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Dirty Hands and Moral Wrongdoing: conceptually clear and logically consistent

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Abstract: This paper provides a nuanced characterisation of the type of moral wrongdoing that is involved in acts of 'dirty hands' - acts which are right (all things considered), but also somehow wrongful. It claims that the precise nature of moral wrongdoing (in a dirty hands scenario) is located in the transgression of the value of *responsibility to persons*. In so doing, it addresses the problem of *logical inconsistency* and adds greater conceptual clarity to recent accounts of dirty hands. The claims made in this paper are motivated by the desire to achieve the most stable balance in a state of 'wide reflective equilibrium' and to provide an accurate articulation of our moral reality.

Keywords: Dirty Hands, Moral Conflicts and Dilemmas, Logical Consistency, Inescapable Wrongdoing, Moral Reality.

1. Introduction

The debate surrounding the problem of 'dirty hands' has gained considerable interest over the last 30 years since the publication of Michael Walzer's seminal article 'Political Action: The Problem of Dirty Hands'. Famously, Walzer's contention was that we may, sometimes, have to engage in acts which are on the one hand right, yet also somehow wrong (Walzer 1973, p. 161). Similar claims are made by Thomas Nagel (1972) and Bernard Williams (1973a) and more recently by Michael Stocker (1990) and Stephen de Wijze (1994). This notion of dirty hands (DHs) is controversial however. Both deontologists and consequentialists tend to argue that it indicates an uncritical and primitive understanding of morality. More precisely, critics often respond to this notion of DHs with the claim that it amounts to nothing more than a *conceptual confusion.*[1] Furthermore, there is also an implication that this notion of DHs entails a *logical inconsistency* because it is committed to the claim that there can be genuine moral conflicts and dilemmas, which, as some critics argue, are said to be logically inconsistent.[2]

However, I argue that the failure to perceive DHs as a real and pervasive aspect of our moral lives does a serious injustice to our moral reality. I begin by outlining a paradigm case of DHs. I discuss the charges of conceptual confusion and logical inconsistency along with the various responses to them. As I explain, the response to the logical inconsistency problem, in the DHs literature, is particularly unsatisfactory. Thus, I move to defend certain positive claims which attempt to deal with this issue. I begin by offering a phenomenological argument in favour of moral remainders, but to give my claims a normative force, I argue that the precise nature of moral wrongdoing (in a DHs scenario) is located in the

[1] See for example Kai Nielsen (1996, p. 140).

[2] For further discussion of moral conflicts and logical inconsistency, see for example Williams (1973b), Gowans (1994) and (1987) and Sinnott-Armstrong (1988).

transgression of the value of *responsibility to persons*. As I argue, these claims, allow me to present a logically consistent conception of DHs, which, in turn, provides the other recent accounts of DHs[3] with a greater conceptual clarity. Following this discussion, I explain, what distinguishes my position from that of Christopher Gowans (1994) who uses a similar argument to defend the concept of inescapable wrongdoing.

2. Dirty Hands, Conceptual Confusion and Logical Inconsistency

What kinds of situations give rise to DHs acts? Consider the following example which I call *Mountain Rescue*. Imagine I am out walking with a friend in some remote mountains. A heavy fog comes down and the conditions on the mountainside rapidly deteriorate. Because of the poor visibility, my friend trips and falls badly – he breaks his leg and also our compass which he was carrying. I continue my descent and promise to go and get help. However, this task is proving difficult because of the heavy fog and the fact that I no longer have a compass. After a while though, I stumble across a mountain track where I see a parked car and a picnic table where a young couple are sitting drinking tea. I rush up to them, explain what has happened and ask for their help. Unfortunately (perhaps due to my rather desperate manner) they become startled and get up to leave. However, I notice their car keys on the bench and believe that I could grab them, steal their car and go for help. If this was the only viable way of saving my friend, should I do it? If this really was my only option, I think that many people would agree that I should steal the car in order to help my friend. However, in so doing, should my actions be characterised as right, tout court? After all, most people view 'carjacking' as wrong. Thus, would it not be more appropriate to suggest that my actions are right (all things considered), but also somehow wrongful?

