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The Nature and Limits of Moral Compromise

by

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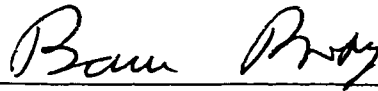
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ABSTRACT

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To date, the most developed models of compromise in situations of value conflict come out of the bargaining theory or rational choice theory literature. While useful in compromises over more straightforward preferences and interests, these models are shown to be seriously limited when applied to decisions involving moral commitments and moral compromise, especially among firm moral believers. A series of arguments is offered to motivate compromise over moral commitments, and these arguments attempt to take seriously the experience of the firm believer who is not moved by the straightforward maximizing arguments offered by bargaining theory. Two types of compromise are defended: separation compromises and direct compromises. The first defends indirect forms of compromise or assent to compromise where the damage done to firm moral beliefs is minimized through varying degrees of psychological distancing. Separation compromises include the use of arbiters, reliance on procedural solutions to conflict, separation between private and public or professional roles, withholding of intent, and symbolic gestures of protest or dissent. These indirect compromises, while often the only way of protecting firm beliefs and avoiding protracted conflict by assenting to compromise, come at a sometimes tragic price; at the very least the agent will still be complicit in the compromise, and responsible for immoral compromises. A second, more positive account of compromise is then defended. Three arguments are offered to motivate direct compromise, even among firm believers, in situations where there is some willingness among all parties concerned to at least enter into debate. The first is an appeal to the often self-defeating implications of protracted conflict and "walking away". The second argument appeals to moral fallibility. The third argument demonstrates the important relationship between our underdetermined moral principles and certain forms of conceptual compromise; compromise on this third account can be an important way of filling out our underdetermined regions of moral belief and principle. In closing, the normative limits on moral compromise are considered, as generated by appeals to fairness, moral complicity, and moral integrity.

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Einig zu seyn, ist göttlich und gut; woher ist die Sucht denn
Unter de Menschen, daß nur Einer und Eines nur sei?

- Hoelderlin

To find unity is godly and good;
Wherefrom comes this quest found among men, that there
is to be one and only one—one truth, one way?

INTRODUCTION

Bertrand Russell once said that real life to most of us is a perpetual compromise between our ideals and what is possible, "a long second-best". The only reprieve from practical contingencies, he thought, could be found in the unfettered realm of reason, wherein resident philosophers and others so inclined may indulge in the luxury of intellectual purity, freed from real world constraints. Philosophers are not the only ones bent on pursuit of the ideal, the best, the one true account. It is a deeply human yearning expressed in our significant, life-altering choices and in our more mundane struggles to get what we want, to be content and happy. Facing up to the possibility that our life might be less than ideal, less than we hope for, can be unsettling. It is hard to drum up feelings of optimism and enthusiasm when talking about contingency, compromise, and second-best. William James and Richard Rorty have a gift for this, perhaps, but on the whole, compromise makes people wary or angry, or both, especially those who take very seriously the purity of leading a moral life. At bottom compromise is about giving up at least some of you want, think is true, or think should be—and why wouldn't most of us find this troubling? On just about any account of what makes our lives good and our important choices *important*, conceding what we want or believe to be true figures in more as a necessary evil, politics in the crude sense, one of life's unfair demands. To compromise is to be cowardly. To philosophize about compromise is to be lazy about getting our moral theories and principles straight; it is placing too much weight on the imperfections of real people and too little on philosophical principles and ideals. It is

not surprising, then, that philosophers have written very little, at least directly, on the topic of moral compromise, and what they have written has reinforced the "compromise-as-necessary-evil" and "compromise-as-non-philosophical" points of view. Since Socrates many philosophers have simply avoided tackling compromise directly, either by arguing that the problem lies in us, that the nature of value when understood correctly does not admit of deep conflicts, or by arguing that such conflict can be transcended by various procedural or hypothetical mechanisms, such as Rawls' veil of ignorance. With either the Socratic or the procedural move, philosophers have avoided the unpleasant talk of compromise over moral issues only by abstracting from the very thing that makes compromise so intractable and so interesting. The Socratic move begs all the interesting and deep questions about the epistemic relationship between moral value and the moral believer—what does it mean to *know* the good and why does such knowledge not admit of confusion and conflict? What am I to do about confusion and conflict when it happens, as it invariably does; how should I act in the face of it?[1] The procedural move offered by political philosophers brackets rather than begs this same set of questions. It says, "let's postulate certain ideal conditions about the agents making moral choices and then ask, what would such ideally rational choosers choose?" Someone who is deeply conflicted in his preferences for a certain outcome in a moral choice

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[1] Martha Nussbaum's important work on tragedy and Aeschylus challenges the Socratic view: sometimes bad things happen to good people; the nature of goodness is very complicated and often fragile in the face of life's contingencies. The upshot of Nussbaum's message to moral philosophers is to offer action-guiding theories that take such contingencies into account; and such a theory will necessarily have a strong psychological component, as offered less by social scientists and more by writers of great literature. See *Fragility of Goodness* (Cambridge: Cambridge University Press, 1985).

is not guided by these theories, but labeled irrational at the outset. Contemporary political theory has offered very useful filters for hypothetical agents, theoretically diminishing the need to consider discrete compromises over particular moral conflicts. Whatever principles survive the filtering mechanism serve as our guide to action, but given the psychological complexity of moral choice in moral conflict, agents need guidance *ex ante*, before the veil. And they still need guidance, *ex post*, when the veiled principles of justice conflict, or say too little to guide a specific moral choice. What guidance does a procedural account of conflict resolution offer to the animal rights activist who testifies before a university review board, saying the following: "Look, I believe that harming animals is deeply wrong and I will continue devoting my life to ending animal suffering, but I'm willing to concede the use of dogs in your labs, if you are willing to offer them exercise time, and if you will stop your more painful neurological studies on cats." Is this kind of moral barter at all coherent from a moral point of view? How about in terms of the commitments held by this particular agent? What does that kind of concession mean morally and psychologically for the person making the choice? When the animal rights activist goes home that night, how does he explain his actions to his wife; does he sleep well that night, and if so, how? Is he morally complicit in something he believes to be wrong, that his fellow activists believe to be wrong? Can he make amends for such a moral concession? Can this sort of mixed-moral choice be justified and explained under any of our standard moral theories, or is it just part of leading a life as a string of second-bests? Philosophy's answer to these questions could be really quick: This is a problem for psychologists and therapists and priests and rabbis, not philosophers. Who claims that moral theories are complete in this very demanding sense? There will

undoubtedly be some remainder, a messy region of choice where pragmatism and blind luck reign. We could choose to make due with the Socratic view on value and no doubt reach some important solutions through political abstraction, but refusing to tackle compromise as a substantive normative problem about moral agency, is to overlook several deep and interesting puzzles about moral commitment in the world, or so I will argue.

This project as a whole is an attempt to challenge two assumptions about the problem of moral compromise: (1) that it is not a deeply philosophical problem, but rather a problem that can be handled without our help, by economics, politics, and psychology, and (2) that assuming we could offer a normative account of moral compromise, we could never hope to offer reasons for compromise that would sway a firm believer or moral purist. The first challenge is to show that moral compromise is something more than a catch-all concept for instinct, luck, and making-do, that loosely fills the region where our moral theories fail us, or where we fail our moral theories. I hope to show that there is much philosophical work to be done in this area, and this project is only a beginning. I hope to show that compromise is not the sole problem of social scientists and psychiatrists, but this doesn't mean that philosophy should overlook the practical wisdom from those areas. And so I will draw on psychology and anthropology to some degree, to shed light on the real capacities that we have to both cope with and overcome moral conflict. I also hope to challenge the idea that any theory of moral compromise could only hope to guide those who do not have much to compromise in the first place, people whose commitments are, at the outset, negotiable and open to clear trade-offs. I hope to show that even firm believers may have strong reasons to consider moral compromise, reasons that stem from their own moral points of view.

Almost all the normative work that has been done on this problem, and that is being done (especially in political science departments), derives either explicitly or implicitly from economic bargaining theory, so I will begin there. Bargaining theory or game theory is custom-made for guiding us in trade-offs, negotiations, and barter over our stuff and our preferences, even our national interests. Why not over morals too? In chapter one I offer what I take to be the default defense of moral compromise: Sometimes conceding some of what we value morally is the only way to maximize our moral commitments, to get as much as we can within the constraints imposed by others' attempts to do the same. This account captures a widespread intuition about compromise and can help guide those whose moral beliefs can be understood as preferences over certain moral outcomes. In laying out the "maximizing argument" for compromise, I hope also to reveal its limitations. Even the most sophisticated bargaining models do not capture the deep and complex nature of moral beliefs and commitments. Many people believe that moral commitments are not open to negotiation and cannot be partially conceded and still be commitments. And when our commitments conflict, it is not always clear which should take precedence, or in what way these different commitments should be weighted, relative to each other. Yet bargaining theory assumes that both of these conditions are met: that moral commitments are like preferences and that we usually have clear rankings of our commitments. Bargaining theory takes for granted a fairly narrow understanding of moral commitment and this is a serious limitation of the theory, for it discounts (and often seems to ignore) the experience of firm believers, and even those of us who have only pockets of firm belief.

For the firm believer, the very idea of moral compromise gives rise to a deep practical

and philosophical tension, and this is the tension I hope to convey and address in this project. The fundamental problem is this: Commitment to moral principles implies a commitment to seeing those principles realized in their full character through choices and actions. They often issue from a deep sense of who we are, or what group or tradition we belong to. We also tend to embrace the commitments we do because we believe them to be *true*. When these commitments conflict within our own minds in tough choices or in our dealings with others, and we concede them through compromise solutions, we often feel a sense of loss and regret. In compromising we are often judged not only by our conscience but by others, for having betrayed them, betrayed a cause, compromised our integrity, failed in some deep way, in the eyes of God or morality. Such commitments also lend structure to our choices and interactions with others; commitments can give our lives a sense of purpose and meaning, and inform many of our nonmoral activities, interests, and projects. So there is this strong desire to see our moral values and commitments realized in their full and uncompromised form, without concession to views we do not share. Many of us place high value on integrity and trustworthiness and hold in high esteem the person who adheres to her principles, not dogmatically or at any cost, but at least consistently in her dealings with herself and others. We take such adherence to principle as a mark of good character and integrity, an important condition for self-respect and the respect of others. Compromise threatens these ideals. The deeper predicament results when we combine these demands for uncompromised adherence to our moral commitments with other prized moral ideals. Many of us also value richness of character, openness to change, and diversity in personal values. We prize the moral ideals of neutrality, tolerance, fairness, and mutual respect in our social dealings. These personal

and social ideals require us to be accommodating when our own values conflict in our own minds, and when our values come into conflict with the values of others. In doing so, something of value must give way. Refusing to resolve the conflicting values within ourselves may result in a splintered sense of self, a difficulty making coherent decisions or difficulty making the decisions which matter deeply to us. Refusing to compromise with others makes us intolerant and unfair, alienated from those who disagree with us and from those who agree but wish to try for peaceful agreement. And by not compromising with others we may lose our only chance of seeing even part of what we believe realized in the world. This is the predicament of compromise as seen through the eyes of those with firm moral commitments. A theory of moral compromise should, I think, take these tensions between our commitments and our social ideals of integrity, tolerance, and fairness very seriously.

In chapter two, I look more closely at the ways in which someone with firm values experiences serious limits on his ability to express his moral views. The idea that one is hemmed in by the views and commitments of others is, for the firm believer, very unlike the attitudes we may have towards the competitive marketplace in goods and preferences. Life among others raises serious threats and challenges to the very views that give shape to such a person's life. The depth of commitment resists the maximizing approach and so we need to think more creatively about the ways in which we can minimize the damage done to moral commitments when compromise is the only alternative to costly protracted conflict or great harm to oneself. To what degree can someone preserve what they still believe to be true and yet assent to a compromise to end or allay conflict? I argue that the only way to minimize

the damage is to separate oneself psychologically from the compromise, as best one can, while indirectly assenting to or allowing a compromise. I discuss several strategies and several valuable social mechanisms that provide this kind of psychological distancing for firm believers. But there is a price to the psychological separation involved, a real damage done to the beliefs one still holds, and so such compromises bear a tragic element for firm believers. I also discuss the degree to which these separation compromises involve protective levels of self-deception, and distinguish these from more pathological degrees of self-deception. To foreshadow a more in-depth discussion in chapter four, I conclude that the person relying on a separation compromise may still be morally complicit with the compromise, despite the psychological distancing, and so still must bear responsibility for compromising.

