Philosophical Methodology: A Defense of a Defense to Intuitions?
Philosophical Methodology: A Defense of an Appeal to Intuitions?

Abstract

This paper contrasts two basic philosophical methodologies for warranting a philosophical theory that are analogous to the ways in which laws are justified: “statute law” and a “case law.” The “statute law” approach in philosophy claims that a theory is warranted by an appeal to higher principles, for example, a set of self-evident principles and this approach does not result from being in agreement with intuitions about particular cases. In contrast, the “case law” approach in philosophy warrants a theory not by appealing to self-evident principles, but by appealing to intuitions about individual cases. A theory is warranted to the degree that it correctly classifies these particular cases, that is, classifies the cases in accord with the pre-analytic or common sense intuitions. Twentieth century epistemology and philosophy of science have relied heavily upon appeals to common sense or intuition about particular cases. I defend the legitimacy of this method of warranting theories in light of criticism from Stephen Stich and Larry Laudan that normative theories cannot result from an appeal to common sense or intuition.

I. Introduction

How does one justify, warrant, or ground a philosophical theory? This meta-level question is central to any area of philosophy whether one is concerned about a theory of justice, ethics, law, meaning, knowledge, or rationality.

My analysis will focus mostly upon warranting a theory of rationality, particularly such theories as they are present in contemporary epistemology and philosophy of science, but I believe that my analysis and proposed answer can be extended to other areas of philosophy. In this paper, I will examine criticisms from Stephen Stich and Larry Laudan to my proposed approach to philosophical methodology.

II. Meta-Methodologies
Roderick Chisholm has discussed this meta-philosophical question (i.e., How does one warrant a philosophical theory?) and has identified a problem that he calls “the problem of the criterion”. He illustrates the problem of the criterion using an example that he adopts from Descartes. Suppose we have a basket of apples, and we want to distinguish the good apples from the bad apples. To do this we need some sort of criterion (or theory) by which we separate the apples. Suppose we adopt a criterion for distinguishing the apples: the good apples are firm, have a sweet and delicate smell, and have a rich color. But immediately a question arises - what is the warrant for accepting this criterion or theory about good apples? (Chisholm 1973, 63-64).

We could determine whether the criterion is a good one (i.e., we could warrant the criterion), if we could appeal to some higher level principles which provided grounds for accepting the criterion, but these higher level principles themselves would need to be warranted. Thus, it appears, according to Chisholm, that we are lead to an infinite regress of higher and higher level principles [or self-evident principles]. Alternatively, we could warrant the criterion, if we could somehow divide some of the apples into two groups - good and bad - and then check to see if our criterion agrees with our particular judgments of the apples, but our judgments of the apples themselves need to grounded. Thus, it appears that we are lead into a vicious circle in which the criterion is warranted by an appeal to our judgments of the individual apples, which are in turn grounded, by an appeal to the criterion [or self-evident judgments] about what constitutes a good apple.

1 This is the label Chisholm has given to this problem in his Aquinas lectures, 1973, which are reprinted in Chisholm 1982.
So, the problem of the criterion in general is that in order to correctly classify the particular cases we need a criterion, but to be able to get a correct criterion we are lead to either an infinite regress or a vicious circle of justification.

I believe that there are various strategies to solving this problem. First, I want to present two general strategies and then introduce the others in relationship to these first two. I will call these first two approaches the **statute strategy** and the **case strategy** because of their structural similarity to **statute law** and **case law**.2

Statute law and case law provide two different ways of grounding a legal code. A legal code established by statute law is grounded or warranted by a legislative body or some other higher authority (e.g., a sovereign). The warrant for the legal code established by statute law is independent of any judgment or assessment of the particular cases or situations. In contrast, a legal code established by case law gets its authority or warrant precisely from decisions about particular cases. The legal code is grounded not by some higher body that legislates or dictates what the laws should be. In case law, there is no appeal to anything higher than the individual cases; the precedents provide the basis for the legal code.

