

Introduction

A memorable episode of the classic British satire *Yes, Prime Minister* provides a useful entry point into the themes of this book. This episode, titled “A Conflict of Interest,” revolves around the government response to a brewing scandal in London’s financial sector (“the City”). A major bank, “Phillips Berenson,” is on the brink of insolvency due to its directors’ misdeeds. These misdeeds range from tax evasion, through insider trading and embezzlement, to bribery and other corrupt dealings with foreign officials. Against this background, the prime minister is considering whom to appoint as the new governor of the Bank of England. The prime minister is initially keen on appointing Alexander Jameson, who is known for his professionalism and firm ethical principles, and who is bound to order an inquiry into Phillips Berenson. But Sir Humphrey Appleby, the cabinet secretary, is determined to change the prime minister’s mind. Sir Humphrey notes in his diary that “It’s not just the Phillips Berenson case that will be affected if Jameson gets the job and starts all his confounded amateur Sherlock Holmesing”:

All sorts of other little matters could emerge. He could uncover a major scandal. Followed by collapse of confidence. Sterling crises. The pound could fall through the floor. It would, of course, be best for all of us if all those City fiddles could be cleared up. But that’s just naïve optimism, I fully realise. Pie in the sky. The bottom line (as our American cousins like to say) is that the City earns this country 6 billion a year. We can’t hazard all that just because a few chaps do a few favours for a few other chaps, who happen to be their friends, without telling the shareholders. It might be *right* to put a stop to it. But it simply wouldn’t be reasonable. The repercussions would be too great. The time is not ripe.¹

¹ Jonathan Lynn and Anthony Jay, *The Complete Yes Prime Minister* (London: BBC Books, 1989), 362. Italics in the original. Even when adjusting for inflation, the relevant figures in more recent years have actually been vastly higher than six billion pounds. See, e.g., Anjuli Davies, “Britain’s Financial Sector Paid Record 71.4 Billion

Driven by this reasoning, Sir Humphrey seeks to paint Jameson to the prime minister as a man who is so fanatic in his principles, that his virtues are in fact a political liability. With typical guile, Sir Humphrey does this by appearing to praise and defend Jameson in response to the prime minister's questions. In his own diary, the prime minister reports his exchange with Sir Humphrey as follows:

Humphrey, do you think he's good? 'Good is exactly the word,' replied Humphrey. 'A really *good* man. . . Extremely honest. Honest with absolutely everyone. . . ' Humphrey obviously likes him a lot. And yet . . . there's something about his enthusiasm that worries me. 'It's good, isn't it, to be honest with everyone?' I asked . . . He was unequivocal. 'Of course it's good. If he finds a scandal anywhere, even here in Number Ten, he'll tell everybody. No doubt about that.' 'You mean . . . he's indiscreet?' Humphrey looked uneasy. 'Oh dear,' he replied with a sigh, 'that's such a pejorative word. I prefer merely to say that he's obsessively honest.'

I was becoming concerned. I am all for honesty, God knows, but there is a time and place for everything. And we are discussing politics. Handling people, that sort of thing. 'Do you think, quite candidly, that he's the right man to bring the City into line?' 'Absolutely,' said Humphrey without hesitation. 'If you want a Saint. Of course, there are those who say he doesn't live in the real world. He *is* extremely puritanical . . . a bit of an Ayatollah, in fact. The only question is, do you want to risk a Samson who might bring the whole edifice crashing down?'²

This conversation begins to push the prime minister away from appointing Jameson. Later on, the prime minister's own short-term calculations, and the threat of a diplomatic crisis if Phillips Berenson's massive loans to corrupt foreign leaders are revealed, settle the issue, and produce the result that Sir Humphrey desires. The prime minister appoints as governor not Jameson, but rather the intellectually underwhelming chairman of a huge bank that lent heavily to Phillips Berenson.³ This pick will make sure that the Bank of England bails

Pounds in Taxes Last Year before Brexit," *Reuters*, Dec. 5, 2016, at <https://uk.reuters.com/article/uk-financial-services-tax/britains-financial-sector-paid-record-71-4-billion-pounds-in-taxes-last-year-before-brexid-UKKBN13V005>.

² Lynn and Jay, *The Complete Yes Prime Minister*, 365–366. Italics in the original.