Can we offer any reasons to motivate those with firm commitments to consider direct compromises? In chapter three, I offer three arguments, aimed in particular at those with firm moral commitments and those who have yet to sort out the relationships between conflicting commitments, to consider the merits of compromise. Given the serious costs of some protracted conflicts, given our own fallibility, and given the many ways in which our moral principles underdetermine particular choices, I argue that compromise can play an important role in moral learning, in the process of reflecting on fallibility, the cost of conflict, and the more specific nature and meaning of our conflicting moral principles and ideals. Just as separation compromise requires the capacity for psychological distancing, direct compromise requires a capacity for creativity and imagination as we reflect on what our moral commitments mean and what they require of us in specific circumstances, especially in

situations of moral conflict and disagreement.

The arguments of the first three chapters are primarily constructive, and provide the positive arguments for a three-part theory of compromise, beginning with the maximizing default position and then offering a two-sided account of moral compromise that takes seriously the firmly committed. Chapter two focuses on the first side, the direct experience of the firm believer who, for whatever reason, has chosen not to deal directly with others. It is a view of compromise as a defensive mechanism, as a way of doing damage control on our firm commitments. The flip-side to separating ourselves from compromise is to consider the possibility of engaging others more openly and more directly, trying to learn from the compromises we make, or attempt to make, among others. I think most people have a mix of less-defined moral "preferences" and pockets of very firm moral commitments, all vying with nonmoral preferences and commitments. So the resulting three-part theory will hopefully appeal to many of us, depending on the nature of the conflict we are facing at any particular time, but it is also my hope that even a radical believer will see some merit to the arguments in chapters two and three.

In closing, in chapter four, I consider the normative limits on moral compromise. Returning again to the straightforward maximizing approach, I consider what limits might be imposed on those moral bargainers who recognize a preference for, or commitment to, fairness. I also consider how the argument from fallibility may generate certain limitations of fairness on direct compromises among firm believers, as discussed in chapter three. The most significant limitation on separation compromises will be determined by whatever theory of complicity we endorse, which will imply varying degrees of responsibility and

blameworthiness for those who assent to or participate in separation compromises. For those engaging in direct compromises, the most serious limitation stems from various appeals to the value of moral integrity. I argue that the main candidates for understanding what integrity *is*, each fail to generate a substantive limit on moral compromise. Instead, I argue that we should make a straightforward appeal to the values conceded through compromise, and consider the reasons given for changes in belief, and evaluate compromises in those more direct terms. Integrity per se does not in any way add to those direct evaluations. We are in all cases thrown back on to personal and social moral accountability. Individuals must contend with the internal scrutiny of conscience and determine whether or not the concessions were made in good faith, and some of these good faith compromises will survive the moral scrutiny of others and some will not. I close with a discussion of the important role that compromise will play for those who are engaged with others in roles of arbitration, negotiation, diplomacy, and politics, and also the importance of preserving some moral privacy, a reprieve from the pressures of others and the pressures of moral change.

One final note: What makes compromise such an intractable problem is that it very quickly ushers in a whole host of related psychological questions and deep philosophical questions about the relationship between moral theory and practical moral decision-making in the world. My starting point for this project is to assume that deep moral conflict, even moral dilemmas, exist. Any non-philosophers reading this will wonder why I bother to state such a ridiculously obvious truth. There is the view among some moral philosophers, especially Kantians, that we certainly have gotten something dreadfully wrong, if our moral theories result in situations where, no matter what an agent does, he acts wrongly. I think it

is reasonable to assume that people experience serious conflict between moral commitments among others, and the more serious variant, moral dilemmas. This project assumes that there are hard choices, that bad things happen to good people, and that there is a certain unavoidable and existential need to make these choices and live with the often damaging consequences. I make no attempt here to sort out the deep questions of moral luck, though I will discuss the closely related issues of consistency and underdetermination of moral theories in chapter three. I start with the view that moral conflict exists, that people often believe they are faced with moral dilemmas. That is the necessary starting point for any discussion of compromise. I will not discuss what the need for a theory of compromise implies for moral theory, but in a way, I think the implication is obvious. Whatever particular moral theory we hold, the arguments in all four chapters identify regions of serious incompleteness in our moral theories, where moral conflict between commitments is concerned. I hope that the account of moral compromise that I offer here will in fact be compatible with variants on Kantian, consequentialist, and pluralistic theories of morality. It is not clear to me how well it will fit with contemporary virtue theories, especially given my position on integrity in chapter four. I will have to leave that question for another time.

That is a summary of the project's specific arguments. More generally, what I hope to bring about in this project is a shift in thinking about compromise, perhaps even several shifts. I hope to challenge the commonsense belief that "moral compromise" is an oxymoron and the philosophical belief that deeply normative talk about compromise is not possible, that it is a topic to be relegated to economists, psychologists and other social scientists. At the same time I wish to avoid the candy-coating that has gone on in some of the literature on

compromise. Compromise is not easy or even desirable in many situations, especially for those whose commitments run very deep. I think we should be frank about the tragic element in moral compromise, and not assume that all people are direct descendants of *homo economicus*, prepared to bargain over moral commitments as they do over the price of a new car. While I do not expect some readers to be any less disturbed by the prospects of compromising on one's own deepest beliefs, I still hope to show the ways in which moral compromise can be self-preserving in very difficult circumstances, and in better circumstances, the ways in which it can offer an important opportunity for moral learning and growth among others. Compromise over morals is hard, and it should be hard, but I also think that compromise has a much overlooked creative side.

Another shift in thinking that I would like to encourage, is that we move away from our preoccupation with political solutions to moral conflict, or more theoretically, appeals to theories of justice as adequate accounts of moral compromise. What I offer is a set of arguments directed at specific agents making choices in conflict, especially agents with firm moral commitments; this is not a theory of justice or a defense of a procedure or set of procedures. Some might argue that the best way forward in dealing with moral conflict is to follow in the political footsteps of Rawls, Nozick, Scanlon, Habermas, and others and defend an account of normative constraints on individuals in the form of morally justified political structures, procedural checks and balances, rather than try to put forward any direct moral arguments and constraints aimed at particular individuals in real moral conflicts. As I said a few paragraphs back, I think too much is lost when we put on the Rawlsian veil, and arguably, too much is smuggled in. Why not make those smuggled-in arguments more

directly and openly? That is my theoretical reason for changing the subject on moral conflict and turning to an agent-centered account. My pragmatic or empirical reason is that even our best experiments in democratic separation of powers leave much to be desired on the question of moral disagreement. The question of moral compromise, whether faced by me in my quiet moments or Yitzhak Rabin in his public moments, does not strike me as a fundamentally political question, but a social and moral question that should secondarily inform our political structures. I think we need to consider the direct normative arguments as ways of augmenting these imperfect procedures and structures. I do hope that the resulting theory will have much broader implications for other debates in moral and political philosophy, such as the debate over trade-offs on rights, the rise of nationalism, especially ethnic and religious nationalism, the problem of moral and political fanaticism and negotiation with terrorists, the legitimacy of separation compromises in politics, such as the fetal tissue policy and federal funding for abortion, and many other issues. What follows, I hope, will lay the foundation for later work on those questions.

CHAPTER ONE:

A PRELIMINARY ACCOUNT OF MORAL COMPROMISE

Compromise involves giving-up something of value, hopefully for some value in return. That is the generic definition of compromise. What is *moral* compromise? Does it involve giving up what I want or desire; is that a compromise in the moral sense? What about giving up interests, commitments, principles, ideals? I want to begin by offering a fairly wide definition of "moral compromise", one that focuses primarily on conflicts between our moral commitments but that recognizes the wide variety of moral values, interests, principles, and ideals that shape those commitments. I will offer several problem cases that illustrate the different forms that moral compromise can take; I will rely on these cases throughout the later chapters. Once we have a general sense of the special problems that compromise raises in moral contexts, I will offer a general argument for compromise as a way of maximizing our moral interests in situations where the space for expressing our moral interests is scarce, limited by the moral interests of others. As I said in the introduction, most discussions of compromise as a solution to general types of conflict come out of economics, specifically the bargaining or rational choice tradition. Insofar as this approach captures what we think is at stake when our moral commitments conflict, we have a ready-made guide for direct bargaining over morals. The maximizing approach to moral compromise has several virtues and I will try to articulate those. It also suffers from several serious limitations when applied to moral conflict, as opposed to more mundane conflicts over simpler preferences. These limitations will motivate the shift in argument in chapters two and three.

I. WHAT IS MORAL COMPROMISE?[1]

Anytime we face a choice in which we value several incompatible options and we choose to give-up some of what we believe or value for the sake of promoting a competing value or belief, we have chosen to compromise. What distinguishes a *moral* compromise from this general sense of compromise? We sometimes compromise between different moral values and that makes the choice, by straightforward description, a moral compromise. The woman who answers her door to find a Nazi SS Officer in search of hidden Jews has a duty to tell the truth but also has a duty to safeguard the lives of the innocent people hidden upstairs. When she lies to the officer to protect her guests she has compromised one value for the sake of preserving another. That is a moral compromise in the descriptive sense. We also want to be able to evaluate compromises between morals, deeming them *good* compromises or a *bad* compromises. I think most of us would find that compromising the value of truth-telling for the sake of saving innocent lives is a good compromise, since most would agree that the duty to save lives outweighs the duty to be truthful. The descriptive sense simply picks out those

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[1] Moral philosopher, Charles Stevenson, was almost right when he said, "There are hundreds of words which have both a vague conceptual meaning and a rich emotive meaning. The conceptual meaning of them all is subject to constant redefinition. The words are prizes which each man seeks to bestow on the qualities of his own choice." Compromise is a word with both ambiguous conceptual meaning and rich emotive meaning; it is also, in a way, a prize in moral philosophy, a concept as yet undeveloped and open for debate. Unlike Stevenson, I think we can and should encourage a change in the negative emotive meaning of 'compromise' by looking at the role compromises play in our positive solutions to moral conflict and disagreement. Of course we cannot expect such an emotive shift without some convincing reasons for doing so. Ultimately, only normative argument should persuade us to shift our thinking on the legitimacy, permissibility, desirability, or lack thereof, of moral compromise.

compromises which are uniquely about morals, moral values, principles, or commitments. We then must appeal to the evaluative sense to judge which moral compromises are indeed appropriate, legitimate, perhaps even worthy of our praise, and which are inappropriate and to be avoided. Such an evaluation will appeal to an implicit or explicit moral measure (or measures)against which the conflicting values may be weighed. It may also appeal to characteristics of the very values being weighed, as well as the context within which the conflict has arisen.

To complicate matters, we may also rely on this evaluative sense to approve of or critique compromises that are not directly about moral values. People often compromise between their interests and wants, their desires to obtain something or do something. Such conflicts are not directly about morals at all, but they can have an important normative element. Perhaps I want to be a mother and I also want to have privacy and time for work, neither of which are moral principles or moral values to speak of; for the most part they represent my personal desires and interests. Professional interests compete with interests in one's family, putting parents in the position of having to give-in on one interest in order to preserve or promote the other. Resolutions of such conflicts are open to evaluation in the following sense: Maybe I decide to strike a compromise between these two competing desires that leaves very little time for myself, to the point where I become stressed, ill, and perhaps give up most of my own projects. I think several reactions would be warranted. I could myself feel that I was making a poor compromise, that I was giving in too much of what matters deeply to me, despite the rewards gained from being an extremely involved parent. A friend or spouse might make a similar judgment, urging me to do something more

for myself. Perhaps I also become horribly dull in my spouse's eyes, so that my compromise begins to damage our relationship. My spouse would surely be warranted in saying "this compromise is not good for us," in the sense that it has begun to undermine the sort of life we would like to build together. Someone else might look at the compromise I've made and say "Bravo! - you have your priorities straight! I know it's tough, but this is a good thing, a worthwhile compromise to make." When we make these kinds of judgments about compromises over conflicting interests we are making normative judgments about what is rational for me to do, what makes sense given my conflicting personal aims. Because such cases are often tied closely to notions of personal integrity, it is tempting to treat them as instances of moral decision-making. The decisions certainly have an impact on, and are informed by, the way in which our personal interests and aims hang together as a whole. But while these cases of deep-seated interests may be closely related to issues of integrity and integrity is often taken to be an important measure of the sort of person we are, or would like to be, an important difference remains: the commitments at stake in the compromise are not explicitly moral commitments. The integrity we are trying to preserve is not the integrity of our moral values, our moral integrity, but rather the integrity of our personal aims and goals, or our personal integrity. It is notoriously difficult to distinguish certain very important personal values, like a commitment to excellent work or to being a good parent, from moral values like developing a good character or being a good friend, and for that reason we should not be entirely sanguine with this distinction. Especially from the virtue perspective in ethics, this distinction becomes suspect on the grounds that aiming at the good life is intimately tied up with the development of certain character traits and the performance of excellent

activities. For this reason, I'd like to consider cases of compromise over deeply personal interests as gray area cases, cases with a strong normative taint, open for some degree of normative evaluation, indirectly but not directly concerned with the compromise of moral values or commitments, as in the more clear-cut case of lying to the SS officer.

