

things we value. We need a public decision-making process that enables and encourages people to acknowledge the tradeoffs involved when conflicts arise between the things people value. Mechanical procedures such as majority rule do not suffice. Such devices cannot deal intelligently, wisely, and fairly with competing values and with the interests people have in realizing those values. They can aggregate people's desires—add them up—but they can't integrate them.<sup>28</sup> They can't reconcile the things that are important to people without compelling them to “win” or compromise. Only citizens can integrate desires for good things that conflict. By permitting us to escape taking responsibility, individually and collectively, for making the difficult choices that every problem, challenge, and issue invariably poses, consumerist politics keeps us from devising effective responses to them, and in so doing estranges us from our public institutions, from each other, and ultimately from the democratic way of life.

## 2

# The Inescapability of Choice

*To govern is to choose.*

—Pierre Mendès-France

### As in Life, So in Politics

Life being what it is, we frequently have to choose between different things that we consider good, valuable, or desirable.<sup>1</sup> The activities, states of affairs, and ways of life that we value, and that in turn motivate us to act, often conflict. They frequently prove incompatible in the sense that it's impossible to obtain or enjoy one thing without having to do with less of, or go without, something else that also has value.

Which should I assign greater importance: the pleasure I take from sparkling vistas and the continued good health that clean air makes possible, or the convenience and freedom that driving myself to work affords? The satisfaction of raising children or the freedom to lead my own life without having to be responsible for others who depend on me? The security of working for a well-established company or the independence that comes with self-employment? Should I buy an automobile that's economical and environment-friendly or one that's heavier and better able to protect me in an accident? In each case I face a dilemma—a hard choice.

Every matter of public concern raises such issues. Which should we give priority: the jobs that a new retail development would provide, or the green belt that shields our homes from the harshness of asphalt and skyscrapers? Should we spend more money on preparing three- and four-year-olds for school, or on providing training in job skills to high school dropouts? Should the principal aim of our criminal justice system be to prevent offenders from committing more crimes and to deter others from breaking the law, or should it be to rehabilitate offenders and prepare them for reentry into the community—or should it be simply to punish, to salve the victim's actual pain and our own vicarious pain by

exacting retribution? In each case, we face a dilemma: which of two or more things, each valuable in itself, should we choose?

#### TWO SOURCES OF CONFLICT

Things that are good or valuable, either in themselves or because they enable us to obtain other things that are good in themselves, can conflict for two basic reasons: One is "scarcity"—we don't have enough resources (e.g., money, time, technical knowledge) to have as much of both things at the same time as we would like. The other is the "qualitative distinctiveness" of the things in conflict. Goods that conflict because of scarcity are not invariably incompatible—it just happens that, in the circumstances, we don't have enough resources to "have our cake and eat it too." Good things that are qualitatively distinctive, however, by their nature are invariably incompatible. Even if we had unlimited resources, they would still conflict; it's impossible to choose one without sacrificing the other.

Conflicts resulting from scarcity occur in both our personal and our public lives. For example, I might face a choice between spending what money I have on buying a new car or on remodeling my house. In principle, I could do both things, provided I had enough money. As it happens, however, I don't, so I'm faced with a difficult choice. Similarly, I might have to choose between taking up the piano and learning karate—I just don't have the time and money to do both. Similarly, as communities and as a society, we might face a choice between spending money on social programs and cleaning up the environment. Or we might confront a choice between providing health care coverage for every ailment and type of treatment and ensuring that all persons are covered for certain common kinds of ailments and treatment. In principle, we could do both things. But as it happens, we don't have enough resources to do as much as we would like, so we have to make a difficult choice.<sup>2</sup>

Scarcity of resources isn't the only reason we face tradeoffs, however. Many of the good things that human beings value are qualitatively distinct from each other. They're as different as apples and computers. For example, I consider it good, both for myself and for others, to be honest with people. But there might be times when by being honest I would do serious harm—perhaps by hurting someone's feelings. In a case such as this, I face an inescapable dilemma. The good that I would realize by refraining from hurting someone else's feelings is inherently incompatible (in the circumstances) with being honest. Similarly, I might have to choose between accepting a job that pays well and provides job security, on the one hand, and taking one that, on the other hand, pays less and offers less security but more freedom and autonomy. In deciding where to live, I might have to choose which to give priority—climate, culture, or cost of living. Or I might face a hard choice between enjoying the freedom and pleasure of eating what I

like and eating in a way that preserves my health. Or I might be forced to choose between a career and a family, or between my job and my spouse's career.