³ The Prime Minister's senior political advisor points out: "It's easy to see how he became Chairman. He never has any original ideas, he speaks slowly, and because he doesn't understand anything he always agrees with whoever he's talking to. So obviously people think he's sound . . . but he's a bumbling buffoon." Lynn and Jay, *The Complete Yes Prime Minister*, 372–373.

out Phillips Berenson with minimal publicity. Consequently, business will continue as usual for all involved – from the criminal directors to the foreign leaders who have been abusing Phillips Berenson’s loans.

Now, in this particular instance, Sir Humphrey’s (genuine) concern seems overstated – he appears to be exaggerating the costs of reform, and underestimating its benefits. Nonetheless, we recognize the intuitive pull of his desire to maintain stability, even if doing so means allowing various criminals to “get away with it.” It would be wonderful, of course, if we lived in a world in which there was never any moral reason to behave in this way – to accommodate, turn a blind eye to, or otherwise compromise with wrongdoers. But fictional plot lines such as those of *Yes, Prime Minister* resonate with us precisely because of the degree to which they track sad realities. In many actual political cases, there clearly *are* moral reasons to compromise with the perpetrators of serious wrongs: the question is how to balance these reasons against countervailing moral considerations.

Here are some real-world examples, all of which will feature prominently in this book. What compromises, if any, are appropriate when considering kleptocrats who are effectively holding their people hostage – for instance, rulers who systematically abuse loans from foreign creditors, as in the *Yes, Prime Minister* tale, but who rely on the fact that their vulnerable population will suffer if loans are cut off entirely? What compromises, if any, are morally appropriate when dealing with dictators who threaten to unleash further violence unless they are guaranteed an amnesty by the democratic forces trying to replace them? If virtually all seasoned politicians in a developing country with a fragile democracy are implicated in wide-scale corruption, but if the country is facing an acute economic crisis that clearly requires experience at the helm, what should be done about the corrupt, and who should decide?

Within political theory, such questions have often been the purview of the “dirty hands” literature, which has been preoccupied with the question of whether one can – or should – “govern innocently.”⁴ This literature, much like *Yes, Prime Minister*, has been heavily focused on

⁴ The phrase is famously due to Jean-Paul Sartre’s play “Dirty Hands.” See, e.g., Sartre’s *No Exit and Three Other Plays* (New York: Vintage, 1989). The most influential treatment of the topic in contemporary political theory remains Michael Walzer’s “The Problem of Dirty Hands,” *Philosophy & Public Affairs* 2 (1973): 160–180.

individual political actors, and particularly on individuals at the apex of political power.⁵ Yet, although I believe that such individual-level discussions contain valuable insights, I pursue a different approach here.

My main goal in this book is to develop two *collectivist* philosophical frameworks. Both of these frameworks focus not on individual political actors, but rather on *the people*, as the collective agent in whose name modern political power is exercised. The practical value of these frameworks, I argue, is especially evident when reflecting on intricate policy problems concerning corruption and other abuses of political power. But I also try to show that the two frameworks ultimately help us tackle further – related but distinct – public policy dilemmas.⁶

The first framework revolves around a collectivist version of a much debated individual virtue – integrity, understood as fidelity to one's identity-grounding commitments or projects.⁷ Within the dirty hands literature, invocations of “integrity” have often been met with suspicion, especially by consequentialists of various stripes. Many in this camp have long argued that integrity can be a political vice rather than a virtue: if the public good requires public officials to sully their hands when making political decisions, then it is objectionable of them to appeal to their “identity-grounding commitments” as a justification for keeping their hands clean.⁸ Such critiques, once again, have intuitive

⁵ For a partial exception see Dennis Thompson, “Responsibility for Failures of Government: The Problem of Many Hands,” *The American Review of Public Administration* 44 (2014): 259–273.

⁶ Whenever speaking of “dilemmas,” I will have in mind morally complex choices. This usage of “dilemma” is different from the technical sense sometimes employed by philosophers, to refer to a situation where all possible choices involve moral wrongs.

⁷ As I note in Chapter 1, this understanding of integrity is most famously associated with Bernard Williams, though many of the ideas I will develop with regard to integrity depart quite substantially from Williams's views.

