REVIEW

Profiles, Probabilities, and Stereotypes, by Frederick Schauer. Cambridge, MA: Belknap Press, imprint of Harvard University Press, 2003, 359 pp., $29.95 hardbound.

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I often hear from my critical thinking students mantras such as "You shouldn't generalize!" and "Stereotyping is bad!" I typically reply that, putting aside the self-contradictory nature of these assertions ("One shouldn't generalize" being itself a generalization), common sense tells us that they are patently false. We have to generalize to survive—the trick is to do it reasonably. In this regard, Frederick Schauer has done something unusual for an Ivy League professor by defending (to some degree) common sense. Specifically, he has written a book defending the use of generalizations, albeit with limitations. For this he should be praised, albeit with limitations.

The strength of Schauer's book is his focus on actual and realistic hypothetical cases in which we use generalizations, in daily life and in more formal settings such as legal proceedings. He makes the point that many generalizations are spurious (i.e., empirically unsound) by looking at such common cases as astrology and phrenology—the reason we are reluctant to judge a person's character traits by his astrological sign is because astrological generalizations are spurious (e.g., there is no evidence that Libras are more apt to see both sides of an issue than anyone else.)

More interestingly, Schauer makes the point that generalizing and using generalizations are unavoidable by looking at the generalization, "Pit bulls are dangerous dogs." In fact, there has been considerable controversy about whether pit bulls should be allowed as pets, and certainly most insurance companies ask any applicant for home liability insurance (among other pertinent questions) whether there is a pit bull—or dog of several other breeds—present in the home. Now, pit bull owners often argue that their pets should be judged as individuals, and resist ordinances banning their favorite breed. Instead, they favor banning only dogs proven to be aggressive—laws should "deal with deeds not breeds," as the slogan goes.

But this presents two problems. First, there are the enormous costs of maintaining databases of reported bites and attacks, or testing each dog by (say) observing the dog's behavior toward child-like dolls. And if we wait until dogs severely attack people, the cost to society is high, indeed. Second, even if we suppose that the increased reliability of generalizing based upon observed individual behavior is worth the huge cost, it is still generalizing. For example, if Winston the pit bull is presented with a child-like doll and attacks it, we are generalizing when we conclude Winston is aggressive—he could, after all, just be having a bad day—and we are assuming the generalization that dogs who attack dolls are more apt to attack children than dogs who don't attack dolls. Yet this sort of squeamishness at stating and employing statistically sound generalizations about breeds of dogs led the American Kennel Club to remove from its guide to dogs (*Complete Dog Book)* breed profiles that describe certain breeds as not good with children—surely an im-

portant thing for parents to know before selecting a dog as a family pet.

In a similar fashion, Schauer argues that the use of generalization and profiling is justified in a wide variety of cases: laws limiting speeding; age restrictions on pilots (e.g., must be under 60) and auto driver's licenses (e.g., must be over 16); laws prohibiting carrying large amounts of hidden cash abroad; tax agencies targeting income-tax filers who fit a certain profile (e.g., declaring a large number of exemptions, or claiming a home-office deduction); and a variety of other cases as well. Along the way he gives some nice surveys of legal writings on presumed offenses, the concept of treating like cases alike, and sentencing guidelines.

I have two issues with the book. First, it has a repetitious, meandering style. A more tightly systematic treatment would have been clearer and may have freed space for a closer look at racial profiling, affirmative action, and other more contentious cases of the use of generalizations. This leads to my second issue: his treatment of the contentious cases is cursory and overly politically correct.

For instance, he covers the issue of profiling young Middle Eastern men at airports for security purposes (viz., reducing the risk of terrorist attacks or airplane hijacking). The current profiling system (the CAPPS system) uses various criteria to determine only which luggage (not which passengers) to search, and the Commission on Aviation Safety and Security (headed by then Vice President Al Gore) specifically excluded using ethnicity as a criterion. Schauer admits that the evidence we have indicates that using Middle Eastern ethnicity as a factor would increase significantly the effectiveness of a passenger screening algorithm. However, he opposes it because: (a) it would likely be overused by airport personnel (because of the salience of ethnicity); (b) the cost of the policy would fall disproportionately on young men of Middle Eastern appearance; and (c) the cost of *not* ethnically profiling to society is probably not more lost lives, but rather merely having to arrive "thirty minutes earlier" at the airport. This crucial issue is given far less exposition than the discussion of pit bulls, and his position on the matter is unpersuasive, based, as it is, upon not much more than bland assurance. Why not simply give airport personnel a list of factors with a fixed weighting so that the aggregate score determines who gets searched, and allow ethnicity as one *but only one* of those factors? This might result in some extra cost to young male Middle Easterners, but considering the chance of, yes, saving lives, it is at least arguable that it is worth it. And what if the cost of searching everyone, disabled blind elderly Swedish women and all, is not just 30 extra minutes but 12 extra hours—resulting in the cancellation of half the flights, with attendant job loss in the airline and tourism industries? What then?