In our communities and nation as well as in our personal lives, we often confront difficult choices between valuable things that are qualitatively distinctive. For example, the value we place on national security might well conflict with the value we place on freedom of information, our right of free speech, and our right to know what our government is up to so that we can hold it accountable. Or the value of free expression may conflict with the value of mutual civility. For example, by choosing to protect the freedom of persons to speak freely, we unavoidably slight the value of being able to live without being exposed to disturbing or offensive talk. Similarly, we might face a choice between the value of allowing people to act however they wish and the value we place on public order. Or we might confront a choice between the quality of life (the enjoyment of mental clarity, freedom from pain, not having to be totally dependent on others) and the continuation of life. Again, some good things by their very nature can conflict; they are such that often we can't have one without giving up something with respect to another. It's impossible to choose without loss. As a result, we have to make a hard choice between them.

#### VALUE CONFLICT AND PUBLIC POLICY DISPUTES: AN EXAMPLE

In an article about the Clinton administration's health care plan, Willard Gaylin, a Columbia Medical School professor, illustrates how conflicts between good things generate political dilemmas.<sup>3</sup> He argues that "no amount of tinkering with the process of delivery or payment . . . can resolve the fundamental contradiction . . . : if you promise everyone access to whatever medical care he or she needs or wants," we will be unable to stop the rising cost of health care. "We cannot do everything for everybody," Gaylin insists. We face a hard choice, in other words, between the value each of us places on his or her health (and hence on being able to obtain treatment for ailments that harm a person's health) and the value each of us places on the ability of everyone to maintain (or regain) his or her health. We confront this hard choice because, in current circumstances, we simply cannot afford to do both. (Scarcity of resources forces the choice upon us.) If we don't make the hard choice before us, costs will continue to rise, steadily consuming more and more of our currently available resources, forcing us into still tougher decisions about what to sacrifice in order to pay for health care, and ultimately bankrupting us.

Why aren't we facing up to this tough choice? In part, Gaylin believes, because "we don't want to hear about restrictions, especially on something like health care. . . . Americans refuse to believe there are limits—even to life itself." ("Death with dignity," Gaylin contends, "really means death without dying,"

and "growing old gracefully" is "a related term that, on closer analysis, means living a long time without aging.") But equally important is the fact that the hard choices we face "are not medical choices; they are moral and ethical ones." We don't know how, as a public, to go about making such choices. Like our public officials and professional policy makers, we find it politically easier and safer "to talk about delivery systems, health-product-procurement procedures, and third-party payments than about what care to give a desperately ill child or whether a kidney patient over the age of fifty should be eligible for a transplant." Like our elected officials, we are "disdainful of the sticky dilemmas inherent in moral reasoning and terrified by the ambiguities inevitable when dealing with values." So we indulge "in the wishful thinking that we *can* have it all." We avoid the hard choices before us.

The first step in dealing successfully with the health care crisis, Gaylin argues, is "to admit to the cruel necessity of rationing health care"—to confront head-on the fact that we cannot guarantee everyone access to whatever health care treatment he or she wants. We will have to decide whether, for example, a desperately ill newborn who is unlikely to live past the age of one should be provided with every sort of treatment available in an effort to prolong his or her life for a year. We will have to decide whether an eighty-five-year-old suffering from a terminal degenerative disease should be kept alive for as long as our technology permits.

Gaylin comments the state of Oregon for facing up to the hard choice of how to allocate its scarce resources. Unlike the nation as a whole, "the state has addressed the uncomfortable truth that they cannot have equity in their health-care system without making anguished, even tragic choices. Even more important," he writes, "the people of Oregon have had a searching public conversation about . . . how much health care they can afford and what it really means to be healthy." Gaylin laments that "what could have been a wide-open, far-ranging [national] public debate about the deeper issues of health care . . . has been supplanted by relatively narrow quibbles over policy." He concludes that "unless we address . . . basic, almost existential questions" [such as] "our attitudes toward life and death, the goals of medicine, the meaning of 'health,' suffering versus survival, who shall live and who shall die (and who shall decide), . . . we stand little chance of solving our nation's health-care crisis."

### From Indeterminacy to Judgment

In instances of conflict between things we consider good, valuable, or desirable, it's distressing enough that we feel pulled in different directions. Choosing is made doubly tough by the fact that the question of which thing we should give prior-

ity has no answer that is clear, invariable, and decisive. When things that are desirable come into conflict, there is no one "right" or "correct" way to resolve the conflict. The solution is *indeterminate*.

