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Introduction

Do you think you can govern innocently? Jean-Paul Sartre, *Dirty Hands*

Politics, people say, is a dirty business. "All kings is mostly rapscallions," Huckleberry Finn observed, and Huck's characterization still seems to apply to most of those bureaucrats, glad-handers, and occasional statesmen who rise as best they can to what was once the business of kings. Our sense that politics is "dirty" appears well grounded. Popular cynicism about politics is at a peak, especially in the United States, and not without reason. In recent decades we have witnessed some truly astonishing acts of brutality, intemperance, dishonesty, and selfishness among our national leaders and public officials. Compared with the relative infrequency with which we glimpse true political decency (much less heroism) in public life, it is hard to avoid perceiving politics as a place where one is lucky indeed not to pick up some of the taint and odor that go with the territory of unsavory work.

Our perception of politics as a dirty business, however, is not merely a product of recent events. It also reflects something deeper and more permanent in our understanding of the relationship between ethics and politics. Across the centuries we find an enduring and surprisingly resilient belief that, of all the scenes of human life, perhaps the hardest in which to play one's role with true moral dignity is the sphere of public action. Of course moral action is difficult in general; that fact is as old as the idea of morality itself. There are a variety of reasons why human beings find it difficult to be moral: one may not know what action is morally best and, even when one does know, one may lack the power or the will to do what one ought. But there is also another, more intriguing set of cases: those where there seems to be *no* right thing to do, where anything one might do seems to be wrong in some important respect.

This last set of situations is, roughly speaking, what philosophers refer to as *moral dilemmas*: ethical conflicts in which, in order to do the right thing, one has to do the wrong thing; in which in order to be or do good, one

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must also be or do evil. Among those who have practiced the trade of politics or reflected on the character of public life, it has long been a truism that significant moral dilemmas arise more frequently within the political arena than they do anywhere else. Power seems to invite its practitioners to do what would be unthinkable to them in ordinary life: indeed, it often seems to insist that doing the unthinkable has, because of their public responsibility, become not merely their prerogative but their duty.

In contemporary moral philosophy and political theory, this particular kind of publicly driven moral dilemma has gone by the name of the problem of "dirty hands" in public life. Michael Walzer proposed the term in an influential article, drawing on the title of Jean-Paul Sartre's drama of moral dilemmas in revolutionary politics.[1] But the image this metaphor evokes is more ancient, recalling a time when the ideas of morality and cleanliness, as well as immorality and uncleanliness, remained closely linked. Sometimes the hands are bloody, as in Pilate's washing his hands of the decision to crucify a Nazarene troublemaker, or Lady Macbeth's obsessive scrubbing away of a long-since-vanished stain. But murder is not the only crime that has sometimes seemed necessary to political actors: it often seems also that one must lie, betray, compromise, abandon, mislead, manipulate, coerce, or otherwise act in ways that, were one not to claim one's political responsibilities as an excuse, would seem thoroughly vicious and corrupt.

This book examines the problem of dirty hands: the claim made by political actors that genuine moral dilemmas arise with special frequency and potency in public life. More specifically, it offers an analytical history of philosophical reflection on this problem from antiquity to the Enlightenment – a history of the different ways in which the problem came to be formulated and understood, and of the different answers that have been offered to address the various moral worries it raised. In addition to describing the various versions of the problem at each stage, the book also shows how various responses to dirty hands – including Augustine's interiorized ethics, Hobbes's sovereign state, and Adam Smith's commercial market – came to occupy crucial positions in the development of the Western moral and political tradition.

DIRTY HANDS AS A PHILOSOPHICAL PROBLEM

How do the hard facts of political responsibility shape and constrain the demands of ethical life? That question lies at the heart of what political

[1] Michael Walzer, "Political Action: The Problem of Dirty Hands," *Philosophy and Public Affairs* 2 (1973): 160–180.

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theorists call the problem of "dirty hands" in public life. Those who exercise political power feel they must act in ways that would otherwise be considered immoral: indeed, they feel that frequently it would be immoral of them *not* to perform or condone such acts as killing, lying, or betraying.