Another problematic distinction bears mentioning: the distinction between two types of normativity, the rational and the moral. I am suspicious of those who find a clear split between rationality and morality. If there is a forced divide in normative philosophy, it is here, particularly if we allow a broader domain for rational behavior, something beyond means-end reasoning, including as well the evaluation of ends. Here the neighboring territories of the rational and the moral have ill-defined borders, since admitting a discussion of worthwhile or rational ends, and even the attempt identify the best means to our given ends, we enter into deeply moral talk about what is "best", what is the "right way to go about it"; this is often more than a discussion about efficiency, it is a discussion in part about what is good or right. Looking at cases of moral compromise, there is, then, a mix of appeals to standards of rationality and standards of morality. I do try to isolate the central and I think more difficult cases where the *predominant* act or choice is one of a moral nature, where the thing being compromised is a moral value, principle, or commitment. By doing so I do not endorse a clear split between the moral evaluation of a compromise and an evaluation about the rationality of such choices; I simply don't believe such a segregated evaluation can be made sensible. What we can do sensibly is focus on predominantly moral conflicts, as opposed to the many other types of conflicts that have little if nothing to do with morality. I suspect most real cases of moral conflict lie in the grey area of normativity, involving

elements of rational/irrational behavior and elements of moral/immoral behavior, and perhaps in the end the analysis of moral compromise can be exported and applied to evaluations of compromises over nonmoral values. For now, I leave this as an open question. There are cases in which I will appeal to "what is reasonable" in a moral sense, as what is right to do or good to achieve. I recognize that this choice of evaluative language lies in the border region of this hotly contested debate.

That said, are there any fairly clear-cut cases that are not moral compromises in any sense, not even in this gray-area sense of the normative? I think there are quite a few such cases. A much less controversial notion of compromise comes up frequently in our daily attempts to make mundane decisions with other people. In these joint decisions we try to get some of what we want while at the same time trying not to be overbearing and trying not to be pushovers. Marriage and dating are rife with examples of these common compromises. Suppose we are trying to plan a Saturday evening together. I have an interest in seeing an old Bogart movie and going out for Moroccan food and you would much rather stay home, watch Baywatch re-runs and order in pizza. We bargain over our conflicting interests, including the interest we both have in spending the evening together. We each offer up different alternatives, finally settling on a compromise. We decide to rent Maltese Falcon from the video store and order-in a pizza with exotic toppings. There are no moral values at stake here, serious Bogart and Baywatch fans not withstanding. This kind of compromise is a clear-cut case of a non-moral compromise, a class of cases which I will set aside for the purposes of this project.

Compromise, then, can be separated into four main categories; three of these

categories will be directly relevant to understanding moral conflicts: (1) There is the descriptive sense of moral compromise, that class which picks out those compromises which are struck between explicitly moral values: for example, the duty to tell the truth, to protect someone's confidentiality, to respect rights, or promote the best consequences. (2) There is the evaluative sense of moral compromise, those second order judgments that we make about the goodness or badness of particular compromises over moral values and commitments. This is the sense we mean when we say things like: "Some compromise was called for here, but in the end you made a bad decision; you should have weighed in favor of honesty in this case." (3) There are those evaluative judgments that we make about compromises over competing nonmoral values, such as interests and desires. "The compromise struck in the hospital committee meeting was a good one; we made sure that the nurses' interests in having a say in the protocol were represented while still protecting the interests of the physicians to be involved and possibly veto the procedure." Again, these cases lie in the gray area between clear moral compromises and nonmoral compromises. We may invoke a notion of fairness to pass judgment on a choice which, internally, has no moral content, but whose pattern of distribution can be evaluated from the standpoint of just distribution.[2] Also, from the virtue perspective in moral theory it is difficult (and a mistake) to separate a person's deepest personal goals and ends from the moral evaluation of that person's character or integrity. The committee leader responsible for guiding the group toward an equitable agreement, in doing so (and perhaps in consistently doing so) can be judged as a fair person,

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[2] Compromises in politics will often take this form. I hope to look more closely at political compromises in future work on this project.

someone who can be trusted to deal wisely and fairly in disagreements. And finally, on more sophisticated accounts of rationality we care not just about the individual's choice of means-to-ends, but also about the kinds of ends they choose. The reasonable means to the committee's outcome only tells part of the normative story. We care also about what sort of outcome was aimed at and delivered: namely, a fair outcome. Evaluating ends in this way invokes standards of rationality which appeal to ideas of the good, a clearly moral appeal. (4) There is, however, one class of compromises which clearly does not include an appeal to morality in any sense. These are compromises over mundane daily desires, wants, and plans - the sort illustrated in the pizza-Bogart example. For now I will focus almost exclusively on the first two types, though there may be some gray-area cases that belong in type three, particularly as we move toward discussions of social and political compromises.

II. Cases of Moral Compromise

Here are several real examples involving slightly different types of moral compromise. Within each case, sometimes there are several ways to view the compromise, and this helps illustrate the complexity of these problems:

> (1) It is not uncommon in most urban medical centers to have a Jehovah's Witness seek medical treatment, treatment which sometimes calls for the use of blood transfusions. There is a firm prohibition within the faith against the ingestion of blood, even in life-and-death situations. Withholding needed transfusions for adults who competently refuse is fairly straightforward, though still a difficult moral choice for the Jehovah's Witness. Even more difficult are those cases when a child of a

Jehovah's Witness parent needs a transfusion; the parent is faced with a choice between upholding obligations to the child and upholding or permitting the violation of a moral principle that is central to their faith. Though there is disagreement within the faith, most Jehovah's Witnesses believe that any ingestion of blood is a mortal sin and will eternally disqualify an individual for admission into the Kingdom of Heaven. The adult patient can adhere to this absolute moral prohibition, the keeping of which is part of a system of beliefs which contributes deeply to the sort of person they have chosen to be, and the violation of which carries eternally bad consequences, or they may risk their own death, though it is importantly a death with a clear conscience and a sinless soul. For the parent, the choice is between obligations to the child's well-being and obligations of faith. Since the law in the United States requires a physician to seek a court order to overrule the parent, the parent is often faced with the choice to take the child or not take the child to a hospital, knowing the compromises that may be involved in either choice. In most advanced urban hospitals, there are several "compromise" technologies available, ways of expanding the volume of one's own blood, reducing the need for direct transfusions. Some hospitals also support the banking of one's own blood. Some Witnesses have rejected this technological compromise solution on the grounds that once one's own blood has left one's body, returning it to the body amounts to ingestion and is therefore still a sin. Similar objections have been raised to putting one's own blood in a blood bank for later use. On each of these variations of the Jehovah's Witness cases, there is a devout believer faced with compromise over fairly stark moral alternatives.

(2) Other cases of compromise involve relationships that some find inappropriate, and involvement with those who support opposing moral views. Universities and medical schools conducting research on animals are required to have animal use committees which oversee the use and treatment of animals in research, according to Federal guidelines and the ethical guidelines of the institution. One or two slots

on the committee are usually reserved for people not affiliated with the institution. One public relations ploy, and also a sincere attempt to seek ethical balance on these committees, is to include someone who supports animal welfare, even animal rights. There are often members of the research community who are torn on the issue of research on animals, so this view need not be held only by an outsider. Many scientists struggle with these choices. The question of moral compromise may arise from the point of view of the animal rights believer over (1) any involvement at all on the committee and the activities that it oversees, and (2) any voting or endorsement of specific policies and protocols that support the use of animals in research. Some of these policies and protocols may take the form compromises between the extremes of animal rights (no research) and human dominion (research at any cost to animals). Various compromises between these two extremes may offer ways of minimizing the harm done to animals, within the assumption of the legitimacy of research. On some views, being involved and especially endorsing research on animals, constitute compromises of one's moral principles regarding the impermissibility of harm to animals. Such judgments may stem from the individual's own conscience, and/or from others who share the belief that harm to animals is wrong.

(3) A similar hard choice faces any diplomat or politician who has firm moral commitments that come into conflict with the aims of keeping peace. A good example of someone whose life was a parade of hard moral choices was the former Israeli Prime Minister, Yitzhak Rabin. Here was a man who fought for the Israeli cause from his youth but who later in life balanced the moral weight of that cause against the aim of achieving lasting peace in a morally divided region and acted in favor of peace, but not without personal regret and moral accusations from others. Many Israelis and members of the Diaspora thought in the end that Rabin had gone too far in his compromises with Yasir Arafat and the Palestinians, that he had compromised the values for which he had once stood clearly and firmly. He

ultimately lost his life at the hands of such a person.

(4) Besides political roles, other professional roles can give rise to conflicts between one's moral commitments. There are several well known court cases involving a therapist or psychiatrist who is torn between upholding patient confidentiality and betraying that confidentiality in order to warn an innocent third party whom the patient has threatened. One version involves warning a partner or lover that the patient is HIV positive. A recent New York case involves a patient who confesses that he is a pedophile. The psychiatrist, along with other physicians, are sworn by a professional and moral oath to protect the confidentiality of their patients. This New York psychiatrist had been seeing a patient, a young man in his thirties, for about a year, when the patient confessed that he often fantasized about young children. He admitted to acting on these fantasies while traveling in South America. He confessed to the psychiatrist that he was worried about the increased frequency and intensity of these thoughts. The law in most states now supports a duty to warn identifiable third parties of specific threats; other states take the position that it is permissible to warn the third party. Both positions represent a compromise of the absolute commitment to confidentiality when it comes into conflict with the commitment to preventing harm to innocent third parties. Both individual professionals and groups of professionals often face such moral compromises.

(4) Another example of moral compromise involves policies that try to separate the morally contentious behavior from activities or behaviors that are viewed as beneficial or permissible. The question of compromise arises for those crafting such policies, and for those who endorse or sign-off on such policies, whose own moral commitments prevent endorsement of the prohibited behavior. A very current example of this is found in the U.S. federal regulations of research on fetal tissue from induced abortions. The regulations allow beneficial research on fetal tissue, including transplantation into research subjects, but try also to separate the use and

procurement of the tissue from the woman's decision to have an abortion. The tissue may be harvested only after the embryo or fetus is dead, and the woman's consent to donate the tissue for research may only be obtained after she has decided on an abortion. In addition, the decision to use the tissue for research cannot affect the timing or method of the abortion to meet research standards (such as performing a later abortion or using tissue-saving techniques). Pro-life advocates have objected to this policy, arguing that it represents an unacceptable compromise of the duty to protect the lives of the unborn, in that researchers are wrongfully benefitting from a prior immoral act and those who uphold the policy are legitimizing abortion.[3]

Notice that in each of the cases, as in many like them, moral compromise has both intrapersonal elements and an interpersonal elements, though the degree of each may vary significantly from case to case. Compromise, though it has long been thought to be a purely social phenomenon, even a political phenomenon, can be viewed not only from a third person perspective but from a first person perspective as well. There is the judgment of the agent faced with endorsing a compromise in some way, or rejecting it. There is the evaluation that others make of the person(s) compromising, and there are evaluations of the compromise outcome itself, whether it is appropriate or inappropriate, fair to the views in conflict, etc. Compromises involving dual roles, like Rabin and the Psychiatrist, involve both aspects to significant degrees. More personal decisions, like the Jehovah's Witness' decision to take or not take his child to a hospital for treatment, carry less of the interpersonal element

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[3] See for example, John Robertson, "Ethics and Policy in Embryonic Stem Cell Research," and Richard Doerflinger, "The Ethics of Funding Embryonic Stem Cell Research: A Catholic Viewpoint," both in *Kennedy Institute of Ethics Journal*, vol. 9, no. 2 (1999), pp. 137-150.