Solutions to conflicts between things that are good, valuable, or desirable are indeterminate because the things in conflict are not "absolutes." An "absolute," as I use the term here, is a good, valuable, or desirable action or state of affairs that (a) has good consequences that always outweigh the good consequences of all other good, valuable, or desirable actions or states of affairs, and (b) has no significant downside, no negative consequences that offset the good consequences it would have. A good that is absolute would always "trump" or "defeat" every other good it might conflict with. No considerations could be brought to bear that would persuade us not to choose it. As a result, it would be always unquestionable and unchallengeable. It would "win out" in all situations, no matter what the consequences.

As I will argue below, however, there are no absolutes. And because there aren't, the question of how to resolve a dilemma between good things in conflict can have no predetermined answer. The answer to such questions is always indeterminate—there's no principle, no rule, no wise and benevolent authority that can tell us, "*this* is the right choice, *this* is the correct answer." For this reason, value conflicts do not have predetermined right or correct solutions. And if this is so, then no party to a political disagreement is justified in claiming, in advance, that his or her position with respect to that issue is *the* right or correct solution. Of course, it might turn out, upon reflection and examination, that this position is the best answer we can give to the matter in question. But we cannot know this in advance.

### THERE ARE NO ABSOLUTES

It might be thought that there are some rules, principles, or values that must always take precedence, that may never be subordinated to other considerations. But examples abound of ostensibly "hard and fast" rules that admit of exceptions. Perhaps the most frequently cited example of this sort is free speech. There is no absolute right of free speech because there are situations in which giving that right priority would have consequences that are unacceptable. No one has the right to yell "Fire!" in a crowded theater just for the sake of getting a reaction. We accept the ban on false advertising as a legitimate limitation on speech, as we do perjury, conspiracy to commit a crime, and attempted bribery. Is lying bad and wrong? "Absolutely." But it might be better to lie than to hurt someone badly. Is it wrong to kill another human being? "Absolutely." But sometimes it's excusable (e.g., when the killer is insane) or justifiable (e.g., in war and in defense of one's own life or that of another person).

Nor are the alleged “right to life” and “right to choose” exceptionless rules. For example, suppose there is a case of a pregnant twelve-year-old child who was raped repeatedly by her mentally defective and abusive father. The girl’s mother died several years ago, and she has no other family. The emotional and physical trauma she’s been through has put her into a psychotic state. In addition, she has a serious heart defect that virtually guarantees that she won’t survive childbirth. As if that weren’t enough, tests on the sixteen-week-old fetus show that it suffers from a congenital disease that in all known cases has brought death before the child’s first birthday, and that tortures the infant with inconceivable pain during its brief existence. So, is there an absolute right to life? Even in a case like this? Is it clear that applying a policy of strict prohibition on abortion would be the right thing to do? Isn’t there room for reasonable doubt about the wisdom of allowing the girl’s pregnancy to continue?

Equally, the “right to choose” cannot be absolute. For example, we could imagine a situation in which a well-educated, happy, and healthy thirty-year-old professional woman wants to begin a family with her husband. Five months into the pregnancy the couple learns that the child will be a boy. Both prospective parents prefer a girl. So they want to terminate the pregnancy. In these circumstances, is it clear beyond any reasonable doubt that applying a strict policy of free choice would be the right thing to do? In such a case isn’t there room for reasonable doubt about the wisdom of permitting abortion at will? It does not matter for present purposes whether such a situation has ever arisen or is ever likely to. The point is, it could. And that’s all we need to establish that no value, no principle, no rule can ever be absolute.

There are no absolutes because our beliefs about what is good and bad, right and wrong, are *generalizations*. No matter how firmly we believe something, no matter how many times a belief has been reinforced, no matter how obviously and absolutely without exception it might seem, it remains a generalization. It does not cover—it cannot and will not ever cover—every situation that could or will arise. Every one of my beliefs about what’s good or valuable is based on a large, but nonetheless limited, number of experiences that I or other human beings have already had—not on ones I might or will have. I might be as convinced that three thousand calories a day is good for me as I am that the sun will come up tomorrow. But like my conviction that tomorrow will come, my belief in the value of three thousand calories could be mistaken. There might be a situation or circumstance, not yet encountered by me or anyone else, that would throw my conviction into doubt.

If there are no absolutes, I can’t *know* how to resolve a dilemma between good things in conflict. In a particular case or set of circumstances, an “absolute” rule might indicate a response that is in fact not the best one. For this reason, the

ethical, moral, and legal rules, principles, and convictions that are available to me as I try to resolve a conflict between values are binding only *prima facie*—that is, they’re valid only “on first viewing,” upon initial examination. They do not determine fully, in advance, what’s best, or right, or most rational. And they never will, because every situation to which I might apply them will be to some substantial and significant extent unique. They’re valid only *prima facie* because they hold only *ceteris paribus*—“other things being equal.” Put another way, what is best to do depends on the circumstances: on what good things are involved, on who is affected, on the consequences of favoring one thing over another.