The question of dirty hands as it has been treated in contemporary philosophical reflection has focused principally on the implications of the possibility of moral dilemmas for the coherence of the most prominent ethical frameworks on offer. Though the urgency of the problem has always been felt most vividly at the level of applied ethics, by far the greatest part of the work to resolve the problem has been done at the level of ethical theory. The experienced phenomenon itself is generally accepted without argument: there are, even critics concede, at least *apparent* moral dilemmas, and they do seem to arise in political or social life more frequently than anywhere else. But from this shared starting point, assessments diverge dramatically. Some prefer to characterize these ethical challenges as genuine moral dilemmas, while others claim to show on the basis of arguments drawn from ethical theory that it is impossible by definition for such a thing as a moral dilemma to exist.[2] In these scenarios, the debates usually focus not on what constitutes the public good, but on whether it is possible to achieve what is manifestly for the public good without compromising unacceptably on grounds of moral principle.

In his seminal article on dirty hands, Michael Walzer offers two examples that help to illustrate the problem's intuitively compelling character. The more dramatic example – especially so in light of recent events – is that of a public leader who must decide whether or not to authorize torture in order to extract information about a terrorist plot to bomb innocent civilians.[3] The other, less dramatic but perhaps more realistic and familiar, example concerns a candidate for public office who can only win election

[2] Important proponents of the first view have included Thomas Nagel, "War and Massacre," *Philosophy and Public Affairs* 1 (1972): 123–144, and "Ruthlessness in Public Life," in *Mortal Thoughts* (Cambridge University Press, 1979), and Bernard Williams, "Ethical Consistency," in Christopher Gowans, ed., *Moral Dilemmas* (Oxford University Press, 1987), and "Conflicts of Values," in Williams's *Moral Luck* (Cambridge University Press, 1982), respectively. Proponents of the opposite view include R. M. Hare, Alan Donagan (see their selections in Gowans, *Moral Dilemmas*) and, in a more qualified way, Arthur Applbaum, *Ethics for Adversaries* (Princeton University Press, 1999).

[3] For a sense of the range of contemporary views on this problem, compare Alan Dershowitz, *Why Terrorism Works* (Yale University Press, 2002); the various contributions to Sanford Levinson, ed., *Torture: A Collection* (Oxford University Press, 2004); Charles Krauthammer, "The Truth about Torture," *Weekly Standard* (Dec. 5, 2005); and Andrew Sullivan, "The Abolition of Torture," *New Republic* (Dec. 19, 2005).

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by making a shady deal with a campaign donor regarding a public construction project. In both these cases, Walzer contends, the public responsibility held by the leader in question (to protect her citizens, or pursue her policy goals) conflicts irresolvably with some principle that ought to bind every moral agent (to maintain one's integrity in the face of potential corruption, for example, or not to use cruelty and torture as a means).

Such situations, according to Walzer, constitute *moral dilemmas*: that is, they are cases in which there is nothing one can do that will not qualify as morally wrong in some relevant respect, where one is literally damned if one does and damned if one doesn't. Many other contemporary theorists have endorsed the possibility of moral dilemmas, even those such as Thomas Nagel who believe in a demanding set of objective moral obligations. "Given the limitations on human action," Nagel has argued, "it is naïve to suppose that there is a solution to every moral problem with which the world can face us"; instead, we must expect that "the world can present us with situations in which there is no honorable or moral course for a man to take, no course free of guilt and responsibility for evil."[4] In such situations, wrongdoing in some form proves ultimately to be inescapable.

Facing a moral dilemma does not of course mean that we cannot make a choice between alternatives: indeed, Walzer seems to think that in certain cases the right and necessary thing for the politician to do is to abandon his scruples and commit torture in order to save his citizens' lives, or to compromise his personal integrity in order to keep faith with his followers and their policy objectives. But there is an important difference, Walzer thinks, between there being a reason to make the choice and the choice being fully *justified* from a moral point of view. In the case of a genuine moral dilemma, this kind of full justification is always lacking. Instead, even after the choice is made we find there is a kind of moral residue: something is left over to stain or tarnish what would otherwise be a praiseworthy accomplishment.[5] Such moral conflicts, Bernard Williams says, are "neither systematically avoidable, nor soluble without remainder."[6]

There are of course those who deny that such things as moral dilemmas exist at all. Among contemporary philosophers, most such denials fall into one of two categories: one variety of response is grounded in *utilitarian* moral theory, while another variety draws on some version of *deontological*

[4] Nagel, "War and Massacre."
[5] On this point see in particular Williams, "Ethical Consistency," as well as Williams's further reflections in his "Conflicts of Values."
[6] Williams, "Ethical Consistency."