than the more public cases (though once the person enters a hospital, or if the child dies, the decision becomes public very quickly). Compromises like those struck by Yitzhak Rabin and Henry Kissinger will reverberate through history for some time to come. Other decisions to compromise or not compromise will not have far-reaching impact on others but will have significant impact on the person making the compromise. There may be a scientist on the animal use committee who struggles quietly with his beliefs on animal rights and the importance of research and does not share his moral conflict with others. Even if this small moral drama goes unnoticed by others, the ramifications of his choice to compromise or not can weigh very heavily and may have a serious impact on his sense of moral integrity, or his sense of spiritual and moral character. Despite its insulation from others, this kind of internal moral struggle is still a moral decision, a question of striking a compromise between conflicting moral values within one's own set of values and then acting accordingly. This intrapersonal aspect of moral compromise arises whenever we find ourselves asking: Is there any moral middle ground at all, any way to protect some semblance of both my obligations? But notice something important: even Yitzhak Rabin's choices to compromise or adhere unflinchingly to principle had a strong intrapersonal element to them. The decisions ultimately had to be made by him, and he had to live with them (or die by them, as it turned out). These compromises affected his family and limited his personal freedom in significant ways. This personal point of view, as Thomas Nagel called it, is present with any decision to compromise, even those turned over to an arbitrator, third party, or procedural process, assuming one has consented to that process at least tacitly. For even the decision to not handle compromise personally is ultimately a choice that has to be made by the individual;

choosing not to choose, choosing to accept someone else's compromise is still an important moral choice.[4] Especially over matters of moral conflict, I think it is often too easy to forget the way in which all moral decisions are made by *particular persons* and it is these particular persons who need guidance, and adequate guidance needs to take the first-person moral perspective seriously. If we focus primarily on the merits of particular compromise outcomes in terms of fair distribution between gains and losses, we will miss what is of central importance in moral compromise, namely, the reasons that such agents have, if any, for conceding or not conceding what they believe to be true, for compromising on their moral commitments.

III. THE PREDICAMENT OF MORAL SCARCITY

Cases like the few I mentioned are ubiquitous, so what is it about our world that makes compromise, or the pressure to compromise, such a pervasive phenomenon? In talking about the conditions that give rise to compromise, Arthur Kuflik includes the condition of "scarcity", a very useful insight which I would like to expand on.[5] Our post-modern age is one where the space for absolutes is scarce, where it has become increasingly acceptable, even expected, to embrace a plurality of values or at least to see the merit of holding

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[4] I will discuss compromise through arbitration and procedures in chapter two.

[5] Kuflik, "Morality and Compromise," in, Pennock, J. Roland, and John W. Chapman, eds., *Nomos XXI: Compromise in Ethics, Law, and Politics* (New York: New York University Press, 1979).

opposing moral views. With the proliferation of complex moral views and value-hybrids those hoping to stake out a claim to pure and absolute ideals, with no concessions, must confront the crowding-effect imposed by pluralism. On anything other than an abstract political theory, and in practice, these many moral views are not compatible and mutually realizable. Of course there are ways to resolve the predicament, three obvious ways: we can dissolve the conflict through persuasion or threat, live with the conflict(s), or consider compromise. Situations for which moral compromise may be the appropriate solution will have these basic features in common: (1) value diversity, (2) serious conflict between those values, including at times an uncertainty about how those values should play out in a decision or choice, and (3) an unwillingness to live with continued disagreement, or put more strongly, (4) a willingness to reflect on the conflict with the aim of possibly reaching an accommodation between the conflicting values. Let me say a bit more about each of these.

To entertain the possibility of compromise at all requires us to assume or recognize value diversity, some form of pluralism among moral values. For someone who is a monist about value, someone who thinks all values are reducible to a single moral appeal, the whole notion of real value conflict disappears. This seems a ridiculous position to foist upon the single-value theorist, or even the average person who thinks that an appeal to God, or to consequences can solve all our disagreements. Surely someone who believes in the paramount importance of a single moral appeal need not reject the possibility of genuine moral conflict. That would be to unfairly push the monist to absurdity. We need to distinguish between two types of pluralism: weak pluralism and strong pluralism. Moral theories belonging to the family of strong pluralism are theories which *accept as legitimate*

several different moral values and principles. Someone like W.D. Ross or Isaiah Berlin would fall in this category. These moral theories center around the claim that there is more than one *true* moral appeal. Weak pluralists, on the other hand, need only recognize the reality of disagreement—they need only acknowledge that people in fact do accept different moral values and principles, without making any further claim about the legitimacy of this acceptance, or the truth of the moral appeals at stake. Many monists may be pluralists in this weaker sense. Though the tensions in his utilitarian theory are famous, I think Mill is probably a pluralist in this weaker sense. He was, on most days, a monist about the good, but recognized our fallibility in determining its true nature and so gave a prized place to the role of disagreement and plurality of opinion in his political theory. Kant too, in his more popular political writings recognized the reality of moral disagreement in a liberal order, though he was a thorough-going monist about duty in his writing on ethics. The possibility of carving out a legitimate place for moral compromise as a solution to moral disagreement depends only on the weaker form of pluralism—as such it is a position that can in the end be accepted by monists as well as strong pluralists. It is certainly not controversial to claim that people in fact accept a diverse array of moral values; further argument is necessary to defend the normative claim that such acceptance is legitimate or justified, on the grounds that pluralism of value is in fact a true statement about the very nature of value. Making out this further claim, however important and interesting it may be in its own right, is not necessary for establishing an account of how best to handle the very real, and "everyday" conflicts of value which we all have experienced first-hand. The weak sense of pluralism is all we need to motivate an account of moral compromise.

If we could agree on all moral matters, there would be no need to compromise on our values and principles. The second condition for moral compromise is the presence of moral conflict. Compromise is concerned with those areas of significant moral conflict among either an individual's own moral values or among the values held by different people in a group or society. Moral conflict is the natural result in situations of moral scarcity: As I mentioned earlier, not all values can be expressed or acted upon in our personal decisions and social decisions. These many values must compete to be voiced and represented; not all can be heard. To say that the conflict is "serious" is simply to say that the person or persons holding the conflicting values embrace those values sincerely and wish to see them realized in a particular choice. The moral views at stake really matter to them and will not be let go of lightly or without strong reasons and a defense. A serious conflict of moral value is not going to arise in the mind of an apathetic person who doesn't care whether their values cohere in any particular way, or are represented in the choices they make. Nor will serious conflict arise among a group of people who do not care in this way. Moral compromise requires that there is something to be compromised.

Some disagreements will be further exacerbated by an ambiguity inherent in the situation at hand or the issue up for debate. In the abortion debate, for example, much of the disagreement stems from the still open scientific and metaphysical questions about the real nature of persons and future persons. Without this "information" the moral status of a fetus remains ambiguous. From individual vantage points, there may be no uncertainty about how the informational gap ought to be filled, or how one ought to proceed given the gap, but it is just this gap that allows for starkly variant interpretations, and so uncertainty from a more

objective or third-person perspective. Part of the reason why compromises might be legitimate solutions to this debate is that it is one ridden with deep uncertainties and ambiguity—there are few, if any, clear answers on either side. Until some definitive evidence about the nature of pre-persons comes to light, compromise between the opposing sides may be the best way of acknowledging the deep ambiguity of the situation. Of course there is also the view that this kind of ambiguity should not be relevant to debates about moral conflict. Such uncertainty, someone might claim, is (1) either due to an error in moral judgment or moral sense, or (2) can be attributed to inadequate information about the situation. The problem is that neither of these reasons allows room for the very real and deep uncertainties in even the more settled areas of morality. Take the moral prohibition against murder: Should it apply in cases of self-defense? War? In the killing of animals? Fetuses? What if the war is just or the animal is sentient? Even those who believe in absolute principles, even one as stable as "Thou shalt not kill", are often unsure how the principle should be applied to particular situations or how it ought to be reconciled with competing moral values. Attributing this deep ambiguity, in Socratic fashion, to a confusion on our part, suggesting that if only we could get our moral sense in tune with the Real Truth of the matter we could dissolve the uncertainty, seems to grossly underestimate the difficult and deeply ambiguous nature of morality in a complex world. Nor should the situation of uncertainty be dismissed as the result of misinformation or incomplete information. Even persons with full information about a choice will often find themselves at an impasse or disagreement when

several relevant moral values come into play at once.[6] Many intelligent, reflective people will simply read the information differently and interpret the moral data in different ways, despite attempts at persuasion through argument, education, or cognitive psychotherapy. To dismiss our uncertainties about moral choices and the ambiguity of moral principles fails to take seriously the very real ambiguities in our moral world and the resulting multiplicity of interpretation. This pervasive condition and the pains of dealing with violently conflicting interpretations may give us good cause to consider compromise as a possible resolution.

These features that I have so far described create the predicament of moral scarcity, a situation that may call for a compromise solution, but only if the moral agents involved face scarcity with an attitude that is favorable to concession. At its most basic level, the possibility of moral compromise requires that people be unwilling to endure conflict any longer, or that they reflect on the conflict with the aim of possibly reaching an accommodation between the conflicting values at stake. Absent some willingness to consider accommodation there is no way to proceed; the conversation is over and the conflict persists. What motivates this minimal attitude toward possible compromise is the basic desire many of us have to see what we value realized in *some* form rather than not realized at all, the latter being the cost of an uncompromising stance to conflict. In the arguments that follow in later chapters, I hope to provide further reasons that expand on, and in some instances take the place of, this very basic defense of moral compromise.

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[6] Kuflik, "Morality and Compromise," in, Pennock, J. Roland, and John W. Chapman, eds., *Nomos XXI: Compromise in Ethics, Law, and Politics* (New York: New York University Press, 1979). p. 49.

IV. THE MAXIMIZING ARGUMENT FOR MORAL COMPROMISE

We all find ourselves in the situation described above, to varying degrees, some of us more frequently or more seriously than others. What reasons, if any, support conceding at least some of our moral beliefs and commitments? Since the space for expressing one's moral commitments is limited by others and at the same time most people find meaning in life in large part through the realization of their moral commitments, then obviously something has to give way. One option open to us is violence, Hobbes' war of all against all. Another is total concession by the weak to the strong, the utopia of Nietzsche's dreams. A third option is to seek compromises where our moral values conflict, accepting that only some of our commitments will be realized, and that we may have to endure the beliefs and commitments of others. A fourth is to walk away, to refuse to decide, but to walk away with ideals and values intact.

Nietzsche's dream was more than wishful thinking, but its somewhat more likely corollary, especially in developing countries like Haiti and Ghana, is the state of nature. The Hobbesian position on moral compromise ultimately fails in typical situations of moral scarcity, as set out above. The Hobbesian only succeeds if he can gain sufficient power to overcome those who stand in his way. Hobbes himself argued that the state of nature is not an optimal state, even for those who gain power. Even the Dictator must sleep at night. Compromising with others, even on the pessimistic Hobbesian scenario, is often the only way of getting some of our commitments realized, and for Hobbes, this is what brings us out of the fictive state of nature. On more optimistic assumptions about human society,

compromising with others can take the form of cooperation and generate further mutual benefits. Walking away from joint attempts to reconcile conflict means that one will not be party to the joint agreement, and may lose out on those benefits.[7] Consider the Middle East, where moral territory is literally scarce. The options in this region have long been: violence, concession of the weak to the strong, peaceful coexistence through compromise, or "walking away"; with the last usually accompanied by an escalation of violence. The people in this region, particularly the leaders, when faced with the harsh reality of moral scarcity, have had numerous opportunities to seek compromise between disagreeing parties. Former Israeli Prime Minister, Yitzhak Rabin, when visiting Kissinger in Connecticut during the start of the Intifada argued against responding to violence with violence, saying, "Through the use of force, by spitting on our soldiers, you will gain nothing. The solution can come only when both sides sit down and discuss our readiness for compromise. We need to find ways to create the conditions for coexistence in the area."[8] This moment represents a mental bootstrapping out of the state of nature, out of the cycle of violence. Rabin recognized that not retaliating would be seen as a victory for the Palestinians, but answering with matched violence would only perpetuate a costly and bloody disagreement. At this point, the

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[7] Though there is the question of free-riders, those who benefit from the cooperative efforts of others without contributing to the concessions. There might be an interesting analogy between economic free-riding and free-riding on moral compromise. There are those who refuse to compromise directly but who nonetheless might gain from a general compromise or agreement worked-out by others. Many Israelis condemned the deals struck by Rabin with the Palestinians, and have enjoyed the moral high ground, but all, until recently, benefitted from relative peace in the region that came as a result of those compromises.