When we encounter situations in which good things conflict, we can’t rely on our “knowledge” of what’s good and bad, right and wrong. We can’t count on logic and facts to tell us what to do. We can’t simply deduce or “observe” the answer. The best we can do is exercise our *judgment* about which is more important in the circumstances and all things considered. In effect, we have to “make (or at least refine) the rules as we go.” We have to think our way through the conflict, consider the advantages and disadvantages of the various courses of action open to us, weigh the consequences, form a judgment about which seems to be wisest, all things considered, and then choose what to do on the basis of that judgment. General rules—even the ones we hold to most unshakably—give us only a starting point for our deliberations. That’s why we should treat our beliefs about what is good and bad, right and wrong, as *presumptions*. It’s all right to treat a belief as if it’s absolute, provided we realize that a situation might arise in which our judgment will recommend that, in a given particular case, it should be modified.

#### BY MYSELF, I CAN’T KNOW WHAT’S GOOD OR RIGHT

My conviction that something is good or right cannot, by itself, be a conclusive answer to the question of what I should believe or do. It can’t be conclusive because its object—the action or state of affairs I desire or consider desirable—might conflict with some other good thing that I haven’t yet weighed it against. The most I’m entitled to is a presumption—refutable upon further thought and consideration—that my conviction is justified.

Yet even if I could somehow weigh my conviction against every potential offsetting or contrary consideration that my imagination can conjure up, I still wouldn’t be entitled to say that I *know* that what I desire or believe is good or right. No matter how sincerely or strongly I feel about the matter, the object of my conviction is something that, by myself, I cannot know.

To see what I mean, consider this fanciful scenario: Imagine that one April Fool’s Day I’m sitting at home in the evening watching television. It’s a program I’ve been looking forward to, so I’m tapping it on my VCR. About halfway through,

the program is interrupted for a special news bulletin. Peter Jennings (or Tom Brokaw or Dan Rather) appears on screen to report that Earth is being invaded by beings from another planet. Well, I can scarcely believe my ears. I must be imagining things. So after the report ends I turn on the VCR and play the tape back. Did I hear what I thought I heard? Yes, I did. Peter (or whoever) is right before my eyes, in living color, telling me again what he just got through telling me. So now I believe the report, right? Well, not if I'm wise I don't. At the very least, I ought to switch to one of the other networks for confirmation. Or I should call the police, or maybe go out and search the skies for direct evidence of my own.

The point of this imaginary example is that, to know something—including what's good or right, even for myself—I can't rely on a single source of information. If I rely exclusively on a single source, I'm as likely to be taken in as I would be if I relied solely on my videotape of Peter Jennings's April Fool's Day report. Replaying in my own mind what I already desire or believe, without seeking the confirmation or disconfirmation others can provide, is like replaying that videotape. That's why a desire or belief I happen to have can't be conclusive evidence of what is good or right, even for myself. It's important evidence, of course. But by itself it doesn't suffice. I need to test it by exposing it to other sources of information.

Given my own limited experience and information, the only place I can turn is to other people. By considering their views, I obtain information and the benefit of different perspectives that will help me weigh my initial disposition against alternatives, including ones that I might not even know exist. Genuinely to judge and choose implies that I need to engage others in a process that provides for exchange of information, experiences, insights, reasons, and so forth. If I act solely on the basis of what I feel at the moment I should do, it's possible that I'll end up realizing less value than I would if I chose otherwise. If I don't stop to reconsider my beliefs and desires, if I don't weigh the alternatives, if I go along unreflectively with my first inclination, I could very well end up kicking myself for not having thought through my decision more carefully. In short, it could turn out that I didn't really know what I thought I knew. The indeterminacy that characterizes conflicts between good things thus makes it rational and prudent to turn to others for their assistance in making decisions.

What's true for me as an individual applies with even greater force to us collectively. If indeterminacy makes it impossible for anyone to know for sure which of several good things he ought to give priority, it's even "more impossible" (if that's possible) for a community or society to know what it should do. In the absence of absolute rules for establishing priorities, and given the variability of constitution and experience among individuals, it's not surprising that people

differ considerably in their personal views about what good things ought to be favored in instances of conflict. Interpersonal differences over how to resolve conflict between the things we care about and that motivate us—conflict that has no determinate solution—frequently underlies the disagreements that arise between us. True, we can end up in disagreements for all sorts of reasons—personally conflicts, injuries done by one person to another, miscommunication, and so forth. But an important source of conflict between persons (and hence between groups of persons) is conflict between things human beings can, and do, value. Disagreements about how to resolve a conflict are inevitable because no one can be absolutely certain what's best to do, even for himself, let alone for everyone affected. Public problems are political problems, problems that in their very nature elicit diverse and conflicting responses. Political conflict—disagreements between persons or groups of persons about how to respond to public problems—thus stems from the indeterminacy and uncertainty that each of us encounters when good things conflict.