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ethics.[7] Utilitarianism holds that the full explanation of the rightness or wrongness of an action or policy depends exclusively on the consequences for human happiness which that action tends to produce. "Actions," argued utilitarianism's most widely read apologist, John Stuart Mill, "are right in proportion as they tend to promote happiness, wrong as they tend to produce the reverse of happiness," where happiness is defined as the maximization of pleasure coupled with the minimization of pain.[8]

The utilitarian typically responds to suggestions of dirty hands by accepting that certain apparent evils must in fact be done in order to achieve maximum social utility, while in turn denying that such a decision really constitutes a genuine moral dilemma. Mill isolates this issue as the key criticism the utilitarian doctrine must refute in the final chapter of his essay *Utilitarianism*. Questions of justice or moral rightness in a non-utilitarian sense sometimes appear to conflict with the priorities of utility, Mill argues, because we have wisely taken such questions of justice off the table in terms of our ordinary moral calculations.[9] But ultimately our notions of justice and moral rightness are grounded in utility alone; indeed, it is the criterion of utility that gives us our only criterion for deciding which of several apparently "morally right" considerations has priority in an instance of apparent conflict.[10]

Thus, for the utilitarian, though a situation may sometimes *feel* like a moral dilemma, there cannot be such a thing as a moral dilemma properly understood.[11] Because good consequences constitute the sum and substance of the moral universe, there simply cannot, if the consequences are good enough, be any moral residue left to clean up. Mill acknowledges that of course values can *conflict*: but it is intolerable (so it seems to Mill) that they should not ultimately be resolvable.[12] If so, then there must be some

[7] The earliest contemporary treatments of the issue, such as Walzer's, tend to use the term "absolutist"; I substitute the somewhat less polemical "deontological," since it is essentially deontological views broadly defined which these writers had in mind.

[8] John Stuart Mill, *Utilitarianism*, ch. 1, in Mill, *On Liberty and Other Essays*, ed. John Gray (Oxford University Press, 1991), p. 137.

[9] In this respect Mill's version of utilitarianism bears a resemblance to the "rule-utilitarianism" developed more fully by his twentieth-century utilitarian successors. For an example of this approach as applied to the problem of dirty hands, see R. B. Brandt, "Utilitarianism and the rules of war," *Philosophy and Public Affairs* 1 (Winter 1972): 145–165.

[10] Mill, *Utilitarianism*, ch. 5, esp. at pp. 194–196.

[11] One representative utilitarian arguing in this vein chooses precisely these words as his title: see Kai Nielsen, "There is no dilemma of dirty hands," in Paul Rynard and David P. Shugarman, eds., *Cruelty and Deception: The Controversy over Dirty Hands in Public Life* (Broadview/Pluto, 2000). Another influential argument addressed to the broader issue of value conflicts is R. M. Hare, "Moral conflicts," in Gowans, *Moral Dilemmas*.

[12] See further John Stuart Mill, *A System of Logic*, bk. 6, ch. 12, section 7 (Longmans, Green, 1911).

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single standard (lest there be conflicts in infinite regress) by which to adjudicate conflicts of value: and because of its demonstrably universal appeal as a good, utility is the only plausible candidate on offer.

If utilitarianism can be successfully defended as an ethical theory, its promise to resolve value conflicts would be of great significance for the problem of dirty hands. This is especially so because – as nearly all writers on this topic seem to agree – considerations of utility seem to have a *special* moral importance to the choices of political actors and institutions. Indeed, the most attractive versions of utilitarianism view the theory as primarily addressing itself to questions of public policy with broad impact, and not as a handy moral abacus for the street-level practitioner.[13] Our intuitions about the moral importance of utility in public life run very strong. Thinkers as varied as Thomas Nagel, Michael Walzer, and Bernard Williams, despite their abhorrence for utilitarianism as a widely applied ethical dictum, are prepared to acknowledge that at least sometimes utilitarian considerations weigh so heavily in a moral dilemma that they must hold sway.