Despite the intuitive appeal of this contention, this notion of DHs often provokes much criticism. Typically, the response is that when faced with a supposed DHs scenario, it only appears as if our actions involve elements of both right and wrong. Once the problem is viewed through the critical lens of a deontological or consequentialist moral theory, it will become apparent that one's actions are either right or wrong. To maintain therefore (in the light of this critical assessment) that DHs is, nevertheless, a real and pervasive aspect of our moral reality is said to be conceptually confused. The utilitarian philosopher Richard Hare acknowledges that if we have been 'well brought up', when we are faced with hard choices we will, of course, experience a feeling of 'compunction' (a psychological state that makes us feel as if we ought to have done what the opposing abandoned claim would have had us do), but he insists that this feeling does not mean that we actually do wrong as well as right (1978, pp. 173-174). Thus, if we refer back to the *Mountain Rescue* example, Hare would no doubt agree that I should steal the car in order to save my friend. (In the light of the negative consequences that would result from the failure to do this, there are clearly good utilitarian grounds for supporting such action.) What is more, Hare would also acknowledge the appropriateness of a feeling of compunction as a result of this action - after all, most persons are brought up to believe that stealing cars is wrong. However for Hare, this would, morally speaking, be the

[3] Namely, the accounts of Walzer, Nagel, Williams, Stocker and de Wijze.

end of the matter. In this situation, to steal the car was the right thing to do and therefore in moral terms, at least, this would be all there is to say: case closed.

Similarly, Kai Nielsen utilises his *weak consequentialism* to reach the same conclusion. In response to the kind of example under discussion here, he argues that 'to feel guilty is not necessarily to be guilty'. His rationale for this is that 'we do not do wrong by doing the lesser evil'. Rather, when we must choose between the lesser of two evils, we do what is right, all things considered. In other words, we do 'the thing we ought – through and through ought – in this circumstance, to do' (1996, pp. 140-141).

This kind of conclusion is also compatible with the kind of sophisticated deontological views of persons such as W.D. Ross (1930), albeit for different reasons. Ross rejects monism (the view that there is only one basic moral principle) and argues that there are many things that are of moral significance. He expresses his position through his ethic of *prima facie* duties. For example, we have duties to keep promises, other duties not to lie, others to repay past acts of kindness and others still, not to let people down who are relying on us. Although our *prima facie* duties may conflict with one another, once we have decided which of them is to be action-guiding, it is this duty which becomes our *actual* duty, or as Ross says our 'duty proper'. Again he notes that as a result of such apparent conflicts, one will understandably feel compunction, but, like Hare and Nielsen, he argues that this feeling does not translate into any kind of actual wrongdoing. His theory therefore precludes the contention that one's actions can be right (all things considered) yet also somehow wrongful.

The task, therefore, for those who seek to defend DHs is to establish why the charge of conceptual confusion is mistaken. Stocker argues that the perception of DHs as conceptually problematic stems from certain 'serious errors made by our ethical theories': namely, that they 'over-concentrate on overall, action-guiding act evaluations, e.g. "ought", "right", and "duty"' (1990, 10). However, instances of DHs are said to involve 'impossible oughts' – 'oughts we are unable to obey'. In the *Mountain Rescue* example, although stealing the car is justifiable, even obligatory, it nonetheless 'stains both the act and the agent'. DHs acts therefore involve more than overall action-guiding act evaluations. 'The partial, constituting values retain their moral relevance'. Thus the disvalue of stealing the couple's car is not only taken into account in determining the overall value of authorising it., '[i]t remains as a disvalue even within that justified, perhaps obligatory, whole' (1990, pp. 12-13).

Stocker's claims are useful in terms of explaining away the charge of conceptual confusion, but more needs to be said here to establish that 'impossible oughts' retain their moral relevance in the aftermath of a DHs act and that they therefore constitute a real and pervasive aspect of our moral reality.

A useful argument which can be used to support Stocker's claims is Bernard Williams's contention that our moral values are similar, in some sense, to our desires (as opposed to, say, our cognitive beliefs). Our desires, it seems, can often have the character of a struggle, whereas this is rarely the case with our beliefs. In the case of one's beliefs, the concern is to find the right belief and to be rid of the false one. For example, if after a drunken night out I cannot remember whether I locked my front door before going to sleep, I could initially (before going to check) have two potential beliefs about this situation. But once I discover that I did lock my door, to continue to believe that the door is open is

irrational and confused. This false belief no longer ought to have any purchase on us. However, in the case of an agent acting upon (and therefore satisfying) one of her conflicting desires, although it may not survive the point of the decision (it wasn't action-guiding), the agent's desire can re-emerge on the other side as a form of regret for what has been missed (Williams 1973b, p. 170). For example, I might have the desire to eat fast food, but also the desire to eat healthily. If I decide to eat the fast food, then I have not abandoned the desire to eat healthily, I have merely overridden it. Also, if I am serious about my regime of healthy eating, then I'll regret the fact that this desire was overridden and I will probably feel bad about it. The kind of moral conflicts involved in DHs acts are therefore similar to conflicts of desires as opposed to a conflict of beliefs. In the moral case we do not usually think in terms of banishing error. Instead, we tend to think in terms of 'acting for the best' - a frame of mind that 'acknowledges the presence of both the two ought's' (Williams 1973b, p. 172).