2 Chisholm labels these two positions “methodism” and “particularism.” The terms ‘methodism’ and ‘particularism’ are used almost exclusively by epistemologists. An alternative way of labeling these two meta-methodologies is the statute strategy and case strategy, in which ‘statute strategy’ refers to the methodist approach and ‘case strategy’ refers to the particularist approach. I prefer to use the terms ‘statute strategy’ and ‘case strategy’.

Imre Lakatos describes the meta-methodological distinction in a similar manner (Lakatos, 136-137. He argues that there are two approaches or strategies that one could use to establish or ground a legal code or a set of legal principles. One can use legislation to base the laws (statute law) or one can use decisions about particular precedential cases to base the laws (case law).

Goldman uses the same analogy as Lakatos to contrast the two general approaches in meta-methodology. One can warrant a legal code by taking either a statute law approach or a case law approach. Goldman gives an example of each approach: (a statute strategy in law) - “L is a law if and only if it is a dictate of the sovereign” and (a case strategy in law) – “L is a law if and only if L is what the courts have said is the law.” (Alvin Goldman, *Epistemology and Cognition* (Cambridge, Massachusetts: Harvard University Press, 1986), p. 65.)
If we extend these two approaches from law to philosophy, we have two approaches for warranting philosophical theories. The first approach, the statute strategy, attempts to warrant a philosophical theory by appealing to a body of principles. The principles act as a legislative body. This set of principles may include such things as rules of logic, metaphysical principles, and other theoretical commitments. The theory is warranted by appealing to the principles and not by appealing to common sense judgments or pre-analytic intuitions about particular cases. Thus, the failure of the theory to agree with our assessment of particular cases does not count against it.

The statute strategy claims to answer the problem of the criterion by asserting that a theory is warranted by an independent set of self-evident principles.

The second approach, the case strategy, attempts to warrant a philosophical theory by appealing to individual cases. One starts with common sense judgments or pre-analytic intuitions not with some higher set of principles. A theory is warranted to the degree that it captures or is in agreement with our pre-analytic intuitions about the particular cases. The pre-

3 Lakatos provides another way of viewing these two approaches to meta-methodology. He calls the one the quasi-Euclidean and the other the quasi-empirical approach. He adopts this terminology from his philosophy of mathematics. The quasi-Euclidean meta-methodology “starts with universal, high level propositions (‘axioms’) rather than singular ones.” (Lakatos, “History of Science and Its Rational Reconstructions,” p. 136) The method or theory is warranted by appealing to some higher, more general, and in many cases a priori principles. The quasi-Euclidean meta-methodology is thus a top-down approach. The quasi-Euclidean is the same as the statute strategy because it appeals to some body of principles which legislates which code, theory or methodology for rationality should be accepted. The theory of rationality is warranted independently of decisions about particular cases.

In contrast, the quasi-empirical meta-methodology is a bottom-up approach. One starts with individual cases which have been decided are clear cases of rationality and non-rationality. These cases are classified not by some other method or criterion but by one's community, a part of one's community, or by one's own intuitions. The quasi-empirical is the same as the case strategy because the decisions about these particular cases serve as the base for the theory of rationality. The theory of rationality is warranted without appealing to some legislative body of principles.
analytic intuitions serve as precedents.4

Thus, the case strategy claims to answe the problem of the criterion by claiming that while the theory is dependent upon particular cases for its warrant, not all cases depend upon the criterion for their warrant. The case strategists believe that we can identify some cases pre-analytically which serve as the foundation for warranting the theory. Thus, there is no vicious circle in this strategy for warranting a theory.

Now that we have described these two main meta-philosophical approaches for warranting a philosophical theory5, we can identify two variations of these basic approaches: a “reflective statute strategy” and a “reflective case strategy.” The statute strategy explained above can be described as a “pure” statute strategy because the body of higher-level principles acts as a legislative body in establishing or warranting the philosophical theory, and the theory plays no role in adjusting, refining, or revising the higher set of principles. In contrast a “reflective” statute strategy permits the alteration of the original principles in light of the philosophical theory. The reflective statute strategy is open to the possibility that the higher set of principles may have inconsistencies within it that need to resolved.

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4 Much of contemporary analytic epistemology and philosophy of science follow this strategy. Laudan’s *Progress and its Problems* explicitly endorses this approach.