But there are significant problems with the utilitarian view that make it an unsatisfactory way of resolving dirty hands dilemmas. One common objection is the problem of how the utilitarian can be certain he can judge with such precision what is good and best for us all, when so few of us can judge well at all what is good for our mere selves.[14] Another view doubts that utility is itself a single, homogenous value; instead, it has often been interpreted even by sympathetic writers as a composite of different heterogeneous values (in which case it can hardly serve as the ultimate arbiter of value conflict its admirers wish to make it).[15] Yet another critique doubts that morality works in such a way that its ends can be traded off directly against all other moral costs, so as to justify and even require the sacrifice of anything of lesser consequence that stands in its way.[16] In general, skeptics of utilitarian moral theory maintain that to characterize good consequences

[13] This is a fact of historical significance – Bentham's great exposition of his theory was after all entitled *An Introduction to the Principles of Morals and Legislation* – as well as of analytical relevance – helping to alleviate many (though not all) of the intuitive problems the theory raises at the level of individual application. See Robert Goodin, *Utilitarianism as a Public Philosophy* (Cambridge University Press, 1995), esp. chs. 1 and 4.

[14] For a more comprehensive review of the standard objections to utilitarianism, see Sterling Harwood, "Eleven Objections to Utilitarianism," collected in Louis Pojman, ed., *Moral Philosophy: A Reader*, 3rd edn (Hackett, 2003).

[15] See Amartya Sen, "Plural utility," *Proceedings of the Aristotelian Society*, 1980–1981.

[16] See the elegant discussion of Bernard Williams, "A critique of consequentialism," in J. J. C. Smart and Bernard Williams, *Utilitarianism: For and Against* (Cambridge University Press, 1983).

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as the sole criterion by which to judge the rightness of action is to truncate drastically the full range and depth of human moral experience.

An alternative philosophical approach is that of the *deontologist* (also frequently called an *absolutist* by those who have written on dirty hands). The most famous philosophical exponent of such a view is Immanuel Kant, who inaugurated the influential tradition holding that only those actions done from a motive of moral duty can be considered truly valuable from a moral point of view. We know an action is morally worthy, Kant says, "*not from the purpose* which is to be attained by it, but from the maxim [or principle] by which it is determined"; it follows that the morality of action "does not depend on the realization of the object of the action, but merely on the *principle of volition* by which the action has taken place, without regard to any object of desire."[17] This does not mean that deontologists believe consequences to be of no importance: on the contrary, they properly occupy a good deal of our attention as we try to choose what is prudentially the best course of action. But, for these philosophers, we pursue good consequences *solely* within a framework marked out by the bounds of moral permissibility. No amount of social benefit can justify overstepping these bounds of our duty and integrity; no amount of suffering can compel us to respond in a way that contravenes the strict commands of our moral nature.

Though there are myriad variations, the most familiar deontological response to the problem of dirty hands is to urge the strict priority of questions of the right over questions of the good.[18] This tends to convey the impression – reinforced by the label "absolutist" – that the deontological response to the problem of dirty hands is to urge that moral actors must not get their hands dirty, period. There is a significant element of truth to this characterization of the deontological view, perhaps best depicted by Kant's (in)famous discussion of the problem of the murderer at the door. Kant considers a case (made vivid for contemporary readers by stories of Nazis searching for Jews) of a person of known murderous intent who comes to the door of a house asking its owner if the murderer's intended victim is inside (which she is). Kant believes every agent has an absolute duty to tell the truth – in a way this is the firmest moral requirement in Kant's

[17] Immanuel Kant, "Groundwork of the Metaphysics of Morals," in Allen Wood, ed., *Basic Writings of Kant* (Modern Library, 2001), p. 158.

[18] On the priority of the right to the good, see the discussions in John Rawls, *A Theory of Justice* (Harvard University Press, 1971), esp. pp. 130–136 and 446–452; Michael Sandel, *Liberalism and the Limits of Justice* (Cambridge University Press, 1982); John Rawls, *Political Liberalism* (Columbia University Press, 1993), Lecture V; and Charles Larmore, *The Morals of Modernity* (Cambridge University Press, 1996), ch. 1.

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system – yet it seems virtually certain that to answer the murderer truthfully in this instance will lead to the death of the homeowner's guest.