⁸ “It is in the nature of public officials' role responsibilities that they are morally obliged to ‘dirty their hands’ – make hard choices, do things that are wrong (or would ordinarily be wrong, or would ordinarily be wrong for private individuals) in the service of some greater public good. It would be simply irresponsible of public officials (in any broadly secular society, at least) to adhere mindlessly to moral precepts read off some sacred list, literally ‘whatever the consequences.’ Doing right though the heavens may fall is not (nowadays, anyway) a particularly attractive posture for public officials to adopt,” Robert Goodin, *Utilitarianism as Public Philosophy* (Cambridge: Cambridge University Press, 1995), 10. In the same book (69), Goodin seems to simply equate “integrity” reasoning with “clean hands” reasoning, following, for example, Brian Barry, *Democracy*,

appeal: they are, for example, a key reason why Sir Humphrey, who portrays Jameson as “Mister Clean,” succeeds in labeling him to the prime minister as dangerously rigorist.⁹

However, we can recognize that it is irresponsible of public officials to prioritize their own integrity when making political decisions that often have dramatic effects on millions of lives, without removing integrity from political morality altogether. We can avoid this path partly by shifting our attention from the individual to the collective level. It is in this spirit that I explore here a notion of *collective integrity*: I discuss how, in a liberal democracy at least, a sovereign people as a collective agent might have morally important integrity, in a sense that parallels the integrity of an individual person.

The basic reason for drawing this parallel, which I elaborate in Chapter 1, is that taking seriously the moral integrity of the people as a collective agent helps us to organize and clarify important moral intuitions concerning the policies of liberal democracies. For one thing, once we think about the people in a liberal democracy in integrity terms – as an agent with its own identity-grounding projects that unfold over time – we can capture important moral intuitions as to how a liberal democracy’s particular history should bear on its current conduct. Furthermore, this framework also elucidates distinctive reasons for liberal democracies to prioritize certain policy reforms over others. And, last but far from least, the integrity framework helps liberal democracies in confronting myriad moral dilemmas – dilemmas concerning corruption being only one key example.

The second collectivist framework that I develop in this book has to do with the people’s *property*. Ideas regarding public property form a key – if often only implicit – element of our moral reflection about fundamental

Power and Justice (Oxford: Clarendon Press, 1989), 340. I actually believe that this equation is misleading, partly for reasons that should become clear in the course of this book.

⁹ Sir Humphrey is not alone, of course. Another *Yes, Prime Minister* scene, featuring Treasury opposition to a proposed plan to combat smoking that will cause tax revenue losses, captures a similar thought through the remarks of the Treasury’s Permanent Secretary: “It must be admitted that there is a moral principle involved. And we at the Treasury . . . earnestly believe in the moral principle. But when four billion pounds of revenue is at stake I think that we have to consider very seriously how far we are entitled to indulge ourselves in the rather selfish luxury of pursuing moral principles.” Lynn and Jay, “Chapter 7: The Smokescreen,” in *Yes, Prime Minister*, 201.

political issues. Here, too, issues of corruption and abuse of political power are paradigmatic examples, as our opening *Yes, Prime Minister* story again demonstrates. Our instinctive concerns about this story are clearly not exhausted by individualist considerations – for instance, by considerations of individual desert and reward. As I already pointed out, we are of course worried about the criminal directors of Phillips Berenson, for example, being rewarded by the government rather than punished. But another part of our unease with this story has to do with the people's property that provides the source of these directors' individual rewards. A key part of what alarms us about the government cover-up of Phillips Berenson's dealings is that this cover-up requires the use of public property to save the bank, with minimal public exposure.

However, in order to know just how morally significant this concern really is, we need to have a systematic account of public property. Given the centrality of public property to any functioning state and economy, one would expect political philosophers to have such an account on offer. Yet despite the many pages that philosophers have written on the idea of private property, contemporary political philosophy has had very little to say on public property. Starting in Chapter 2, I tackle this gap. In the process, I hope to show how ideas concerning public property can help our moral analysis even in policy areas where we do not expect them to do so – once again, organizing and clarifying a broad set of moral values.

There are at least four reasons why the collective integrity and collective property frameworks are fruitful companions. First, both of these frameworks provide an alternative to a purely consequentialist analysis of concrete policy problems. Few deny that consequences are a significant factor in the morality of public policy.¹⁰ But many think that consequences are not the only significant factor. A public policy that is completely blind to any other moral consideration apart from consequences – that refuses, for example, to recognize any genuinely moral constraint on the attainment of good consequences – is (arguably) as morally lopsided as a policy that is completely oblivious to consequences.¹¹ The challenge, then, is to figure out how to combine

¹⁰ As Rawls noted with uncharacteristic directness: “All ethical doctrines worth our attention take consequences into account in judging rightness. One which did not would simply be irrational, crazy.” See John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, revised edition, 1999, hereafter *TJ*), 26.