5 One more general comment is needed in regard to our meta-methodological distinction between the case strategy and the statute strategy. I interpret both of these positions as ways of **warranting** a theory, not as ways of **arriving at**, **formulating**, or **discovering** a theory. The case strategy is often misconstrued as a method of arriving at a theory, as a heuristic device for helping one to formulate a theory. Case strategists may discover or arrive at a theory of rationality by appealing to particular cases of rational belief, but they need not. The case strategy only requires that one warrant the theory by appealing to particular cases. To carry this point further, statute strategists may also discover their theory by examining particular cases, but as long as they view the particular cases as merely a heuristic device for discovering the theory, but they warrant their theory by appealing to some high set of principles, they remain statute strategists.
A case strategy described above can be labeled a “pure” case strategy because the pre-analytic intuitions about particular cases provide the warrant for the theory and they are themselves not open to revision. While the pure case strategy assumes that the pre-analytic intuitions are fully consistent, the “reflective” case strategy admits that the original pre-analytic intuitions may contain inconsistencies and thus allows for the intuitions to be revised or restructured in light of the philosophical theory.

I think Goodman’s meta-methodology in *Fact, Fiction and Forecast* is an example of a reflective case strategy. Goodman describes the way rule of inference are grounded:

The point is that rules and particular inferences alike are justified by being brought into agreement with each other. A rule is amended if it yields an inference we are unwilling to accept; an inference is rejected if it violates a rule we are unwilling to amend. The process of justification is the delicate one of making mutual adjustments between rules and accepted inferences; and in the agreement achieved lies the only justification needed for either. (Goodman, 64).

There is yet one more meta-methodological view. It consists of a conjunction of the reflective case and reflective statute strategies. Normal Daniels in defending meta-methodology of John Rawl’s in *A Theory of Justice* articulates wide reflective equilibrium in these terms:

The method of wide reflective equilibrium is an attempt to produce coherence in an ordered triple of sets of beliefs held by a particular person, namely, (a) a set of considered moral judgments, (b) a set of moral principles, and (c) a set of relevant background theories. . . . We can imagine the agent working back and forth, making adjustments to his considered judgments, his moral principles, and his background theories. In this way he arrives at an equilibrium point that consists of the ordered triple (a), (b), (c). (Daniels, 258-59).

**III. Laudan’s Criticism of Meta-Methodologies which Appeal to Common Sense or Intuitive Judgments**

In Laudan’s 1977 book, *Progress and Its Problems*, he endorsed a version of the case strategy which he referred to as “meta-methodology intuitionism.” The issue that he was
addressing with this position was how does one choose been between rival theories of scientific rationality. The issue stated in a more general form is our question: how does one warrant a theory of rationality? Laudan’s answer involved an appeal to common sense judgments about particular cases (i.e., pre-analytic intuitions). He wrote:

... the degree of adequacy of any theory of scientific appraisal is proportional to how many of the PIs [pre-analytic intuitions] it can do justice to. The more of our deep intuitions a model of rationality can reconstruct, the more confident will we be that it is a sound explication of what we mean by “rationality.” (Laudan 1977, 161).

In addition, he believed that if the pre-analytic intuitions are to provide warrant for a theory, they must be fixed Archimedean points not open to reflective scrutiny. Thus, Laudan’s early view is an example of the pure case strategy.

Laudan later rejected his earlier meta-methodology by denying any appeal to common sense judgments (i.e., pre-analytic intuitions) in warranting a theory of rationality. He has three main objections to these meta-methodologies. Thus, examining his criticisms will be valuable in assessing the viability of the pure and reflective case strategies, as well as, wide reflective equilibrium.

One way to understand his first main objection is to see it as a dilemma. On the one hand, if one does not allow the pre-analytic intuitions to be open to revision, then the theory of rationality has no normative force. On the other hand, if one does allow the pre-analytic intuitions to be revised in light of the theory of rationality, then either the theory loses its warrant all together or theory is warranted on some other basis (e.g., by appealing to some higher level principles).