Is the case of the murderer at the door a moral dilemma? Not for Kant: for him a real conflict of moral duties is "inconceivable" because the very notion of a moral duty entails "the objective practical necessity" of the act in question.[19] It is possible, Kant thinks, to have a conflict of the various *grounds* of our moral duties – that is, moral *rules* can conflict, though not the duties they prescribe in particular cases – and this is what gives rise to the illusion of moral dilemmas. So in the case of the murderer at the door, there are two sources of practical reasons that might in principle have moral claims on us: under certain circumstances, our beneficence might be the ground of a duty to protect a fellow human being from danger, while our integrity might be the ground of a duty to speak the truth when questioned. But when two different grounds of obligation conflict, Kant believes, the stronger ground takes precedence – in the case of the murderer at the door, the absolute obligation to tell the truth – and that obligation constitutes our real moral duty.[20] Any apparent duty connected with the weaker ground of obligation is therefore *not* really obligatory; and, since that action is incompatible with our real duty, it is in fact *contrary* to our duty.[21]

The objections to a strictly interpreted deontological ethic are obvious and familiar. At a practical level, the refusal to get one's hands dirty is unhelpful in the project of building a politics in the real world. The deontological absolutist cannot hold firm to her position unless she is willing to let the heavens fall if necessary rather than surrender her principles. There is also a certain callousness to her refusal – seen in the ruthlessness required to let the world go to hell in order to preserve her own integrity – that intuitively renders her position not just politically but also morally untenable. To refuse to get one's hands dirty on grounds of absolute principle is to abandon the central place that the notion of *responsibility* for others must invariably hold at the heart of our moral conceptions.

[19] Immanuel Kant, *The Metaphysics of Morals*, ed. Mary Gregor (Cambridge University Press, 1996), "Introduction," section 3, pp. 16–17. The implied comparison is with deductive reasoning: as in logic, so also in morality "two rules opposed to each other cannot be necessary at the same time." Since Kant grounds morality firmly in the faculty of practical reason, he cannot acknowledge the possibility of a contradiction of imperatives within the system.

[20] Kant's reason for resolving the conflict this way is hard to grasp and certainly runs counter to the intuitions of many contemporary readers. For a helpful treatment of the problem, see Roger J. Sullivan, *Immanuel Kant's Moral Theory* (Cambridge University Press, 1989), pp. 170–177.

[21] For a contemporary adaptation of Kant's view that retains much of his uncompromising stand on issues of moral conflict, see Alan Donagan, "Consistency in Rationalist Moral Systems," in Gowans, *Moral Dilemmas*, esp. at pp. 287–288, as well as Alan Donagan, *The Theory of Morality* (University of Chicago Press, 1977), ch. 6.

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Not all deontological thinkers take such an unyielding position on such questions. While not accepting the consequentialist view that utility is the source of all value, some deontologists nevertheless concede that considerations of consequence may serve to modify substantially the application of an absolute deontological stricture. In Thomas Nagel's qualified defense of deontological absolutism, for example, he acknowledges that, under rare conditions in which utilitarian considerations are "overpoweringly weighty and extremely certain," it may well prove "impossible to adhere to an absolutist position."[22] Charles Fried, likewise, outlines a deontological theory that has as its central concept the tenet that "there are some things which a moral man will not do, no matter what."[23] But Fried also allows that, in certain extreme cases (such as where "killing an innocent person may save a whole nation"), "the catastrophic may cause the absoluteness of right and wrong to yield" and that indeed "it seems fanatical to maintain the absoluteness of the judgment, to do right even if the heavens will in fact fall."[24] And similarly, Kantian philosopher Christine Korsgaard offers a complex rationale for extending the bounds of the morally permissible beyond what Kant himself envisioned, in cases where it is necessary to find consequentially effective ways of responding to the evil behavior of others.[25]

These modifications of the deontological position make it cohere more easily with our moral intuitions and give deontological strictures a greater emotional plausibility. But at the same time, these gains are bought at the risk of losing at least some – and potentially much – of the clarity and certainty that are among the deontological ethic's most potent appeals. Framed in this way, both the utilitarian and the Kantian responses to the dirty hands problem re-enact the enduring struggle and intractable misunderstandings between consequentialism and deontology more generally. Neither response seems satisfying; neither response seems fully capable of accounting for the powerful intuitive claims invoked by the rival point of view.

