance of professional judgments and therefore professional knowledge and advice to all democratic decisions, the delivery of professional judgments to those who are vetted by democratic procedures with the right of final decision must be organized to provide the best possible advice. And because of the role which values play in professional judgments, those who are to provide professional advice must be in a position to understand the value at stake. Both of these considerations support an "in-house" system of professional judgment and advice, which is very accessible for democratically designated decision makers. Such a system may create a risk of closing out external sources of professional advice, but the enlightened politician in a democratic state can more easily compensate for this problem than for the lack of regular access to such advice which tends to be the result of an ad-hoc, contractual system. (Also, in either an ad-hoc, contractual advice or in-house system, it is a continuing responsibility of professionals outside of the government to provide continuing criticism of official policies.) This suggests that there should be an internal, formal organization for the presentation of professional advice to decision makers who make judgments in a democratic society.

The implications of this analysis for the operation of a professional advice system are quite clear: the professional who is offering his judgment as advice has an obligation to clearly record both the professional basis and value perspective of his advice. Such a statement requires a self-conscious awareness of the basis of professional judgments; especially the impact of the individual professional's value perspective on his professional advice and the impact of the professional advice on the value positions held by others. This obligation demands that the professional state his professional judgments as alternatives indicating the value impact of each alternative with his own recommendation justified in value terms.

The web of responsibilities for the professional advisers in a consultancy service provides a net in which the advisers often find themselves entrapped without clear ideas about which responsibility is most important. Often these obligations conflict so that once caught in the web, it pulls one way and then the other.

What should a professional adviser do when his best professional advice is disregarded? Should he remain silent or should he raise the matter with his professional peers in a public manner? The answer to both questions must be that the professional adviser must vigorously prosecute his professional case: it is his responsibility to do so as trustee on behalf of his clients, peers, and especially the lay public. Silence in the face of professionally incorrect decisions is an abrogation of this duty. The professional adviser working in the system does have a responsibility to abide by the decisions of those who have been democratically vested with the right of decision; but this responsibility does not entail inaction on the part of the professional as adviser in the process of influencing or seeking to change that decision.

Another source of conflict between professional advisers in a governmental consultancy service and the political decision makers can arise over differences in value judgments and the evaluation of value implications of various alternative policies. In this case the professional has a similar obligation as in the case of professional disagreements to present his case effectively and even to inform the public of the issues if persuasion fails.

But in the case of a conflict of values between the professional and the politician -- that is, if the professional adviser believes the political decision to be immoral -- then the professional adviser has a responsibility to himself and to the public to resign and actively oppose the policy, because if he continues to participate in the government which makes "immoral" decisions, then he is ceding his right as a morally responsible and autonomous being.

Although in fact the distinction between professional and moral disagreement may be difficult to make, the whole analysis of the role



of the professional in a democratic state requires that the distinction be made.

If one takes these canons of evaluation to the structure and operation of Her Majesty's Inspectorate of Schools, he finds the HMI record quite good. The system is organized to provide professional judgments about educational issues to those who are vested with the political right to make the policy decisions.

However, to this outsider it is not completely clear that the HMIs are aware of or that they state the value implications of their professional advice; or even that they believe it to be their obligation to justify in detail the educational basis of their judgments. Indeed, few of the HMIs I talked to really had thought about how they made their judgments or about how to go about justifying them in any detail. The usual response to the question about judgment was: it is a matter of experience.

An agency providing professional judgments in the form of advice to the elected leaders of a democratic state has an obligation to do better than just invoke "experience" as justification. The Inspectorate must undertake some analysis of what its standards of evaluation and judgment are, and the HMIs in the field must be aware of and agree with them. Such an analysis of how HMIs do and ought to make judgments about educational policy issues would probably result in better judgments and significantly better communications about them.

The catalogue of responsibilities of professional advisers suggested in my analysis raises a question about the actions of the Inspectorate. In the last few years, according to my reading and conversations, there have been no public statements by individual HMIs about the professional implications of political decisions, nor have there been any resignations over principle. This record does not necessarily reflect the agreement of individual HMIs with government policies, whether Labour or Conservative, for a number of HMIs have told me that they have in fact been personally opposed to particular policies. Instead this silence reflects the British civil servant attitude, shared by the Inspectorate, that a civil servant's role is to advise and then abide by political decisions. This is an explanation, not a justification.

The justification for the HMIs' abdication of a critical role would be that once a policy decision is made by a duly elected official, it is not the professional adviser's right to frustrate it in any way, because only the elected official has been vested with democratic authority to act on behalf of the people. But I would argue that this justification neglects the professional adviser's special responsibility of trust, suggested earlier, which rests upon his special knowledge and position of power and which requires him to make this knowledge

available to the public at large. If this analysis is correct, then it seems extraordinary that the major changes in education policy in the past decade -- for example the reversals in the sphere of secondary school reorganization -- have not prompted either public outcry or resignation by individual HMIs. One cannot make any final judgments about the Inspectorate record in this area of professional responsibility; but the record definitely does raise questions.

And if there are questions about the consistency of Inspectorate action with the canons of professional responsibility suggested here, then there most certainly must be questions about the use which politicians have made of the Inspectorate over the years. Major political decisions -- secondary reorganization once again is an appropriate example -- seem to have been made without any systematic professional consultation concerning the substantive educational impact of these essentially value decisions. When one has at hand a system of professional advice such as the Inspectorate, not to use it is to violate the politician's obligation to act on behalf of the best interests of his constituents. Although the value content of the decision means that the politicians are the appropriate people to make the decisions, it does not absolve them from seeking the best possible professional advice first.

So if one takes that standard of professional involvement outlined here to the Inspectorate, the actual does not meet the ideal. But the actual is still better than the record of most other educational and political systems. No mean achievement!

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CONCLUSION.

It is difficult to summarize this analysis of the Inspectorate. But I can say that my overall conclusion is that the HMIs presently make a valuable contribution to the life of British education and may be expected to continue to do so. As communicators, advisers, and even administrators, they play an important role in the dynamics of the decentralized educational system.

The most important lesson which an observer can learn from the example of the Inspectorate is the efficacy of a non-sanction enforcing but persuasive group of relatively independent professionals in an educational system.

But one must also be sensitive to the constraints of style and self-perception on the influence of the HMIs. Their contribution to innovation and change may have been hampered by an inadequate analysis of the appropriate role of the professional in a democratic state. The Inspectorate may have confused the constraints of the value of freedom in a decentralized and democratic educational system with a demand for the abdication of leadership in the educational system. The first does not entail the second.

Since my overall conclusion is quite favorable about the role of the Inspectorate in Great Britain and the possibilities for a consultancy service based on the HMI model in other national contexts, I might be asked to comment on whether this organization has contributed to better education in England than in countries without such a system. I could not respond in detail to such a challenge. My impression is that the British educational system as a whole is no better than many other identical societies and indeed worse than some. But I would ascribe neither the strengths nor the weaknesses to the Inspectorate.

The overall quality of any educational system first and foremost rests upon the quality of political leadership. Therefore, a society tends to get an educational system no better than the imagination and abilities of the politicians it elects to take decisions on its behalf.

At the most (but perhaps also at the least) I conclude that Her Majesty's Inspectorate of Schools can provide us all with an example of how to begin to deal with problems of education facing a democratic state in a technological society. Such a system creates an opportunity for political leadership in matters of public educational interest and for competent performance by teacher and student in the day-to-day life of the educated community. An appropriate and worthwhile example to be offered by the HMIs.