[8] Leah Rabin, *Rabin: Our Life, His Legacy* (New York: GP Putnam's Sons, 1997), p. 195.

possibility of mutual coexistence over violence motivated the shift toward compromise. So the most direct case to be made out for compromise, is that in situations of scarcity, it is sometimes the only means of getting what we want, in the sense of seeing our moral values realized as much as possible, among disagreeing others.

There is a second normative argument that can be given for compromise that is only a slight variation on the first. Among our values we might also recognize the importance of fairness. We might believe that, instrumentally, fair dealings among others, allowing some give-and-take, maximize our commitments within the constraints of scarcity.[9] If we look at the moral decisions involved in a family, in a marriage, among friends, among colleagues, on committees, in clubs and in church, it does not take much reflection on these to see that the space for expressing our own moral commitments, among others, is scarce, and that forsaking our Hobbesian urges in favor of some mutual concession is a wise long-term move. If there are opposing claims to the moral territory (where that "territory" may be land, law, policy, or a more private decision to carry out some action), and those claims are pressed with equal sincerity and reasons, then a fair solution to the disagreement will involve some proportional split between the opposing views.[10] I will offer a more in depth discussion of

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[9] The many accounts offered of the Prisoner's Dilemma and cooperative approaches to the Dilemma support this version of the argument. See for example, Thomas Schelling, *Choice and Consequence* (Cambridge: Harvard University Press, 1984), pp. 209-210, and David Gauthier, *Morals by Agreement* (Oxford: Oxford University Press, 1986).

[10] This is Martin Benjamin's position on compromise in moral conflict. See Martin Benjamin, *Splitting the Difference: Compromise and Integrity in Ethics and Politics* (Lawrence Kansas: University Press of Kansas, 1990).

the appeal to fairness in the first section of chapter four.

The arguments for maximization and fair maximization can also be seen as arguments for constructing a morality of "second best", when the morality of first choice can only be obtained at an unacceptably high cost. This motivation for compromise exists in situations where without consideration of compromise the outcome will be "all or nothing", a zero-sum moral game. The possibilities for reaching alternatives or a middle ground come only when an individual realizes that she would rather have some of her moral commitments represented in a choice rather than risk the chance of having none at all realized. The baseline in this type of case is total concession, or some equally devastating loss through violence or other costs of persisting disagreement. When more is to be gained by conceding the expression of one's moral beliefs, it seems reasonable to consider such concession seriously, assuming it is more reasonable to have some rather than none of one's commitments expressed. The adage: "Half a loaf is better than none" captures the idea that preserving some of what one deeply believes is better than a kind of moral starvation. Compromise on the first version of this argument is a strategy for moral survival; on the fairness version compromise is a means for living cooperatively among others for mutual benefit.

Some might argue that the Hobbesian scenario overdramatizes the situation of scarcity in the actual world. In response, I recommend a trip to Haiti, Ghana, Russia, Afghanistan, East Timor, the West Bank, or South Central L.A. But even for those of us who are fortunate enough to enjoy relative peace among very different others, the scarcity of the sort characterized very dramatically by Hobbes, does exist in less dramatic varieties; these more mundane varieties still motivate the maximization argument, though the

argument from fair maximization and benefit through cooperative compromise offers a better fit in relatively peaceful situations. There is a less exciting and more pervasive form of scarcity that occurs on the more immediate, personal level of moral choice, those decisions that often go unnoticed within friendships, partnerships, marriage, and business deals. It should not take Hobbes' grim world of a war of all against all to convince us that it may not always be best to persist in having all of what we believe in morally. There is much to be gained in making concessions to those we love, to those we have befriended, to those from whom we gain security or the benefits of trade. When the alternative to compromise is isolation and loneliness, and the gain is some shared value or activity, perhaps increased knowledge, it may make sense to consider the compromise alternative very seriously. As long as we disagree and as long as we remain committed to a framework of peaceful coexistence, even on the most basic level of family and friends, there will be a need for making compromises over difficult moral issues as well as the mundane decisions of daily life.

The starting point for the maximizing model is a basic assumption about the nature of rational behavior, that a rational agent in any situation will seek to maximize her expected utility, interests, or preferences. Put simply, compromise on this view is a default position, it is what we do when circumstances outside our control limit our ability to get what we want or believe to be true in any given situation; but the overall goal remains one of maximizing in the long-run, and compromise will be legitimate only as a means to that overall end. I would like to turn to a more detailed critique of this approach, since it is so widely accepted, and carries a strong intuitive appeal, as illustrated in the arguments above. In doing so I hope

to reveal both its strengths and its limitations when applied to moral conflict, especially conflicts involving moral commitments.

V. BARGAINING OVER MORALS

The standard approach to questions about compromise has been to appeal to the model of "bargaining", rooted in economic theory, and used in diplomacy, political science, economics, and social and political philosophy. There are now many variations on traditional bargaining theory, but all share a common structure: they rely on a preference-based notion of commitments (whether moral or nonmoral) and offer strategies for maximizing the satisfaction of one's preferences in "games" or decisions involving others, the outcomes of which are constrained by certain assumptions about human rationality.

By way of background, classic game theory emerged in the late 1940's and early 1950's, partly as an academic movement in mathematics but more importantly as a response to the post-World-War-II political shift from a military of weapons to a "military of wits". Much of the work coming out of the RAND Corporation during this time was intended for application to military strategy, especially to the problem of nuclear deterrence.[11] Game

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[11] For an excellent account of the history of game theory and the life of one of the movement's most influential minds, see the biography on Nobel Prize wining economist, John Forbes Nash, by Sylvia Nasar, *A Beautiful Mind* (New York: Simon and Schuster, 1998), pp. 104-113. One of the most striking things about Nasar's account of the daily intellectual life at RAND is just how unconcerned and unaware Nash and his colleagues were about the military applications of their ideas. As far as they were concerned, it was quite literally a problem of games, not war. The Pentagon had a very different idea. Nasar quotes an anonymous Pentagon scientist in 1949, "We hope [the theory of games] will work, just

theory offered powerful mathematical models which formalized the conflicting preferences of two or more individuals in either single or iterated decisions.[12] One of the fundamental assumptions of the classic theory is that the individuals in the bargaining situation are self-interested, interested only in the outcome which maximizes their preference satisfaction, or their expected utility. On the model of individual independent choice an individual could make a decision about an action or alternative by considering various outcomes—outcomes whose utility, if not known for certain, could be represented in terms of probabilities. The outcome of the choice, in cases of certainty and risk, is determined by the individual's choice and a particular state of affairs, or possible state of affairs. In individual choice under certainty an agent ranks the outcomes and chooses the one which maximizes utility. For decisions under risk, probabilities are assigned to the possible outcomes, and the action or strategy which will maximize the probability-weighted sum of their preferences over outcomes—expected utility—is chosen. The other significant assumption of the classic model is that the preferences or interests in such conflicts are zero-sum: what one side wins the other side necessarily loses.[13]

Thomas Schelling's model of pure coordination games offered a theory of classical games which assumed that bargaining behavior is interdependent, that the outcome for each

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as we hoped in 1942 that the atomic bomb would work." (Nasar, p.115.)

[12] R. Duncan Luce and Howard Raiffa, *Games and Decisions* (New York: John Wiley and Sons, 1957).

[13] A. Wohlstetter, "Sin and Games in America," in Martin Shubik, ed. *Game Theory and Related Approaches to Social Behavior*, (New York: John Wiley and Sons, 1964), p. 214.

player depends on the behavior of others in the game, as well as his own behavior.[14] That is, what I should do, if I am rational, will be a function of what I think you might do, which is a function of what you think I might do, and so on. To try to assign probabilities to the other agent in the game, as if they were an event in the world, would be to underestimate the role that person's choices play in my decision. The whole notion of parametric choice, of circumscribing one's environment so that one's choice is dependent on a parameter, a defined set of possible outcomes, became clearly inadequate for capturing the complex nature of interdependent choice. For these insights, Schelling has been credited with bringing Hume's notion of convention to modern game theory,[15] and developing a more sophisticated theory of strategic choice. On this theory, the decision-making process will include a consideration of my opponent as a rational agent like me, fully capable of arriving at a strategy by forming expectations about how I will choose, as I am of forming a strategy based on my expectation of how she will choose. This move advanced game theory beyond classical bargaining theory to include an account of both cooperative and competitive games where there are multiple interests to be satisfied and multiple interdependent strategies and counter-strategies open to us. Still, the basic structure of bargaining theory remains one in which the aim of the bargain is to maximize the satisfaction of individual preferences, whatever those preferences may be. The basic strategy for any player in the game is to realize as much of his preferences or interests as he can in the face of competition from other

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[14] Thomas Schelling, *The Strategy of Conflict* (Cambridge: Harvard University Press, 1960).

[15] Ken Binmore, *Playing Fair: Game Theory and the Social Contract, Volume I* (Cambridge: MIT Press, 1994), pp. 285-86.

bargainers, seeking those preferences that are ranked highest before the lower ranked preferences.[16] Satisfaction is achieved when the preferred object or state of affairs obtains— on this model, preference satisfaction is all or nothing.

Compromise, on this model, takes one of two forms: It is either (1) a default position, accepted only when the attempt to maximize fails and one's hand is forced by circumstances, or (2) it serves as a means to longer-run maximization; "conceding this time will lead to a net increase in expected utility (or will minimize expected disutility) in the long run". On the preference maximization model it is never rational for someone to choose compromise for reasons other than one or two.[17] To be rational an agent must either be forced into compromise or accept it as a means to broader maximization of her preferences. Moral compromise takes the same form, only our preferences are preferences that certain moral commitments be maximized. Moral scarcity is seen as a threat, a barrier to maximization. The guiding principle from the bargaining/maximization perspective will be the following:

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[16] For an interesting attempt to capture the phenomenon of altruistic behavior on the bargaining model, see Robert Sugden, "Thinking as a Team: Towards an Explanation of Nonselfish Behavior," *Social Philosophy and Policy*, vol. 10, no. 1 (1993), pp. 69-89.

[17] Within the rational choice literature, this is a controversial claim. Some theorists follow in the tradition of Herbert Simon, arguing for the rationality of "satisficing", roughly, accepting "suitable means" to one's given ends, rather than the best means. These means need only be "good enough" from the rational satisficer's point of view. A satisficing conception of rationality denies that an agent must always seek the best means to his given ends; sometimes he may seek satisfactory ends. See for example, Michael Byron, Satisficing and Optimality," *Ethics*, vol. 109 (October 1998), pp. 67-93. Byron and others argue that instrumentalist theories of rationality cannot accommodate the satisficing view, unless satisficing is understood merely as a sophisticated form of optimizing behavior. See also, David Schmidtz, *Rational Choice and Moral Agency* (Princeton, New Jersey: Princeton University Press, 1995), chapter two, and most recently, Robert Goodin and Geoffrey Brennan, "Bargaining over Beliefs," *Ethics*, vol. 111, no. 2 (January 2001), pp. 256-277.

Whatever your reasons are for holding particular moral views or valuing certain outcomes over others, whatever the content of your particular moral commitments (be they goals, duties, filial obligations, etc.), they can be expressed in terms of your preferences or desires that you "get" as much of those commitments as possible in the bargain. On the preference maximization model all you need to know to make a decision in a moral conflict is that you have a preference that a certain moral commitment be met and that this commitment carries a certain strength vis-a-vis other moral commitments and nonmoral interests. It may sometimes be rational to concede some preferences in order to achieve others, or to make a partial concession now in order to realize one's preferences sometime in the future. On this view, in order for compromise to get off the ground at all, the force of one's preference for keeping one's moral commitments must be considered in the balance, and ultimately outweighed by one's preference not to endure continued conflict.

Advocates of the bargaining model of moral compromise would likely agree that situations of moral scarcity lead to situations where all our preferences about what should be the case morally, cannot be realized. In such situations it is sometimes rational to concede some of what you value in order to gain something else of value. The particular constraints on compromise outcomes will vary according to the particular account of rationality that we embrace. These rationality constraints (like transitivity)[18] will also dictate the forms that

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[18] If I prefer A to B and B to C, if I am rational, I should prefer A to C. But see Derek Parfit, *Reasons and Persons* (Oxford: Oxford University Press, 1984), sections 125 and 144, and Larry Temkin, "Intransitivity and the Mere Addition Paradox," *Philosophy and Public Affairs*, vol. 16 (1987), pp. 138-187.

compromises can take. For example, an outcome that leaves all the players worse off than they were had they not bargained, is not Pareto Optimal and would not be a rational outcome for any player to choose. We should be able to say about a Pareto Optimal choice that no other possible outcome might improve any of the agents' situations except by making another agent worse off. In the bargaining language of moral compromise, such an outcome would be an irrational compromise. There will be better and worse compromise solutions depending on the algorithm that is used for choosing in particular games or decisions.