Some critics of both perspectives, often called *value pluralists*, have rejected both utilitarianism and deontology as providing final and universally

[22] Nagel, "War and Massacre," p. 126.
[23] Charles Fried, *Right and Wrong* (Harvard University Press, 1978), ch. 1, p. 7. [24] Ibid., p. 10.
[25] Christine Korsgaard, *Creating the Kingdom of Ends* (Cambridge University Press, 1996), ch. 5. Korsgaard's response is the subtlest of these revisions of deontology, retaining intact a modified invocation of the categorical imperative (reframed as a version of Kant's third formulation of the categorical imperative as the pursuit of a "kingdom of ends"). See also Korsgaard's related discussion in "Taking the Law into our Own Hands: Kant on the Right to Revolution," in Andrews Reath, Barbara Herman, and Christine Korsgaard, eds., *Reclaiming the History of Ethics: Essays for John Rawls* (Cambridge University Press, 2004).

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persuasive answers to moral questions. These theorists argue instead that there are different *spheres* of value between which serious and sometimes incommensurable conflicts of value are possible.[26] One of the most influential modern articulations of this idea is to be found in the thought of Max Weber, whose understanding of the moral world rests on the premise that "the various value spheres of the world stand in irreconcilable tension to one another."[27] Truth, beauty, moral goodness, utility, fairness, integrity: these and other values bear some relation to one another, certainly, but they cannot be cashed out, Weber believes, into a single common currency of evaluation, as Mill had believed was true of utility, nor can any such standard be given comprehensive priority over rival claimants, as Kant had thought true of the superior standard of duty.

Value pluralism does not commit its proponents to a robust relativism: the view does not imply there is *no* rhyme or reason to human systems of value, and thus no meaning, no real value, to be found in human existence. On the contrary, the value pluralist is perhaps inclined to think there is too *much* value in the moral world, rather than too little. Instead, value pluralism commits its subscribers to a deep skepticism about the claim of human wisdom to be capable of attaining a systematic knowledge about values, and about the existence of any standard or algorithm that yields correct ethical answers to those who perform their calculations correctly.[28] It argues instead for deep, ineliminable moral complexity, while at the

[26] The literature on value pluralism is voluminous; but the most influential pieces on the subject can be found in the essays by Thomas Nagel and Bernard Williams previously cited, plus: Isaiah Berlin, "Two Concepts of Liberty," in *The Proper Study of Mankind* (Farrar, Straus, and Giroux, 1997); William Galston, *The Practice of Liberal Pluralism* (Cambridge University Press, 2005), esp. chs. 2 and 5–6; John Gray, *Isaiah Berlin* (Princeton University Press, 1996), ch. 2; Thomas Nagel, "The fragmentation of value," in Gowans, *Moral Dilemmas*; Joseph Raz, *The Practice of Value* (Clarendon Press/Oxford University Press, 2003); John Skorupski, *Ethical Explorations* (Oxford University Press, 2000), ch. 4; Michael Stocker, *Plural and Conflicting Values* (Clarendon Press/Oxford University Press, 1990); and Charles Taylor, *Sources of the Self* (Harvard University Press, 1989), esp. chs. 4 and 25. On the crucially related issue of incommensurability, see in addition to the above Elizabeth Anderson, *Value in Ethics and Economics* (Harvard University Press, 1995); Ruth Chang, ed., *Incommensurability, Incomparability, and Practical Reason* (Harvard University Press, 1998); Alasdair MacIntyre, *After Virtue*, 2nd edn (Notre Dame University Press, 1984); Joseph Raz, *The Morality of Freedom* (Clarendon Press/Oxford University Press, 1986); and Michael Walzer, *Spheres of Justice* (Basic Books, 1983).

[27] Max Weber, "Science as a Vocation," in H. H. Gerth and C. Wright Mills, eds., *From Max Weber: Essays in Sociology* (Oxford University Press, 1946), p. 147.

[28] Consider Alasdair MacIntyre's account of Sophocles' moral realist version of value pluralism (with which MacIntyre himself clearly has some sympathies): "There *is* an objective moral order, but our perceptions of it are such that we cannot bring rival moral truths into complete harmony with each other . . ." MacIntyre, *After Virtue*, p. 143.

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