The claims of both Stocker and Williams help to alleviate the charge of conceptual confusion. Nevertheless, there is still a question mark over what constitutes the precise nature of the moral wrongdoing in a DHs scenario. It seems that the kind of wrongdoing that pertains here is not equivalent to one just doing something wrong for example.[4] Furthermore, there is also the problem of logical inconsistency to contend with. The implication that DHs entails a logical inconsistency stems from the fact that the definition adhered to here is committed to the claim that there are genuine moral conflicts and dilemmas where it seems that I ought to do (A) and I ought to do (B) but I cannot do both (A) and (B). However, if one accepts certain principles of deontic logic, namely, the Kantian principle ('ought implies can') and the agglomeration principle, then this conception of a moral conflict is said to be logically inconsistent and what is more, the concept of DHs (as described here) falls away. The logical inconsistency can be represented in the following form:

(i) I ought to do (A)
(ii) I ought to do (B)

(iii) I cannot do (A) and (B).

However, from (i) and (ii), we get the 'agglomeration principle':

(iv) I ought to do (A) and (B)

But from (iii), by 'ought implies can' we get:

(v) It is not the case that I ought to do (A) and (B).

There is, therefore, a contradiction which casts doubt on the possibility of there being genuine moral conflicts and dilemmas and thus also DHs acts. Throughout the literature on DHs there has been little attempt to resolve the problem of logical inconsistency – and what attempts there have been are

[4] In other words, stealing the couple's car to save my friend (in *Mountain Rescue*) is not equivalent to simply stealing the couple's car for no good reason.

unsatisfactory. Williams, for example, argues that we should abandon the agglomeration principle which would get rid of the logical inconsistency problem and thus allow for the possibility of moral conflicts and dilemmas (and, therefore, also DHs). However, I advocate a method of 'wide reflective equilibrium' as the most appropriate methodology for moral inquiry (Rawls 1999).[5] The aim of this process is to strike the best possible balance amongst our intuitions, our abstract principles and our considered judgements and also to achieve the 'widest consistent justificatory circle possible' (Nielsen 1994, p. 24). I argue, therefore, that we should only abandon what could be considered 'relevant data' as a last resort. Thus, instead of simply abandoning the agglomeration principle I propose a conception of a moral conflict which is immune to the problem of logical inconsistency. As I argue, this will enable me to present a logically consistent characterisation of DHs which accounts for the precise nature of moral wrongdoing here and therefore provides the other recent accounts of DHs with a greater conceptual clarity.

3. Addressing the Logical Inconsistency Problem

I argue that a moral conflict should be understood as follows: the correct conclusion of the moral deliberation will be either that I ought to do (A), or that I ought to do (B), but not both. However, the decision that I ought to do (A) rather than (B), for example, will nevertheless result in some kind of wrongdoing that stems from the failure to do (B). There are principally two arguments to support this understanding of moral conflicts, one phenomenological and one normative (known as the *responsibility to persons* argument). I begin by considering the phenomenological argument.

3.1 The Phenomenological Argument

Typically, those who support the possibility of genuine moral conflicts rely quite heavily on the phenomenological argument in defending their position. They claim that it is the strength of this argument that calls for the abandonment of the agglomeration principle.[6] What is central to the phenomenological argument are certain claims about our moral experiences in circumstances of moral conflict. Williams argues that in some circumstances an agent would feel regret even if he or she acted for the best (1973b, pp. 172-175). In a more detailed analysis, de Wijze speaks of 'tragic remorse' which captures the sense that although (on the one hand) you may feel that you ought not to have acted in that wrongful way, you would nevertheless choose to act in the same way again if faced with a similar kind of decision (2005, p. 160).