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6 Describing his earlier view, he wrote that the criterion of success for a theory of rationality is whether the theory “adequately explicate[s] our intuitive judgements of the rationality in exemplary cases” (Laudan 1986, 113).
Consider the first horn of Laudan’s dilemma. If one does not allow the pre-analytic intuitions to be open to revision, then the theory of rationality has no normative force. Why would one accept this statement? Laudan writes:

As I said earlier, meta-methodological intuitionism has the effect of denying any significant critical role to methodology. After all, if our intuitions about methodological matters are treated as the touchstones for deciding the soundness of methodological doctrine, then that doctrine can never act so as to reform our pre-analytic intuitions, except in the relatively trivial case where it reveals an inconsistency within our intuitions. (Laudan 1986, 123).

What can be said in reply to Laudan? First, the lack of the pure case strategy to allow for the revision of pre-analytic intuitions does not undermine the resulting theories normative role because it can still provide normative critiques for other beliefs. So, this doesn’t mean that there is no significant normative role for epistemology because once a theory of rationality is warranted by the pre-analytic intuitions; it can then be applied to new cases. Cases in which our intuitions did not provide clear guidance or cases that we had not yet considered. So there is still a significant normative role for a theory of rationality warranted by this approach. Second, it should be noted that revealing inconsistencies within our intuitions is not trivial; it is an important task in philosophy to reveal previously unrecognized inconsistencies.

Now consider, the second horn of the dilemma. If the pre-analytic intuitions are open to revision, then the resulting theory of rationality will either be unwarranted or warranted independently of the pre-analytic intuitions.

How does revising the intuitions undermine the possibility of warranting a theory? Laudan says, “My own reasons for treating the intuitions as un revisable was that they seemed to be the “bedrock”, the justificatory foundation on which everything else had to be built if we were to avoid rank conventionalism about methods” (Laudan 1986, 122). The problem with
conventionalism is that it grounds a theory of rationality on arbitrary decisions. But Laudan fails to see that the revision of the pre-analytic intuitions may be done on a non-arbitrary basis. For example, they might be revised to increase consistency or the scope of the resulting theory of rationality.

This leads directly to Laudan’s second concern. If the pre-analytic intuitions are revisable then there must be some other basis besides the pre-analytic intuitions for warranting the theory of rationality. “To use the methodology as a vehicle for reappraising or revising the intuitions would be, in effect, to claim that there was a way of warranting our methodological theories independently of whether they “fitted” with our intuitions.” (Laudan 1986, 122).

I agree with Laudan on this point. In fact, I think this is an argument that points out why wide reflective equilibrium is preferable to either version of the case strategy.

Laudan’s second main problem with the meta-methodologies which appeal to pre-analytic intuitions is that there maybe no agreement on our intuitions. He writes:

Meta-methodological intuitionism rests upon the assumption that there is virtual unanimity in our basic intuitive judgments. . . . So, it is worth asking whether our pre-analytic intuitions about concrete cases . . . always or usually overlap. I submit that they do not. And they differ almost as much about the putatively canonical cases as they do about the borderline or pathological ones. (Laudan 1986, 123).

Laudan sees this objection as an empirical issue that has been clearly settled in a manner that undermines any appeal to intuitions.

But the issue is not as simple as he portrays it to be. Many of the disagreements that arise about the canonical cases in the history of science are the result of disagreements about the proper way to describe the case. For example did Galileo support his theory about falling bodies by using argument X or argument Y? Such a disagreement appears to exclude the case from the set of pre-analytic intuitions that could serve as a basis for warranting a theory of rationality. But
in fact once the historical question is settled there is frequently a large degree of agreement about whether the cases is one of rational acceptance or not.

Even if we grant Laudan this point about fundamental disagreements about the history of science, his objection does not undermine all meta-methodologies that appeal to intuitions. There appears to be significant agreement about a large number of pre-analytic intuitions.

Laudan’s third main criticism of meta-methodologies which appeal to intuitions is that they are not robust enough to uniquely pick out one theory of rationality. He says, “even assuming that universal assent can be found concerning some especially vivid concrete cases, it is not clear that such assent will be of any help in choosing between rival methodologies of science” (Laudan 1986, 125).

Again, we can agree with Laudan that the scope and range of the pre-analytic intuitions may not be rich enough to settle all disputes, but this does not mean that intuitions can’t be useful in separating viable from non-viable theories.