¹¹ If one interprets the tradition of “political realism” in this light – as a tradition that holds that our entire analysis of political decision making has to be purely

consequentialist and non-consequentialist moral considerations in a stable, coherent way. I will try to show that the collective integrity and collective property frameworks can both rise to this challenge.

Second, the two frameworks inform in complementary ways our thinking about the relationship between the sovereign people and the law of a liberal democracy. Thus for example, I will begin my analysis of the people's integrity from the appeal of seeing the sovereign people as the creator of a liberal democracy's legal system. I will argue that we should understand the core project of a liberal legal system – realizing equal rights – as the identity-grounding project of the collective agent that is the sovereign people, and thus as essential to the people's integrity. I will then pursue a parallel move when discussing the sovereign people as the owner of public property. I will seek to establish that the most compelling philosophical account of public property is one that focuses on the proprietary claims that are intertwined in the sovereign people's moral power to create property rights through the legal system.

A third, related reason for discussing the people's property alongside the people's integrity is that doing so allows us to capture multiple moral judgments concerning the responsibilities of a liberal democracy's legal system. The collective integrity framework insists that a liberal legal system – and ultimately the sovereign people as the creator of that system – carries responsibility even for those wrongs that it does not officially support but merely allows private actors to pursue: dodging this responsibility is a form of collective hypocrisy that is antithetical to the idea of integrity. Along parallel lines, the collective property framework rejects a sharp divide between private and public property, and, as a result, insists that wrongful private discrimination associated with private property can, and often should, be the business of the law, no less than discrimination associated more directly with public property.

consequentialist – then of course the complaint I am making here would apply to this tradition as well. Part of the problem with assessing political realism, however, is that it is hard to specify the exact contours of this position, or indeed to distinguish it, in the political arena, from a thoroughly consequentialist outlook. For discussion of some of these concerns, see William Galston, "Realism in Political Theory," *European Journal of Political Theory* 9 (2000): 385–411; Jonathan Leader Maynard and Alex Worsnip, "Is There a Distinct Political Normativity?" *Ethics* 128 (2018): 756–787.

A final reason for combining the collective integrity and collective property frameworks is that, in different ways, each of these frameworks illuminates fundamental democratic convictions. Thus for example, by providing us with a clear and coherent way to think about the people's property, the collective property framework pushes us – as I will go on to argue – to consider specific cases in which it would be morally important for the people as a collective agent to exercise direct democratic control over policy decisions pertaining to its property. Similarly, by casting the legal system's core task of realizing equal rights as the people's identity-grounding project, the collective integrity framework captures the democratic conviction that the people ought not to leave this task exclusively to de facto leaders – especially when these leaders have clearly been abusing their power.¹²

“The People”: Core Assumptions

These claims are inevitably compressed. Their full meaning and significance can become clear only against the background of the particular policy problems that I will try to address. But before I specify these problems further, some more introductory remarks are in order, first with regard to the basic concept of “the people.”

In the following pages, I will often be speaking about “the people,” “the public,” “the body politic,” or (especially in the international context) about “the polity.” Whenever I use any of these terms, I will have in mind the sovereign people. In turn, I am going to assume that all of the individuals who permanently reside within each of the world's stable territorial jurisdictions comprise – at least on first approximation – different sovereign peoples.¹³ A key thought underlying this assumption is that stable territorial borders accrue normative

¹² One might ask a more general question about the relationship between the two frameworks – namely, whether the ideas associated with collective property can ultimately be subsumed under the heading of collective integrity. I wish to remain agnostic on this question, in order to enable even readers who are skeptical of my integrity claims to adopt (at least) some of my arguments with regard to collective ownership.