The key to understanding this feeling and its significance is to focus on the notion of distress which stems from the agent's actions. In particular, the focus of this distress will be on something the agent who experiences the feeling has done. The agent experiences moral distress not merely because something morally bad has happened, but because he or she has done something wrongful. But what is the source of this 'wrongness'? Christopher Gowans argues that the feeling is 'a response to the fact that one has failed to fulfil a moral responsibility

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[5] For further defence of this methodology, see Daniels and (1980); Nielsen (1993) and (1994); Gowans (1994); de Wijze (2002) and van der Burg (2003).

[6] See for example Williams (1973b, pp. 180-182).

to some person (or persons)'. And, that this responsibility is 'thought to persist even if its fulfilment has not been judged of the highest importance in the deliberative process' (1994, p. 96). In addition, Gowans claims that the failure to fulfil the responsibility will also provoke a sense of blameworthiness or culpability. The feeling one may experience here will be different to the kind of culpability one would experience if one failed to do what, all things considered, ought to have been done, but 'it is a feeling of culpability nonetheless' (p. 97).[7]

There are, however, serious objections to the phenomenological argument as expressed here. For example, with reference to the feelings one experiences in situations of moral conflict, Philippa Foot argues that '[i]t is impossible to move from the existence of the feeling to the truth of the proposition conceptually connected with it' (1983, p. 382). In other words, although the feeling experienced suggests that one has done something wrong, it does not follow from this feeling that one has *actually* done something wrong. This argument sounds similar to the point that other critics make about the notion of compunction.[8] But the specific point that Foot is making here is that one cannot correctly infer (merely from the existence of this feeling) that wrongdoing (of some form) has occurred. To support her argument she mentions that one might feel guilty about giving away a dead person's possessions, but that it would be incorrect to infer from this that some element of wrongdoing is involved.

In reply to Foot, it could be pointed out that her analysis of the kind of feelings associated with moral conflicts is not precise enough. She speaks of 'regret', but, as noted above, the appropriate emotional response has been described as tragic remorse. But does the fact that we can be more precise[9] about the kinds of feelings that are involved in situations of moral conflict, provide an effective response to her criticism? I think not. Although the concept of tragic remorse provides a more accurate description of how we might feel in a moral conflict situation, one could still maintain (using Foot's argument) that the existence of even these specific feelings, do not imply the truth of the proposition that some kind of wrongdoing has resulted.

In an attempt to explain the kind of feelings associated with alleged moral conflict, some critics suggest that it is not the fact that we have done something wrongful that elicits these distressing feelings. Rather, they believe it is the fact that something bad may have happened to us that is the cause of the distress. Terrance McConnell claims that in circumstances where doing the 'least evil act is surely the most rational thing to do', 'one cannot regret having done the most rational thing'. What is cause for regret, however, is that we might find ourselves in a situation where 'only bad alternatives' are open to us and also, that we have to 'live in a world where such cases arise' (1978, p. 277). Similarly, with reference to Agamemnon's sacrifice of Iphigenia, Earl Conee argues that there is '[n]o need for him even to think that he was obliged not to do that'. According to Conee, '[i]t is regrettable enough that he was obliged to do something that bad, and that he could do nothing better' (1982, p. 90).

[7] This of course raises the question of whether a person should be punished for transgressing the responsibility. Unfortunately I do not have the space to deal with this issue here.

[8] See for example Ross (1930, p. 28), Hare (1978, pp. 173-174) and Nielsen (1996, p. 140).

[9] The reason I claim that de Wijze's distinction of 'tragic remorse' is more precise, is because compared to 'agent regret' it reveals more (phenomenologically speaking) about the experience that a morally sensitive agent would have in certain kinds of moral conflict situations.

However, this argument seems to provide an inaccurate account of people's feelings. The suggestion that, as a morally sensitive agent, I would accept that there could be circumstances in which there would be nothing at all wrongful about killing my innocent daughter is deeply counter-intuitive.[10] If we refer again to the notion of tragic remorse, this unique emotional response recognises the reality of one's own wrongdoing and is radically particular in the way in which it , 'adheres to an individual for what he has done, and what he has become in the exercise of his agency' (de Wijze 2005, p. 460). Thus the claims of persons such as Conee and McConnell seem very much at odds with the moral reality of the situation. To suggest that one merely regrets the badness of the situation or that bad things sometimes happen in the world seems like a more appropriate response for a third party observer and not for someone who is directly involved in the conflict.