#### PERSONAL JUDGMENT AND PUBLIC JUDGMENT

The need to choose, both individually and collectively, between good things in conflict lies at the heart of politics. But how, as a community or society, do we combine our individual judgments to arrive at a public judgment that everyone can assent to? In particular, how do we resolve disagreements between persons who reach different *individual* judgments?

We don't. Disagreements that arise from separate individual determinations of what is best to do cannot be resolved, in the sense of being made to disappear. What we *can* do is transform such disagreements, turn them from adversarial competitions into an opportunity to work toward a sound collective judgment. We can do this by recognizing that each person's effort to reach a personal judgment about a matter of public concern cannot be separated from our collective effort to arrive at a public judgment. Given each individual's limited personal experience and information, a sound individual judgment requires consideration of others' beliefs, experiences, needs, sensitivities, reactions, and so forth. By listening to the views of others, I obtain information and the benefit of different perspectives that help me work toward a sound judgment about how to resolve conflicts between the things I care about. The process by which I form a personal judgment is the same process by which, together with my fellow citizens, I work toward the formation of a public judgment. We arrive at personal judgments and a public judgment simultaneously.

This doesn't mean that when the process is complete we will have reached *consensus*. To some extent, individuals' personal judgments will (and should be expected to) differ from the public judgment we arrive at. But because the two

types of judgment are arrived at simultaneously through the same process, each participant in the process will *comprehend*—that is, he or she will “understand and appreciate”—the ingredients that go into the making of the personal judgment that each of his or her fellow citizens has arrived at, even if ultimately he disagrees with that judgment. As I will explain in chapter 6, the “mutual comprehension” we require in order to deliberate together successfully enables each person to reach a unique personal judgment while at the same time assenting to a shared, public judgment that everyone will be willing to go along with.

#### PUBLIC GOODS

Because the things human beings consider good are various and qualitatively distinct, because conflicts between such good things have no absolute, predetermined solution; and because to know what is best requires considering the views of others, we need to engage each other in the sort of exchange that will enable us to form sound personal and public judgments. This process of coming to a public judgment and choosing—together, as a public—is the essence of democratic politics.

But there is another reason why we need to talk, think, and decide together: there are some kinds of value that can be realized only through such interaction. In chapter 1 I argued that many of the social problems that we treat as essentially individual problems are really public problems. I cited the reemergence of tuberculosis as a health menace to make the point that all of us may be endangered by the actions of individuals. In addition to problems such as these, however, some problems are public in their very nature. I offered education as an example. Because the purpose of education is to mold young people into the kind of young adults we believe they should become, educating our children requires that we as a community decide what kind of young adults we wish to create.

By myself, I can't prevent the emergence of antibiotic-resistant TB. Nor, by myself, can I ensure that my neighborhood is safe and my drinking water is clean. Without others, I can't provide adequate protection from disasters such as floods, fire, or earthquakes. But still less can I, by my own efforts alone, produce the sort of public good—a young adult—that it is the purpose of education to produce. Nor can I ensure that the rights I believe I have are respected by others. Without the cooperation of my fellow citizens, I can't achieve the sort of community life in which I can count on them to treat me civilly, respectfully, and honestly. To take another example, suppose that it's good (other things being equal) to permit a market to allocate resources. Although a market system might appear to embody the very antithesis of what is common or public, just the opposite is true. The goods that people pursue and realize within the market may be individual goods. But the market itself—the system of exchange, the activity that is governed

by the rules of the free market—is a public good. Without at least the implicit consent of a substantial portion of our fellow citizens, we would be unable to establish and sustain a market. Each of these good things is an example of an inherently public good.

Questions about the public good ought to be addressed by every member of the public. They call for genuine public choices based on a sound public judgment. What sort of community shall we have? What is our vision for our future? What kinds of citizens do we wish to produce? What should our priorities be? The public problems, challenges, and opportunities we face invariably present us with political issues—questions we cannot answer satisfactorily without resolving the underlying conflicts between things people care about. To resolve such conflicts, we require a form of politics, a form of public decision making, that enables and encourages us to deliberate, judge, and choose—together.