This approach offers certain advantages when trying to choose in situations of moral conflict. By taking an indirect approach to the problem of moral compromise the preference maximization model manages to sidestep many unpredictable and complex variables about human nature, moral judgment, the nature of a moral commitment, and the substance of particular moral reasons. In doing so, it remains an elegant, simple mechanism with which we can generate powerful results to complex social problems. It requires much less moral data to generate a decision, and this can be a crucial strength in situations where time is scarce, or the number of agents involved in the decision is very large, or when the desire is to draw up a quick and useful generalization about the descriptive aspects of human negotiations, seeking broad patterns of choice rather than idiosyncratic accounts. As I see it, this is bargaining theory's main strength: that it remains neutral about the content of particular preferences and interests, offering a morally neutral mechanism by which to arbitrate between seemingly incommensurable values. It does this by offering a common currency for decision-making—"preference"—which can be invoked as a common denominator for numerous diverse values. This allows us to abstract away from the

complicated and diverse reasons that individuals give for having the preferences they have, and for ranking them in a particular way. The content and strength of what you prefer is taken as a given; the model brackets the reasons one may have had for arriving at that particular set of preferences. The resulting model guides us in making the best choice in a situation where one's choice is dependent on what others choose, and vice versa, without having to know any more about the reasons behind the rankings or the content of particular preferences.

Bargaining theory is put to widespread theoretical use in studies on negotiation and diplomacy, two areas where the bargaining chips are often the moral values held by the parties to the negotiation, where the outcome often results in one or more parties giving in on some of what they value morally for the sake of something in return. As modeled by socioeconomic theory these moral bargains, however, are indistinguishable from bargains over commodities or land-use. The instrumental, self-interested account of rationality can accommodate more sophisticated desires—altruistic preferences, sacrifices in the short-term for the sake of later gains, and so on, but the assumptions about the rationality of maximization of one's preferences, whatever they may be, remains the fundamental action-guiding principle. It also makes room for identifying and determining the strength of our preferences, including our preferences over moral matters, with weighted rankings. It may sometimes turn out to be rational to concede some of what we want in order to maximize some other more highly valued or heavily weighted preference. If the only way to maximize our expected utility is to offer some concession, strike a compromise, then compromise is the rational choice. These same limits tell us that we should walk away from a deal and

choose no compromise, if our only option is a sell-out of our preferences that is not optimal

by the standard assumptions of rational choice theory.

What about this underlying theory of instrumental rationality? Can it really provide

the sort of rules for compromise that we would want over moral matters? A standard

objection lodged against bargaining theory as a moral theory is that its assumptions about

self-interested rationality, or instrumental rationality, are too thin to generate any contentful

solutions in situations of moral conflict. Some have argued that the Hobbesian

characterization of human interests in state of nature, or even the neo-Humean

characterizations in the more contemporary hypothetical positions of choice, rely on overly

simplistic characterizations of human nature.[19] Game theory's bare notion of self-interested

rationality, while an elegant solution to the problem of choice, fails to capture the more

subtle and complex attitudes of the parties in situations of value conflict. Constraints on

bargaining are internal constraints of rationality, axioms of consistency and transitivity,

governing the logical relationships between preferences, rather than the content of the

preferences themselves. The bargaining model is a model of prudence, first and foremost,

not a model for substantive moral dealings, much less a model of substantive moral dealings

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[19] Amartya Sen, *On Ethics and Economics* (Oxford: Basil Blackwell, 1987); J. Harsanyi, *Rational Behavior and Bargaining Equilibrium in Games and Social Situations* (Cambridge: Cambridge University Press, 1977); Kurt Baier, "Rationality, Value, and Preference," *Journal of Social Philosophy and Policy*, vol. 5, no. 2 (Spring 1988), pp. 17-45; Robert Nozick, *The Nature of Rationality* (Princeton, New Jersey: Princeton University Press, 1993); Ken Binmore, *Playing Fair: Game Theory and the Social Contract, Volume I* (Cambridge.: MIT Press, 1994). Ken Binmore cites Pareto in defense of the core assumptions of the economic model, "One is grossly mistaken...when he accuses a person who studies...*homo economicus*...of neglecting, or even scorning,...*homo ethicus*," Binmore, p. 18.

among agents of limited or varying "rationalities" and minimal trust.[20]

Game theorists do have a response to this line of criticism. Abstraction from complexity is not a problem unique to game theory. By its very nature *any* theory risks abstracting too far from the particular it is meant to capture and explain, describe, or predict. Thomas Schelling has tried to turn this seeming disadvantage into a strength by arguing that the nearly limitless complexity of interdependent decisions is unspecifiable. On this view, game theory's great strength lies in its elegant and generalizable analytic framework which allows us to penetrate the confusion of the real world. It *assumes* and embraces incommensurability and conflict. In a kind of Hobbesian move, it assumes the very thinnest account of human nature, the very worst conditions, and proceeds from there to model solutions for less difficult situations. As Schelling says about individuals in zero-sum games, "it is precisely *because* their value systems are incommensurable that, if their interests are strictly opposed, we can arbitrarily represent them by scales of value that make the scores or payoffs add up in every cell to zero."[21] Relying only on comparative ratios of utility increments, game theory assumes there are no utility scales to compare;[22] thus sidestepping the difficult issue of value incommensurability among individuals, especially on moral

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[20] See Annette Baier's important feminist critique of contract theory in general, specifically the Prisoner's Dilemma in, "Trust and Antitrust" *Ethics*, vol. 96, no. 2 (January 1986), pp. 247-253.

[21] Thomas Schelling, *Choice and Consequence* (Cambridge: Harvard University Press, 1984), p. 217.

[22] Schelling,(1984) p. 238.

matters. Ken Binmore similarly argues that no discussion on matters of ethics or politics can get off the ground without making some basic assumptions about how people really *are* in the world, how they really interact with each other. That is, we can acknowledge the sheer complexity of human motivation and diversity, but this does not obviate the need to commit to certain fixed assumptions drawn from our common understanding of human nature, the lowest common denominator being a kind of "broadly conceived" self-interestedness. Clearly we would be widely off the mark if we failed to acknowledge the large role that self-interest plays in countless decisions, from the mundane to the life-altering, and that includes decisions involving compromise. Amartya Sen, while himself very sensitive to some of the limitations of economic approaches to ethics,[23] has said that "normal economic transactions would break down if self-interest played no substantial part at all in our choices. The real issue is whether there is a plurality of motivations, or whether self-interest *alone* drives human beings."[24] Taken together, these defenses of the game theoretic assumptions about human nature reveal the mixed value of these models when applied to morals. On the one hand, the approach gives us a grip on what seem to be intractable problems, intractable

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[23] Sen acknowledges that bargaining theory tends to oversimplify its assumptions about human nature and the ethical, but Sen also emphasizes the ways in which ethical problems can be addressed fruitfully with some of the standard methods of consequential analysis offered by economics. Amartya Sen, *On Ethics and Economics* (Oxford: Basil Blackwell, 1987), pp. 7-10.

[24] Sen, *On Ethics and Economics*, p. 19. As Ken Binmore notes, "Even with his aims broadly conceived, *homo economicus* is at best a distorted and oversimplified image of *homo sapiens*. Like democracy, his only virtue is that all the alternatives are worse." Binmore, *Playing Fair* , p. 21. See also the important work of Harsanyi on the idea of "sympathetic preferences". J. Harsanyi, *Rational Behavior and Bargaining Equilibrium in Games and Social Situations* (Cambridge: Cambridge University Press, 1977).

because of the nearly endless variations and complexities among real cases and real human agency. Wouldn't it be nice to assume the very least about human nature, a set of universal assumptions about rational behavior, and then see what general patterns of choice are predicted under different circumstances? Given the wide acceptance of the theory in solving problems of economic, military, and political choice, it certainly seems to deliver something of value, in most cases offering a clear and useful starting point for modeling simpler strategies for choice in situations of conflict. I think the question remains whether the basic model for compromise as "getting as much of your moral commitments as you can within the limits of moral scarcity" will be sufficient in handling the kinds of cases of personal moral conflict that we considered earlier. And the kinds of criticisms lodged by feminists like Annette Baier remain: who *are* the people in these Prisoner's Dilemmas and what do they have in common with the complicated choosers in this world who rely in all kinds of ways on various relationships and interdependencies, particularly on relationships of trust? I think we can begin to see the contours and limits of the bargaining theory approach to moral problems in particular. I would like to consider one other broad but important objection to the theory which will further illustrate the limited scope of the theory as applied to moral conflicts.

Bargaining models cannot help but underdetermine moral choices. In any game there are multiple equilibria, or outcomes, which will solve the conflict—how do we choose the appropriate equilibrium point? There are several possible outcomes to the Israeli-Palestinian disagreement over the status of Jerusalem. Some solutions are clearly worse than others; bargaining theory does help us rule out those equilibria which would be irrational from the

standpoint of self-interested rationality. Those axioms of rationality, constraints on what is rational to concede, those specify the "rules of the game" and limit the possible outcomes. But in order to specify the rules of the game (such as Pareto optimality) we have to appeal to independent moral principles, principles lying outside the structure of the game model, justified by some independent appeal to value (such as utility maximization or a notion of fairness). The moral question that game theory must answer in any particular game, has been importantly begged at the outset by specifying the appropriate equilibrium point according to independent moral rules. The game mechanism itself is empty. It offers no moral content, nor does it guide us in choosing the morally "best" equilibrium point, the best resolution of a moral conflict without appeal to an independent moral theory. For this reason, game theory itself cannot be such a theory.

These are important and now standard criticisms of bargaining theory and current work in this area shows that the theory has evolved and risen to the occasion. Bargaining theory remains an approach to decision making and conflict that allows theorists and perhaps policy makers to avoid the distortions caused by an otherwise detailed consideration of the motives, emotions, and even substantive moral reasons that come to play in an agent's choices. In so doing the general family of game theoretic approaches to conflict can offer useful procedures and mechanisms for predicting fairly straightforward choices between simpler types of preferences, in situations where the moral content of a preference does not impact the decision, where assumptions about the rationality of maximizing behavior does not come into question. When we turn to the more complicated choices faced by the agents in the cases of moral compromise, laid out earlier in the chapter, we will begin to see very

quickly that the simple bargaining approach to compromise fails in a number of ways to offer action-guiding principles for choices in moral conflict, particularly choices to compromise or not compromise one's moral commitments and beliefs.

VI. THE CHALLENGES OF MORAL COMMITMENT AND MORAL INDECISION

In several ways, the very phenomenon of moral conflict signals a lack-of-fit between theories of rational choice and the complicated nature of moral agency, thereby failing to offer a reliable guide for action and decision when faced with the possibility of moral compromise. The bargaining accounts, even the more sophisticated varieties, fail to capture several important features of moral commitment and our attitudes toward our moral commitments, including the relationship between commitment and identity. These accounts also give little guidance to the person who has no firm ranking of moral values, an incomplete ranking, but who is not by any means indifferent between the options and for whom the cost of compromising might be quite high. I will look first at the problems raised by the nature of moral commitment and then turn to a discussion of moral indecision.

A. The Phenomenology of Moral Commitment

A deeper weakness of the bargaining approach to moral compromise is its account of the basic phenomenology of what is happening in moral conflict and moral choice. Recall our animal rights advocate, sitting on a national review board for animal research. She says, "I believe that harming animals is wrong, but I'm willing to concede the use of dogs in your

labs if you are willing to offer them exercise time and eliminate the more painful neurological studies on cats." On the bargaining model we do not get an account of what that kind of concession might mean for the person making the choice, though we do get an account of its inconsistency, if it is not uttered with an aim to overall maximization. Yet something important seems to be missing in this explanation of a person choosing to compromise her moral beliefs. In its assumption of preference as the common denominator for moral choice, its assumption of instrumental rationality, and its account of persons as utility-maximizers, the bargaining model (1) fails to capture the true and complex nature of a moral commitment, (2) and fails to give an account of *why* we weigh one commitment over another, thereby omitting the reason-giving element in moral decision-making, and (3) takes for granted that we are "maximizers" and should be maximizers over our moral commitments. Let me explain each of these objections further.