3.2 Responsibility to Persons

The analysis of the phenomenological argument suggests that some kind of wrongdoing is involved in moral conflict situations. But I accept Foot's criticism that the presence alone of certain intuitions about moral distress is not sufficient to establish that wrongdoing (of some form) actually occurs. We therefore need a normative account that makes sense of our intuitions here. Fortunately, such an account is offered via what is known as the *responsibility to persons* argument as defended by Gowans (1994, pp. 117-154). Thus, my normative claim regarding the precise nature of moral wrongdoing (in a moral conflict situation) is that it results from the transgression of a moral responsibility.

Our moral responsibilities stem from two kinds of consideration. First, there is the perception that every person has intrinsic and unique value and second, there is a recognition that we have some kind of connection with others.

The idea that people have intrinsic value is a familiar concept in moral philosophy and relates to the Kantian idea of respecting persons as ends in themselves. However the sense in which Gowans understands the concept is not equivalent to Kant's conception. Most notably, whereas Kant's conception of persons as ends in themselves is a manifestation of respect for the moral law (as dictated by pure practical reason) Gowans's conception relates to the 'experience of concrete interaction'. The general view of all human beings as ends in themselves is, according to Gowans, to be 'determined inductively from particular cases, and not as a result of an a priori apprehension of rational nature' (1994, p. 123).

Thus, the concept of intrinsic value offered by Gowans, whilst not seeking to negate the Kantian point of view, does offer us more substance. It provides for a much fuller and more nuanced meaning. In the determination of what makes people intrinsically valuable, it encourages us to look beyond the Kantian notion of rationality and autonomy and it invites us to consider the moral significance of other factors such as a person's subjective experiences and their capacity for particular emotional responses. Kant's reply to this adaptation of his concept would be to claim that these other factors have no moral significance. However, I would argue that this kind of limited view of morality is to its own

[10] Indeed, in Aeschylus's play, this is the Chorus line's criticism of Agamemnon's response to his conflict (Nussbaum 2001, pp. 32-39).

detriment[11] and although I do not have the space here to expand on this claim, I applaud Gowans's attempt to enhance our understanding of the concept of intrinsic value. His account offers a more coherent characterisation of our moral experiences and therefore fits more neatly with our moral reality.

The notion of unique value is more contentious again. In both Kantian and utilitarian perspectives, the unique particularity of a person's value to others tends to be regarded as morally insignificant. (Both traditions believe that persons are of equal value, albeit for different reasons.) As an alternative to this position, however, Gowans claims that persons are 'uniquely valuable'. In other words everybody has value, but in a way that is distinctive and different from everybody else's. He regards this value as incommensurable in that for any two persons, we should not judge whether one is worth more than another or that they are worth the same amount. This feature of our moral reality is perhaps expressed most poignantly in our attitudes towards the death of a loved one: their death constitutes an irreplaceable loss which cannot be fully replaced by another person or anything else.

But is it not the case that we do sometimes judge particular persons as being more important than others? If I found myself on a sinking ship and chose to save my family or friends rather than other passengers, would I not be making a comparative assessment with respect to that action? Not necessarily. Although it is more important for *me* to save *my* family and friends this does not commit me to the opinion that they are more valuable than the other passengers. The other passengers are also intrinsically and uniquely valuable, but I have greater responsibilities towards my family and friends than I do towards them.

Again, I do not read Gowans's claims as an attempt to negate the Kantian point of view. What is more, I am not suggesting that Kantians somehow do not take a person's relative value into account. Rather, what I am suggesting is that there is another perspective which must be acknowledged, morally speaking. Thus, by endorsing Gowans, my claim is that special relationships and duties do have a moral significance which goes beyond the notion that all persons are equally valuable. For example, my work colleagues are more important to me than complete strangers, but they are not as important to me as my family. This does not mean that I believe that they are of less moral worth (objectively speaking), but it does mean, when the 'chips are down', that I will chose an action that is good for the more important people in my life and bad for those who are less important.[12] Nevertheless, because *all* persons are important (objectively speaking), I will feel the 'dirt' of having treated some people badly.

It is through the perception that every person has intrinsic and unique value that we, therefore, create the potential for moral responsibility. Nevertheless, this perception alone does not generate these responsibilities. Our moral responsibilities can only arise when we establish some kind of connection with others – through family relation, friendship, love, agreement, proximity, knowledge, commitment, interest and the like. On the basis of one or more of these connections we form our relationships with others. And, consequently, our moral responsibilities are 'a product of the multiplicity of relationships with

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[11] For further discussion of this view see, for example, Nussbaum (2001) and Williams (2006).