So, while Laudan’s last two objections reveal some potential limitations to meta-methodologies that appeal to intuitions, they do not show that all such approaches are fundamental mistaken. Moreover, his first criticism actually provides an argument against the case strategy and for wide reflective equilibrium thereby recognizing the role of intuitions in philosophy.

IV. Stich’s Criticism of Reflective Equilibrium

Stephen Stich has also criticized meta-methodologies that appeal to common sense or pre-analytic intuition as a basis for warranting a philosophical theory. Even though he is primarily concerned with the meta-epistemological question, “How are we to tell which system
of reasoning is best?” (Stich, 393), his criticisms, if effective, would call into question any use of common sense or pre-analytic intuitions in grounding a philosophical theory.

Stich, like Laudan, admits that he was under the sway of such theories for some years, but now believes that these approaches to meta-methodology are thoroughly wrong-headed” (Stich, 200). He focuses his critique on what he calls a “neo-Goodmanian” version of reflective equilibrium. As I have presented and labeled the meta-methodological positions, he is challenging both the reflective case strategy and wide reflective equilibrium. His criticisms of reflective equilibrium fall into three groups

Stich starts his main criticism of reflective equilibrium by asking a good question: How should one assess the process of reflective equilibrium as an effective strategy for warranting a theory of rationality? He states:

One obvious strategy is to ask just what systems of inferential rules result from the process of mutual adjustment that Goodman advocates. If the inferential systems generated by the reflective equilibrium process strike us as systems that a rational person ought to invoke, this will count in favor of Goodman’s analysis. If, on the other hand, the reflective equilibrium process generates what we take to be irrational or unjustified inferential rules or practices, this will cast doubt on Goodman’s claim to have captured our conception of justification. (Stich, 396).

Thus, Stich is claiming that we can assess the effectiveness of reflective equilibrium by looking at the inferential rules and practices (what I call the principles and beliefs) that result from following the process of reflective equilibrium and then comparing those principles and beliefs with those that we take to be rational or justified. If the process of reflective equilibrium produces principles and beliefs that we take to be rational, then the process of reflective equilibrium is vindicated. On the other hand, if the process of reflective equilibrium produces principles and beliefs that we take to be irrational, then reflective equilibrium is unacceptable. [In other words, reflective equilibrium is a good way to warrant a theory of rationality, if the
theory of rationality endorsed by this process is in agreement with our intuitive conception of justification. If you think there is something funny here, you are right. I will return to this peculiarity later.]

After laying out this strategy for evaluating reflective equilibrium, Stich argues that controlled studies and anecdotal evidence reveal “patently unacceptable rules of inference would pass the reflective equilibrium test for many people” (Stich, 397).

The example that Stich uses to support his criticism is the gambler’s fallacy. The gamble’s fallacy is to infer that in a series of events the likelihood of outcome X increases each time a non-X outcome occurs. (For example, a person playing roulette would commit the gambler’s fallacy if she believed that the after ten spins of the wheel in which the ball landed on black, it was very likely that on the next spin the ball would land on red. Or a person rolling a die would commit the gambler’s fallacy, if she believed that the likelihood of rolling a six with the die increases after a string of non-sixes.)

Stich points out that many people commit the gamble’s fallacy, and he claims that the principle that underlies the gambler’s fallacy (i.e., the principle that states that in a series of events the likelihood of outcome X increases each time a non-X outcome occurs) is in reflective equilibrium for many people.

There are two replies to Stich’s argument. First, if it is the case that the principle underlying the gambler’s fallacy is in reflective equilibrium for an individual then that individual is justified in the beliefs that follow from that principle. Stich thinks that this reply does not need to be seriously considered and that it simply amounts to digging in one’s heels.