(1) Commitments versus Preferences. Consider, for a minute, the anatomy of a preference. A preference is a disposition to choose one thing over another, a binary representation of individual choice.[25] My preference for a Marie Calendar's pie is either on or off, I want it or I don't. That binary relation is then governed by such rules or axioms as consistency and transitivity. If I want to be thin, I can't also consistently want that pie. Transitivity just says that if I prefer pie to french fries, and french fries to tofu, that if presented with a choice between pie and tofu, it would be irrational to choose the tofu.

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[25] See Nozick, *Nature of Rationality*, p. 142; Sen, "Behaviour and the Concept of Preference," p. 73.

Again, these rules govern the relation between preferences for particular outcomes, not the content of the preferences themselves.

It says nothing about the inherent merit of having tofu-preferences or pie-preferences or compassion-preferences or homicidal-preferences. We can evaluate the content of our preferences only indirectly, insofar as they increase or decrease expected utility. If acting on the homicidal-pie preferences maximizes expected utility, then that is the rational choice. This is a crucial point for moral choices: To have a preference is simply to have an inclination or tendency toward choice when presented with at least two options. The bargaining model does not give us a direct means of evaluating the content of a preference, when part of what it is to describe moral conflicts is to say something about the substance and inner-workings of the moral values and commitments at stake. What does being an honest person mean to me and how does it relate to the other values I hold? How important is the Jehovah's Witnesses' belief in the doctrines of his faith when compared to the value of his life in this world? The seeming beauty of the bargaining model was its ability to abstract away from these difficult substantive and relational questions about the values people hold. However, this strength turns to weakness when the disagreement is one over moral matters; here bargaining theory fails to adequately describe the nature of the commitments at stake because it ignores the nexus of commitments that inform the choices we make in situations of moral conflict. A simple preference ranking does not capture the complicated relations between preferences and the often fluid rankings that we give them, depending upon the gravity of the situation and its impact on other areas of our nexus of moral commitments.

We can try to capture the nature of a moral commitment by appealing to the weight or the strength of our preferences, but this too fails to get at the true nature of moral conflict as opposed to mere conflicts of interest. Moral commitments have a kind of fixity that mere preferences lack. Presented with a choice between a gin and tonic and a glass of single-malt scotch, I will be inclined toward the scotch, pretty seriously inclined. I place great weight on my preference for the smooth, malty flavor of scotch over something that has an uncanny resemblance to Listerine with a twist of lemon. I would go to fairly great lengths and costs to satisfy the scotch preference, this side of a trip to Scotland, the risk of liver disease, or the inability to think clearly while working. All in all, it is a pretty strong preference. Now, would I say I am *committed* to scotch consumption? That strikes me as an overstatement, if not downright absurd, even for an Irishwoman. I do like it quite a lot, but the strength of my desire is not enough to make it a commitment because the preference is easily defeasible by countervailing reasons and other preferences. Give me a good reason for abandoning the preference (liver disease, a cloudy mind), or for preferring something else (a good Cabernet tastes great and decreases your risk of heart disease) and I will do so. As dispositions toward choice, preferences often have a kind of transient status unlike the fixity and recalcitrance of our commitments, especially moral commitments.

The fixed nature of a commitment has two aspects: a commitment is generally fixed at a given point in time, in terms of its resistance to countervailing preferences, desires, and changes in circumstance. It is also relatively fixed over time. A commitment, generally speaking, is a dedication to a long-term course of action, or a pattern of behavior based on a dedication to a particular value (like patriotism, honesty, excellent work, freedom,

equality). A moral commitment is a dedication to seeing a value or certain values realized through one's choices and actions, often despite certain costs in doing so in particular cases. In terms of reasons for action, preferences give us *prima facie* reasons for choosing one thing over another; competing moral reasons may countermand and override our preferences. Commitments, on the other hand, give us reasons for actions which are not easily mediated by other concerns, including our preferences. Unlike preferences, commitments are less contingent upon other factors, like costs, benefits, and what you desire.

This is not to say that commitments are not at all contingent. Our deepest commitments, say to a spouse or companion, may seem overriding and unmitigated, unlike fleeting infatuations with the charming bank teller or Antonio Banderas. But these commitments are not immune to change and renegotiation. When the conditions for the commitment have evolved beyond the initial reasons for making the commitment, when non-trivial changes occur and you discover your spouse is abusive or addicted to gambling, you might very well be lead to alter or even abandon your initial commitment.[26] Still we can say that preferences are contingent in a way and to a degree that commitments are not. The statement "I prefer to stay with my husband" carries with it the sense that were the bank teller just charming enough, I might shift my preference without added reasons for doing so. To say, "I am committed to my husband" carries with it the added sense of stability and noncontingency, that despite some hardships and low periods, perhaps even a waning of

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[26] See Peter Railton's excellent discussion of contingency and commitment in, "Alienation, Consequentialism, and Morality," *Philosophy and Public Affairs*, vol. 13, no. 2 (Spring 1984), p. 141-42.

desire or "preference" for him, that I have strong reasons for maintaining my marriage, reasons which stem from the prior commitment and which continue to be expressed and renewed through an ongoing pattern of behavior.

One of the more concrete ways in which this oversight manifests itself is in the problem of incommensurability—when individual choosers are faced with values that do not share a common metric and cannot be easily compared. The interpersonal approach of bargaining theory offers the notion of "preference" as a means of reducing diverse moral commitments to a common denominator. The bargaining model treats all values alike in structure, reducible to "having preferences or interests in X". It then offers principles for choosing according to those preferences. "If you prefer such-and-such, you should do X." I've already mentioned the difficulty in taking the preference-ranking for granted, with no appeal to the reasons for an ordering. By relying on the contentless notion of preference for the sake of comparison it treats the internal content of *my* moral commitments as universal and constant, when to do so is to inaccurately ascribe to me a uniformity and simplicity of commitment which I do not likely hold, given the more complicated nature of human commitments. From the perspective of the social bargaining model, the error is to falsely assume uniformity of content about a thing which is always a black box to the outside observer, to the other individuals involved in particular conflicts, or to those theorizing about conflict. To one another we are so often like Dickens' "inscrutables" in *Tale of Two Cities*, strangers on a stage coach nervously eyeing each other, incapable of penetrating the secrets of our fellow passengers. The nature of my moral commitments ultimately remains mysterious and impenetrable from any other point of view but my own. Particular moral

commitments cannot be compared *for* me because the reasons and meanings those commitments hold for me are deeply personal, not reducible to a universal moral currency like preference or expected utility. Individual commitment-holders are the only ones truly in a position to compare the various values at stake for them, to assign priorities and weights to one over another in light of the reasons that support them, and to change that ordering at any point in the decision process. The fundamental weakness bargaining model to moral conflict and moral compromise is that it ignores these central moral questions about the sorts of beings we are and the ways in which we find meaning in life, in significant part through the moral commitments with which we identify. This weakness in part stems from ignoring the reason-giving, identity-conferring, and truth value of our moral commitments—the first-person perspective of moral choice.

(2) The Relationship between Commitment and Moral Reasons. In addition to its inadequate account of the substance, relational nature, and relatively fixed status of moral commitments the bargaining approach also neglects the crucial reason-giving aspect involved in forming and acting on moral commitments. A principle or procedure which does not adequately engage the first-person perspective cannot adequately guide a decision because it does not get at the motivating reasons for being committed to particular values, nor does it get at the reasons we appeal to when we are faced with a conflict between them. It does not engage the first-person perspective beyond the implied request for a report of a preference ranking. Even then, it calls for the agent to ask the wrong sort of question: "What do I want most?" A deeper account should say something about *why* my preferences have the strength they do, as well as say something about the reasons support that strength.

Moral compromise is a problem of practical morality, a problem which calls for guidance in action. As I've illustrated, there is this important internal aspect to moral compromise. Bargaining theory, in a sense, asks us to externalize all the internal information; it asks us to bracket all the personal elements of moral choice, to disregard it. Only, that is the stuff of moral decision-making, and without it we are unable to address the question "what should I do?"[27] Without a sense of the reasons a person might give for holding the various views they hold, espousing the various moral beliefs they do, a simple reporting of what they want most does not touch the complex motivational structure of moral reasons. The Jehovah's Witness would be rightly baffled if the moral guidance I gave him stopped with a query about his preference ranking. As we've seen in the account of moral commitments, that is a very small part of most moral decisions, particularly ones involving conflicts over deep moral beliefs; in such situations it is often one's very ranking that is in question. The fact that a doctor has a commitment to protecting the confidentiality of her patient gives her a strong practical reason for not talking about her patient's medical history in the elevator, even though she may have a very strong preference to blurt out the juicy details to the colleague by her side. On the bargaining model of decision-making, preferences are taken as a given. On a bargaining model of moral compromise, our moral beliefs and commitments would be taken as a given, with no further account of how we came to hold those commitments, how we value them vis-a-vis other important commitments, nor how they bear upon the type of person we choose to be. It fails to ask (or answer) the all-

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[27] It also overlooks the central question posed by virtue theorists: "How should I *be*?"

important "why question" of morality from the personal and interpersonal points of view—Why should I be committed to this? The correlative question in situations of moral compromise is: Why should I give-up (or fight for) this commitment? Without such information, it is difficult to see how any theory of moral decision-making can give guidance to those who find their moral commitments in conflict with the commitments of others. What sorts of reasons can we give them for making such a choice? What sorts of reasons should they consider when making such a choice? When moral commitments clash we place a heavy normative burden on our various explanations and reasons for holding the commitments we do and for resolving the conflict in a particular way. It would not do justice to the conflicted Jehovah's Witness, if I asked, "Well, which do you prefer more strongly, to risk death or risk eternal damnation?" Failing to appeal to his reasons for believing what he does religiously, and for also valuing a healthy life is to make a mockery of the role that his moral commitments play, not only in this difficult decision but in his life. We need to appeal to reasons to tell an adequate story about what is at stake in moral conflict and in order to make a thoughtful moral choice. The simple reporting of preferences is not enough. More problematic still, since bargaining theory takes moral preferences as a given, it will hardly be able to guide our own intrapersonal conflicts between moral values, for the very ordering of commitments is taken for granted at the outset. If I need guidance in my decision to uphold my commitment to my students or uphold my promise to attend a conference, how can bargaining theory help me if its starting point is to take my ranking of preferences-for-commitments as a given? It is those very second-order preferences that are at stake in this

kind of intrapersonal compromise.[28]

A theory of moral compromise should not only give adequate space to the reason-giving aspect involved in commitment formation, but also in our external evaluation of compromises. On the maximization model, any reasons offered for considering concession will take the form of prudential reasons and this allows the model to explain some kinds of cases but not others. There are many prudential reasons for not doing what we most want, and choosing to compromise instead. Martin Benjamin gives the example of the injured

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[28] Even if we take a more sophisticated, or "second order" view of preferences, a bargaining theory of preferences fails to capture the deep nature of our moral commitments and so fails to offer us a complete account of moral compromise between those commitments. For instance, someone holding the second order view might say, "I have a preference to have the commitment to see equality realized." As argued above, there is an important psychological and epistemological difference between having a 'preference for' a moral value such as equality and being committed to equality. Having the same structure and epistemic status as a first order preference, second order preferences are susceptible to the same arguments for the difference between commitment and preference, given above. Attempting to resolve the problem of the status of preferences by saying that agents have certain preferences merely pushes the difficulties of identity-conferring and truth-seeking back a step. For second-order preferences to guide us in the types of commitments we should keep (the ones which are identity-contributing and truth-mapping), additional reasons must be given for why those second order preferences should be kept when they come into conflict with another second order preference which competes with the preference to keep one's commitments. As preferences, second order preferences fail to capture the identity-conferring and truth-seeking status of moral commitments by being preferences themselves. If one claims a greater status for second order preferences, claims that they are indeed stable, identity-conferring, and tend to be grounded in a belief in their truth, then by the account of preferences and commitments given earlier, second order preferences are no kind of preference at all, but rather commitments in the guise of preferences. When an attempt is made to bargain with the disguised commitments as though they were ordinary preferences, albeit a sophisticated sort, the rules of the game will not easily accommodate the meaning these commitments hold for us. By their very nature, moral commitments are not up for bargaining in the way that our preferences are. The move to second order preferences is just a move to capture commitment is an important move in the development of bargaining theory, since moral commitments play such a significant role in the decisions we make. It is, however, a move which is not open to bargaining theory, given the nature of moral commitment.

athlete who has trained hard for an important event. She risks long-term disability if she races with the injury, but will have to forego this competition in the meantime, if she wants a chance to heal. Doing so would require her to scale back some of her personal goals as an athlete.[29] This type of personal compromise is a prudential one—a compromise that represents a present concession for the sake of some future good, or for the sake of minimizing some overall cost. But we often think there is an important moral difference between compromising for reasons of prudence an compromising for reasons of expediency. The French handle this difference by using two words for our single ambiguous 'compromise', one of which captures this expedient meaning well. *Compromission* refers to a scandalous sell-out of a person's principles or virtues, an otherwise upstanding judge found accepting bribes from a corrupt arm of the police force he has sworn to protect against. Compromise in this sense is a weakening or complete relinquishing of principle for the sake of some immediate personal gain—for example, money, sexual favors, notoriety, or praise. Someone might turn down the chance to push their views through in a decision for the sake of immediate personal gain, maybe just to avoid an uncomfortable situation, to save face or end a messy confrontation. It also tends to be a *complete* sacrifice of values, rather than a trade-off or middle ground between values, as we find in the following case of prudential compromise.[30] Suppose the judge let off a member of the mob caught bribing a local

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[29] Martin Benjamin, *Splitting the Difference: Compromise and Integrity in Ethics and Politics,* (Lawrence, Kansas: University of Kansas Press, 1990), p. 10.