[12] However, this would not be the case in all circumstances. Sometimes the sheer weight of numbers, or the seriousness of the issue, will trump even the 'special importance' criteria. If the stakes were large enough, I would argue that the 'right thing to do' would be to betray someone I love for a greater good.

particular persons that make up our lives' (Gowans 1994, p. 128). However, although the paradigm of moral responsibilities is associated with intimate relationships, we have moral responsibilities in other contexts as well. For example, a short encounter with a stranger who is lost may be sufficient to generate a sense of responsibility to give directions. Also, as noted, we have basic moral responsibilities to all human beings: namely, to respect their unique and intrinsic worth. But, this is not to say that our moral responsibilities are unlimited. I argue that there is a plurality of values, all of which are important to us. We should therefore aim to strike a balance here. As Susan Wolf notes, 'there seems to be a limit to how much morality we can stand' (1982, p. 423) and thus the importance of other values such as, for example, leading an autonomous life should perhaps limit the ways in which we are morally responsible to others. The question of where these limits should be set is of course relevant, but beyond the scope of this paper.[13]

3.3 Conflicting Responsibilities and DHs

The above analysis of our moral responsibilities provides us with a compelling normative explanation for phenomenon of moral distress. Furthermore, it enables us to account for the elements of right and wrong that pertain in a DHs scenario. Consider once more the *Mountain Rescue* example, where I faced a choice between letting my badly injured friend remain alone on the mountainside and stealing the couple's car. Phenomenologically speaking, I would feel distress whatever I did. The best explanation for this feeling is that wrongdoing is inescapable in the sense that either choice will result in a transgression of the value of *responsibility to persons*. This is because I have at least two responsibilities here: firstly, to help my injured friend and secondly to not steal the couple's car. Although I am able to decide on the right course of action, this fails to extinguish the non-action-guiding responsibility. Each of my responsibilities here stem from the unique and intrinsic value of the persons involved. Because the injured man is my friend and because he is in desperate need of my help, I have a responsibility to protect him from the dangers he faces. Regarding the couple, although they are not acquaintances of mine, I do nonetheless have basic responsibilities to them which are owed to any persons. Amongst these is the responsibility not to take their car and to scare them in the process. As persons with unique and intrinsic value they do not deserve this kind of treatment and I have a responsibility to respect this. Therefore although the conclusion of my moral deliberation is that I ought to steal the couple's car to save my friend, by performing this action I will, nonetheless, violate certain responsibilities I have towards the couple. Thus it is in this sense that my actions are right (all things considered), but also wrongful and it is in this way that I get my hands 'dirty'.

But how do these claims stand up to the logical inconsistency argument that was discussed in the previous section? Could we adapt a version of this argument and use it against the notion of conflicting moral responsibilities? For example, consider how the agglomeration principle and the Kantian principle

[13] However, to offer a bit more detail: I agree with Wolf that we should not have to justify every decision we make against morally beneficial alternatives and that 'moral perfection, in the sense of moral saintliness, does not constitute a model of personal well-being toward which it would be particularly rational or good or desirable for a human being to strive' (1982, p. 419).

could be adapted: (the agglomeration principle) if I have a responsibility to do (*A*) and a responsibility to do (*B*), then I have a responsibility to do both (*A*) and (*B*); (the Kantian principle) if I have a responsibility to do (*A*), then I can do (*A*). If we accept these two principles then a conflict of responsibilities would entail an inconsistency. We should, however, reject both for the following reasons.

In the case of the adapted agglomeration principle, consider the following potential counterexample.[14] If I promised to marry Susan, then I have a responsibility to do so. Suppose though, that Susan goes missing on a holiday to Thailand and is presumed dead. A few months later I meet Joan and promise to marry her and hence I also have a responsibility to do so. However, it gets to the week of the wedding and Susan reappears. (It transpires that she fell and hit her head whilst exploring a remote island and suffered amnesia. However, as her brain recovered she began to remember her old life and my promise to her and this has led to her return.) In response to this situation, I may well have a responsibility to marry each of the women. But it does not follow that I have a responsibility to marry both of them. Thus the conclusion of the moral deliberation would be that I ought to marry either Susan or Joan. But, by not marrying one of them, I will, nevertheless, transgress my responsibility to the other and I will therefore do something wrongful.