I think that he is incorrect in his evaluation because this reply to the objection is based upon an internalist theory of rationality. Internalism is the view that in determining whether
an individual's belief is justified we must consider her psychological state and her other beliefs. One places oneself within the perspective of the individual and considers whether or not that person is rational or justified in holding a belief, given her epistemic situation. From the perspective of internalism, if the principle underlying the gambler’s fallacy is in reflective equilibrium for an individual, it would be irrational for that person not to believe that a six is likely to come up soon after a string of non-six’s. Of course such a belief would not be rational for those who reject the gambler’s fallacy, but it would be rational for those individuals for whom this principle is in reflective equilibrium. Thus, Stich’s objection is not really directed at reflective equilibrium but at internalist theories of rationality.

Second, Stich just assumes that this principle is or could be in reflective equilibrium for many people. Catherine Elgin has correctly challenged him on this issue. Elgin points out that “The gambler’s fallacy is demonstrably untenable. In the long run, bettors whose behavior is guided by it lose” (Elgin, 118). Thus, she concludes that the principle that underlies the gambler’s fallacy would not be in reflective equilibrium for individuals who reflected upon the outcome that results from following this rule of inference.7 Thus, Stich’s first objection does not undermine reflective equilibrium.

7 L.J. Cohen has also challenged Stich on this point. He first notes the difficulty of interpreting the empirical studies that Stich cites. He argues that there is another way to interpret the data. The subjects may not be endorsing the gambler’s fallacy, but instead recognizing that the game is not fair (e.g., the roulette wheel or die are not fair, or the each event is not an independent event). Cohen also argues that strange and unacceptable inferential principles cannot pass the reflective equilibrium test. Cohen notes that a precondition for rational discussion is the belief that “in principle, if not always in practice, [we can] teach anyone else what the correct inferential rules are in relevant contexts” (Cohen, 187). But if an unacceptable inferential principle is in reflective equilibrium for an individual, then “there would be no premises that we could invoke in order to teach that individual of his error” (Cohen, 187).
Stich’s second criticism of reflective equilibrium is that it assumes that there is only one notion of justification. He writes, “Even discounting the possibility of systematic interpersonal differences, it might be that in assessing the justification of a [particular] cognitive process we use different procedures on different occasions” (Stich 402). But this criticism is not problematic for a supporter of reflective equilibrium because even if Stich is correct about the multidimensional nature of rationality, a theory of rationality that is in reflective equilibrium with general principles and particular beliefs would capture the complex nature of rationality.

Thus, it seems that none of Stich’s objections to reflective equilibrium provide a serious challenge to it as an effective strategy for warranting a theory of rationality.

But before leaving Stich’s critique of reflective equilibrium, we need to note something extremely peculiar about the whole approach in his paper. Return to the passage quoted earlier that lays out Stich’s strategy for attacking reflective equilibrium. Stich writes:

How can we determine whether his analysis is correct? One obvious strategy is to ask just what system of inferential rules result from the process of mutual adjustment that Goodman advocates. If the inferential systems generated by the reflective equilibrium process strike us as systems that a rational person ought to invoke, this will count in favor of Goodman’s analysis. If, on the other hand, the reflective equilibrium process generates what we take to be irrational or unjustified inferential rules or practices, this will cast doubt on Goodman’s claim to have captured our concept of justification. Since we are viewing conceptual explication as a kind of analysis, we should not insist that Goodman’s account coincide perfectly with our intuitive judgments. But if there are lots of cases in which Goodman’s account entails that a system of inferential rules is justified and intuition decrees that it is not, this is a symptom that the analysis is in serious trouble. [italics added] (Stich, 396-97).

Strangely enough Stich is appealing to intuitions. He is testing reflective equilibrium by seeing if the beliefs and inferential practices that it sanctions coincide with our intuitive judgments. But this is a clear application of the process of reflective equilibrium because he is appealing to our intuitive judgments to critique a theory of rationality presented by a
Goodmanian reflective equilibrium. The point is that common sense and intuition play an essential role in philosophy.

V. Conclusion

In this paper, I have distinguished between two general philosophical methodologies (i.e., the statute strategy and the case strategy) and noted the relationships between these approaches and reflective equilibrium. Then I defended the use of intuitions in warranting a philosophical theory against the criticisms of Laudan and Stich. In addition, I have argued that while Laudan and Stich have raised a variety of objections to the use of intuitions in warranting a philosophical theory, they ultimately slip an appeal to intuitions back into their own arguments.
References