This PC reluctance to address the real costs of failing to use statistically sound generalizations is even more striking in Schauer's treatment of gender issues. Schauer is against gender discrimination based upon gender generalizations, such as the exclusion of women from military schools, fire departments, and such like for several reasons. First, he finds many (perhaps most?) gender gen-

eralizations (i.e., claims of statistically significant differences between women and men in physical, emotional, or cognitive matters) simply false (spurious). He supports his incredibly sweeping claim that "it is well documented that gender-based generalizations are certainly historically, and to a considerable extent still, routinely exaggerated" by a footnote that cites a paltry four articles in psychology journals by a handful of writers. Second, even looking at differences between men and women that are statistically significant, many of those are more a *product* of discrimination than a *justification* for it. Schauer cites as example an Idaho law (overturned by the Supreme Court) that mandated a preference of men over women as administrators of estates. He supposes that the generalization behind that law was that men are generally more knowledgeable about business matters than women, but he rightly notes that even if that generalization were at one time true—it surely isn't now—it was because women were historically discouraged from entering fields such as accounting and investment banking. Third, Schauer holds that even in cases in which there is a statistically genuine, biological rather than sociological, gender difference (such as upper-body strength), some of these are cases in which gender is used "as a proxy," where those women who are exceptions to the norm are wrongly discriminated against. If you want baggage handlers able to lift bags (say) over 75 pounds, why not let everybody try out, and select all people—women and men—who can do the job? Schauer's view here is that even where there is a statistically significant difference between men and women as regards physical strength and aggressiveness, that difference is often used merely as a rationalization for the prior sexist decision to discriminate against women. Schauer argues boldly (154) that, "For too long too many people have assumed that because generalization is wrong then gender-based discrimination is wrong. But this reasoning is backwards. The truth is that it is because gender discrimination is wrong that gender-based generalization, even when statistically rational, is wrong as well."

I find his account here empirically antiquated and tendentious. To begin with empirical adequacy, Schauer cites a few psychologists who hold that nonspurious gender differences are rare. This was the dominant thinking in psychology and social science generally from the time of Margaret Mead's first writings in the late 1920s (latterly debunked by Derek Freeman) until perhaps the early 1980s. But over the last two decades, there has been a paradigm shift in thinking about gender. Here Schauer might have profited from a review of the recent literature documenting significant (indeed, profound) cognitive and emotional gender differences. One thinks of two recent clear treatments of the matter, Doreen Kimura's *Sex and Cognition* (MIT Press, 1999) and Deborah Blum's *Sex on the Brain: The Biological Differences Between Men and Women* (Viking Press, 1997). Suffice it to say that in many areas gender generalizations have now been empirically well documented, often confirming beliefs that for millennia have been regarded as common sense.

The tendentiousness of Schauer's

treatment is seen in several ways. First, he forgets his own point about the trade-offs between costs and benefits of trying to refine generalizations by allowing individual testing. Yes, no doubt there are 12-year-olds physically and mentally capable of driving cars, but testing many millions of 12-year-olds to find the perhaps one thousand who are capable of safe driving would be inordinately expensive. Similarly, when a military school argues that their physical and emotional criteria for admission are such that very few women would qualify or even desire to attend, this may not simply be a bad faith argument being put forward by rank sexists, but may be an expression of how costly it is to accommodate the few females who will want to enter the school and can pass the physical test—privacy does require separate facilities, for instance.

Moreover, Schauer poses the issues surrounding gender generalizations as being cases in which a generalization unfavorable to women is examined by the courts and typically held to be spurious, or used in bad faith (i.e., merely as excuse for sexist discrimination), or as an unnecessary proxy. But in our era of unlimited affirmative action, this manifestly is not the whole story. Instead, the egalitarian generalization is often assumed that in any profession, women should constitute at least 50 percent of the work force, and when they are less than that, the only explanation must be invidious discrimination. (Interestingly, when women constitute more than 50 percent, the converse inference—viz., that men are being discriminated against—is never drawn.)

Statistical disparities are often taken by activist judges and scholars as ipso facto proof of discrimination. (Curiously, Schauer doesn't consider affirmative action in any depth). But consider a specific case: the fact is that while women are statistically overrepresented in U. S. colleges in overall enrollments, they are underrepresented in math and engineering programs. Feminist organizations such as the American Association of University Women have made the argument that this shows that those programs are illegally discriminating against women, and push for affirmative action in the form of quotas or preferences to remedy the unequal enrollments. But (as fairly conclusively shown by Kimura in her work) it seems clear that as regards mathematical aptitude, men have a statistically non-spurious edge, and as regards preference for dealing with machines rather than people, there is also a statistically non-spurious difference, both of which likely explain the discrepancies in enrollments.

The point here is that, in truth, what is happening in many courts now is that the generalization that men and women are innately cognitively and emotionally identical is taken as patently obvious, despite the now overwhelming evidence that it is not only not obviously true, but indeed empirically false. Coming back to costs, Jessica Gavora has recently argued in her book *Tilting the Playing Field: Schools, Sports, Sex, and Title IX* (Encounter Books, 2002) that the rigid adherence to gender equity has resulted in the needless elimination of many men's sports programs. All reasonable people support a law that requires schools to make sure that all girls who want to participate in sports are enabled to do so.

But it doesn't follow that to allow women equal access to sports will necessarily result in equal numbers of participants, unless you assume that girls and boys are identical in their desire to play sports—an assumption that is empirically dubious, to understate the matter.

Given the widespread squeamishness about generalizations and profiling, Schauer has done us all a service by rehabilitating an important topic. That he went wobbly on a few of the more controversial aspects of the issue is easily forgivable.

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