With respect to the adapted Kantian principle, although we can usually fulfil our responsibilities (in other words they constitute the kinds of things that we can do) this is not always the case. For example, I may have a responsibility to pay my friend the money I owe him, but I may be unable to do so because I lost my job. Thus, the point is that responsibilities may remain, despite the fact that one might not be able to fulfil them.

The claims made in this section provide a strong argument as to why DHs does indeed constitute a real and pervasive aspect of our moral reality. My contention that it is the violation of a moral responsibility that accounts for the wrongful element, in a DHs scenario, offers a logically consistent characterisation of the precise nature of one's wrongdoing here, which, as noted, is something that the other recent accounts of DHs (referred to in this paper) fail to do.

Furthermore, my claims also provide normative support for a nuanced view of moral wrongdoing, which maps onto our phenomenological responses and provides an explanation as to why some actions are 'more wrongful' than others. For example, consider a variation of the dilemma faced by Sophie in Styron's novel *Sophie's Choice* (1983, pp. 641-643).[15] Imagine that instead of having to choose between her two children, the Nazi guard forced her to choose between one of her children and a stranger. Phenomenologically speaking, to condemn a stranger to death would (*ceteris paribus*) be less distressing than to condemn one's child. If one accepts the *responsibility to persons* argument, then this distinction can be explained by the fact that one has greater responsibilities towards one's children than one does towards strangers. Thus to sacrifice the stranger in this instance would be 'the least wrongful' alternative.

[14] This is similar to an example use by Gowans (1994, p. 140).

[15] In the original example, Sophie is offered the following horrendous dilemma by a Nazi doctor. She is asked to choose which of her two children is to be saved and which is to die. If she does not choose one, then both of them will be killed.

4. Distinguishing Dirty Hands from Inescapable Wrongdoing

In my final section, I would like to elaborate (briefly) on what distinguishes the position that I defend here from other accounts which support the idea of moral remainders. I will focus my attention on Gowans as I borrow the *responsibility to persons* argument from him.

My account differs from Gowans's, primarily, in its scope. Whereas he uses the *responsibility to persons* argument to defend the concept of inescapable wrongdoing, I use it to defend a particular notion of DHs. As discussed, the notion of DHs that I defend is committed to the claim that there can be acts which are (all things considered) right, but also wrongful. Gowans, it seems, makes no such commitment. The issues that concern him do not pertain to the correct resolution of moral conflicts, nor to whether the correct resolution should be described as 'right' (all things considered). He is merely concerned with the idea that there can be moral conflicts in which wrongdoing is inescapable (in the sense of transgressing the value of *responsibility to persons*).

What is the significance of this difference in scope? I argue (tentatively) that in addition to a commitment to deontological constraints my defence of DHs also entails a commitment to a sophisticated form of consequentialism. Recall, in response to my *Mountain Rescue* example, I claimed that my choice to steal the car and save my friend would be right (all things considered), though also wrongful (for the reasons discussed in this paper). But what informs my choice here? At first glance, one might suggest that my reasoning is determined by the fact that I view my responsibilities to my friend as being more important than my responsibilities to the couple. Although my reasoning is partly determined by this fact it is also determined by a careful consideration of what the consequences of my actions are likely to be. I view the most likely consequences of not helping my friend as significantly worse than those of stealing the couple's car and hence I conclude that to steal their car is (all things considered) the right thing to do.

As to whether the same commitment can be attributed to Gowans is difficult to say. The primary source for his claims regarding inescapable moral wrongdoing is his book *Innocence Lost* and he says nothing there about how we are to reach the correct conclusion of a moral deliberation. However, if he believes that our moral deliberation does not involve some form of sophisticated consequentialist reasoning, then he owes us an account of why this is so and what it is instead that helps to inform this kind of decision-making procedure.

5. Summary

In summary then, my aim in this paper has been to provide a nuanced account of the type of moral wrongdoing that is involved in DHs acts. I have, in a way that is logically consistent, argued that the precise nature of this wrongdoing is located in the transgression of the value of responsibility to persons. In so doing, I have therefore provided the other recent accounts of DHs with a greater conceptual clarity. Finally, the claims made in this paper provide a stable balance in a state of 'wide reflective equilibrium'. By holding together certain strong intuitions, abstract principles and considered judgements, my justification of DHs resonates *coherently* with our complex and difficult moral reality.

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