¹³ This understanding of “the people” is often thought to be threatened by what is known as the “democratic boundary problem.” Elsewhere, however, I have argued at length that this problem is illusory. See my “Democratic Theory, the Boundary Problem, and Global Reform,” *The Review of Politics* 79 (2017): 99–123.

significance over time. Stable borders delineate a (fairly) stable group of individuals as the polity’s citizens. And the fact that these individuals (and their descendants) share a political community generates the moral expectation that they will work together to enact a political conception of justice to regulate their common affairs, consequently forming, over time, valuable “bonds of civic friendship.”¹⁴

Note, moreover, that the moral expectation of such civic bonds obtains even when different co-citizens can trace their origins to distinct ethnic groups. Even in such circumstances, there are moral reasons to hope that the very experience of sharing a political community with its attendant tasks, will foster a unifying collective identity, which will make it plausible to focus on a single people – even if a multi-ethnic people – that resides within each state territory. Indeed, the idea that a shared civic identity can eventually replace different ethnic roots as the core of collective identification clearly has considerable moral appeal. This is especially true when thinking of joint civic struggles affirming the basic equality of all citizens and contesting discrimination of various kinds of minorities. Although I shall say more about these kinds of struggles in multiple chapters, we can note already here that it seems intuitive to think that co-citizens can and should take pride in achievements that “the people” together have been making in such struggles. Hence these struggles, and the particular way in which they unfold in each political community, form the core of a particular history around which civic “common sympathies” can emerge and can unite the members of the sovereign people.¹⁵ This is true even when these members do not share (for instance) any pre-political ethnic, linguistic, or religious ties.¹⁶

¹⁴ *TJ*, 5. Anna Stilz similarly emphasizes such civic bonds in her account of territorial rights, arguing that “over time, political cooperation can constitute a group of citizens into a collective agent with important ties binding them together.” See her “Nations, States, and Territory,” *Ethics* 121 (2011): 572–601, at 592–593.

¹⁵ In turn, one important implication of understanding the sovereign people in civic rather than ethnic terms is the possibility of an inclusive position on the question of who may become a member of the people – as Chapters 1 and 2 will make clear.

¹⁶ This point obtains even for polities struggling to overcome the most extreme types of internal ethnic conflict. For a sustained normative argument along these lines see Ernesto Verdeja, *Unchopping a Tree: Reconciliation in the Aftermath of Political Violence* (Philadelphia, PA: Temple University Press, 2009). At the empirical level, as two influential development scholars note, “the very act of

Now, as I already indicated, both the collective integrity framework and the collective property framework rely on an understanding of the sovereign people as a group agent. Both frameworks thus presuppose that we can meaningfully speak about group agents in a way that is not merely metaphorical. It might be helpful, then, to explain briefly why I think this presupposition is sensible.

The idea that group agency does not have to be purely metaphorical – a mere shorthand for the aggregation of individual agents – has become somewhat less controversial in recent years. Specifically, in this book I will follow a non-metaphorical view of group agency associated with Christian List and Philip Pettit's work.¹⁷ Their key claim is that group agents supervene on individual agents, but are not readily reducible into the mere sum of individual agents. One important reason for holding this view is that there is often no easy way to translate the judgments of a group agent into any single collection of individual judgments, and in fact there might be cases where the group agent's judgments conflict with the judgments of each of its individual members.¹⁸ Another, more general reason, is that an account that refuses to treat group agency as a mere

working together on a collective project may help communities rebuild their social ties after a major civil conflict. The so-called Community Driven Development Projects, in which the communities choose and manage collective projects, are quite the rage in post-conflict environments like those in Sierra Leone, Rwanda, Liberia, and Indonesia." See Abhijit Banerjee and Esther Duflo, *Poor Economics* (New York, NY: Public Affairs, 2011), 248.

¹⁷ Christian List and Philip Pettit, *Group Agency: The Possibility, Design, and Status of Corporate Agents* (Oxford: Oxford University Press, 2011).

¹⁸ The core issue here concerns the distinction between (on the one hand) a particular proposition on which individual members of a group agent may form a judgment, and (on the other hand) each individual's complete profile of judgments regarding *all* of the propositions on which the group has to decide. "A group's judgment on a particular proposition," List and Pettit insist, "cannot generally be a function of the group members' individual judgments on that proposition. Rather, it must be a function of the group members' inputs in their entirety. The upshot is that knowing what the group members individually think about some proposition does not generally tell us how the group as a whole adjudicates that proposition." List and Pettit, "Group Agency and Supervenience," *Southern Journal of Philosophy* 44 (2005): 85–105, at 76. See also List, "The Discursive Dilemma and Public Reason," *Ethics* 116 (2006): 362–402; List and Pettit, "On the Many as One: A Reply to Kornhauser and Sager," *Philosophy and Public Affairs* 33 (2005): 377–390 (replying to Lewis Kornhauser and Lawrence Sager, "The Many as One: Integrity and Group Choice in Paradoxical Cases," *Philosophy & Public Affairs* 32 [2004]: 249–276).