[30] George Armstrong Kelly, "Mediation versus Compromise in Hegel," in Pennock, J. Roland, and John W. Chapman, eds., *Nomos XXI: Compromise in Ethics, Law, and Politics*, (New York: New York University Press, 1979), p. 91.

business in exchange for the officer's testimony against the mob boss, known for masterminding numerous crime schemes in the city. This would be a dishonest but perhaps prudent decision. In the long-run the judge hopes to uphold his moral commitment to honesty and safety by compromising on honesty in the immediate case. The judge is not giving in on his duty to safeguard the public in exchange for sexual favors or cash, or to save face among his mafia friends. This kind of prudential balancing between present costs and future goods with an appeal to a moral rationale or principle has the important reason-giving feature that expedient compromises lack. It is important to realize that nothing on the preference maximization model commits an agent to mere expedient concessions, but neither does it rule them out. If a sell-out like the bribery example can be shown to ultimately maximize the interests of the agent, it would be rational to compromise in the expedient sense. And, despite the independent moral reasons for urging the judge to compromise, if such an action was not expected to maximize the judge's preferences, whatever they may be, compromise would remain an irrational choice.

The relevant data for evaluating a moral compromise on the preference maximization model will not be the sorts of reasons offered for giving-in on one's moral commitments. The single relevant question will be: does the compromise, whatever it is, whatever it involves, does it maximize my preferences or interests? Reasons of prudence are permissible, but so is a compromise out of unreflective haste, as long as it is achieves the optimal result. This indifference toward the content of one's preferences and the reasons an agent might give for holding them or giving them up is a characteristic of the indirect approach to compromise, mentioned earlier. Insofar as moral decision-making is about having reasons and giving

reasons for actions, not about acting on impulse or for pure personal gain, we can see that the maximization model will not capture this reason-giving function of morality. If one accepts this function of morality, then this is perhaps already a fatal flaw for the preference maximization approach to compromise.

(3) The maximizing premise. All of bargaining theory rests on a central undefended normative premise —what you ought to do, the rational thing to do, is to maximize what you value. Why should we accept the maximizing assumption about human rationality? Rational choice theorists would likely retort, why shouldn't we accept it? Since Hobbes, the burden seems to have remained on the shoulders of those endorsing non-instrumental accounts of rationality, on those who claim something more for human rationality than self-interested maximization and argue that impulses toward cooperation and friendship and even costly pursuit of what is right or good, might also be legitimate candidates for rational behavior.[31] The premise turns on the widely shared intuition that it always makes sense to want more of a good thing, that if something is good, more of it is even better, and less of it is better than none. This is the fundamental reasoning that drives the maximizing argument for compromise. If this is accepted as a universal principle of human rationality about the good, then we can rest with that basic argument for conceding value when it secures at least some, rather than none, of what you value morally. However, it is not at all clear that most people in fact are maximizers over certain kinds of value, nor is it clear that a normative argument has ever been given for maximizing. Presumably the very anatomy of 'goodness', the

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[31] Again, see Annette Baier, "Trust and Antitrust," *Ethics*, vol. 96, no. 2 (January 1986), pp. 247-253.

internal logic of what it is to be a good thing, supports the view that having more goodness is better than having less, and certainly better than having none. Utilitarian arguments from Bentham to Mill and Sidgwick, trade on this very powerful intuition. Of course for Kantians and others it is not at all self-evident that maximizing is the right way to proceed in the case of moral ideals, nor in the case of moral constraints and requirements such as rights and duties. What the bargaining account of compromise has to assume is that we are all good utilitarians about moral value, that the anatomy of the right and the good is indistinguishable and that it makes sense think of moral commitments as preferences which can be parsed and tallied in the way that maximizing requires. Utilitarians and game theorists following in that broader tradition have yet to show how we might reconcile this account of compromise with the phenomenology of strong ideals.[32] If a theory of compromise is to offer guidance for legitimate compromise while respecting the beliefs of the idealist, if it is to distinguish between idealists and "fanatics", it must at least capture the nature of holding an ideal and perhaps holding it at all costs—this is a deep and often mysterious feature of human nature that crops up again and again in the history of prolonged moral conflicts, and in our everyday struggles to see our commitments realized. It is doubtful that any account of preferences, second-order or otherwise, will ever be able to capture the nature of moral ideals for the following reasons, all of which derive from the ways in which ideals and commitments are tied to our sense of who we are, our moral and personal sense of ourselves.

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[32] In chapter two I will consider Amartya Sen's attempt to offer a teleological account of rights, which by analogy might be constructed into a defense of a utilitarianism of ideals and commitments.

Commitments represent a greater engagement in our decisions, not only in the particular outcomes, but in what particular choices mean and represent to us, whether or not the desired outcome is reached. Take again the Jehovah's Witness, this time making a decision on behalf of his child. As is common under the current law, he objects to his child's receiving a blood transfusion in the emergency room but finds his request overridden by the physician on the grounds that life-saving treatment overrides the right of a parent to make treatment choices for the child; failure to aid would be a form of medical neglect. By objecting to the treatment, the father has made a very difficult choice, but one which represents a certain value commitment consistent with his family's faith. What happens when his preference for nontreatment is not honored? His values and beliefs are not realized and his commitment is not met in this particular choice. However, the mere fact that he voiced his commitment and made an attempt for nontreatment, upheld his commitment. Choices made on the basis of moral commitment become a kind of symbolic expression of the value behind the commitment, an expression of the kind of person you are, your deepest beliefs. Seeing our moral commitments realized, and sometimes merely attempting to realize them, contributes importantly to the persons we are and want to be. Most preferences, when they go unrealized, do not seem to have the same residual impact on the self. Take the example of voting. In this arena I exercise my preferences, not my commitments. I learn about the candidates; I go to vote. I prefer to have a Democrat in office over a pro-life Republican and when a Republican wins office, I am pretty disappointed and even a little upset. I yell at the TV. Then I turn off the TV and get on with the details of living. Compare that behavior to my friend the Committed Libertarian, a person who believes so strongly in the value of

liberty that he would vote libertarian even knowing that he would split the vote of the second-best candidate, and that the libertarian has no chance of carrying a single electoral vote. He is someone who cheerily goes about placing signs in yards and stickers on cars, as if his fate were not sealed and Hell was somehow going to freeze over this year. His vote for this brave soul on the LP ticket borders on something sacred. When the numbers in the Republican's favor flash on the screen, he is heartbroken, deeply upset, railing at the injustice of our system, the abuses on freedom that are sure to come. Then he turns to me and says, "There is always the Senate race." There is a sense of dogged hope and perseverence that goes along with our moral commitments, even when they are thwarted again and again. Whatever it is we are committed to, we can trust that it is not something we take lightly or give-up on easily.[33]

Moral commitments also become part of us, they are identity-conferring in a way in which preferences are not. In part because they govern decisions over time, and in part because of the thought and reasons that go into our acceptance of them, commitments both reflect and reinforce the sort of people we are. A lot can be gleaned from the way we introduce ourselves to others when something is at stake, or in the eulogy we would give our hypothetically dearly departed self. If I am running for office, trying to convince someone that they should buy my product, trying to convince someone that they should hire me or marry me, I will probably say something about my commitments, what is important to me,

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[33] See Loren Lomasky's interesting article on this phenomenon among Libertarians, "Libertarianism as if (the Other 99 Percent of) People Mattered," *Social Philosophy and Policy*, vol. 15, no. 2 (Summer 1998), pp. 350-371.

and some of those things will be moral commitments. Giving a catalog of my preferences for scotch and pie will hardly earn confidence. Reassuring people that I generally *prefer* honesty to deceit will only add to the uneasiness. During those times when we want to get at the essence of the person, the sound bite of a life, we go straight to the big commitments. We would have done Mother Theresa a great disservice if we had inscribed on her monument, "A woman who preferred compassion over pain and starvation." She *was* compassion. Her commitments made her who she was and reflected who she was. Moral commitments are often profound and can relate deeply to the sort of persons we are; preferences tend to skim the surface.

A further difference between preferences and commitments is that we most often believe our commitments are *true* in a way in which preferences are not. Where preferences just are reports of subjective states, moral commitments, while not necessarily objectively true, carry with them a belief in their truth. We at least believe there is something more to them than our own idiosyncratic experience. I do not believe that there is truth behind my preference for scotch over gin and tonic, but rather a difference in taste between me and the gin and tonic lover. The Jehovah's Witness truly believed that his child would be punished in the hereafter, if he allowed him to ingest human blood through transfusion. The psychiatrist struggling with the decision with the pedophile patient really believes that confidentiality is the corner-stone of the patient-physician relationship and also that preventing harm to innocent children is near moral bedrock, if anything is. Part of the reason why it is so difficult to consider a compromise between the two is that there is more to be done than the simple tallying up of preferences and strengths of preferences, reporting an

inner ranking of wants. It is not that he wants to protect his patient's privacy and wants to protect innocent children—he believes that whether he wants these things or not, moral requirements behind the commitments are both right, and both true. We often believe that our moral commitments and projects map truth even when we suffer weakness of will and may not want to do the right thing. Maybe what the psychiatrist most strongly prefers is to ignore the situation, not get involved. The regret and remorse that he will likely feel when a child is assaulted are signs that though he did what he preferred, he did not do what he thought was true, what he was committed to doing. A preference-based theory like bargaining theory is at bottom indifferent to the nature of our beliefs about our commitments. Game theory is concerned with the rankings of our preferences vis-a-vis one another and the outcomes open to us, not the reasons agents give for having the commitments they do or for making the choices they do. Game theory takes our moral commitments as data.[34] It takes as data the fact that we have them, that we have preferences that something be the case; it does not capture the sense that we believe something to be true.

Upholding one's commitments, especially deep moral commitments, often requires costly behavior. In the rational choice literature itself some have defined "commitment" to mean counter-preferential choice.[35] To understand the nature of the beliefs behind moral commitment more clearly, we need to look at the relationship between commitment and cost. Suppose you find yourself amidst a way of life which resists and conflicts with your own:

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[34] Schelling, *Choice and Consequence*, p. 216.

[35] David Schmidtz, *Rational Choice and Moral Agency* (Princeton, New Jersey: Princeton University Press, 1995), pp. 86-89, 106-111.

A Muslim woman in an urban American city. It is costly for her to persist in her views, to practice what she believes—she is challenged, embarrassed, corrected, preached to. To persist in her values in this context is costly in terms of getting on in daily activities, and costly given the benefits of cooperation with the going morality and traditions. Yet this does not necessarily lead her to change her commitment to her way of life, her idea of what a good life consists in, without very persuasive reasons on the other side. In fact it may lead to a kind of resoluteness on the views she holds. Why? One plausible explanation, and I think one which fits this sort of phenomenon on a wide scale, is the element of identity-conferral mentioned above: these traditions are such a deep part of who she is. A second and compatible explanation is that she thinks her views are correct. At the very least she may tend to think her moral commitments are "true for her", and that the content of these commitments defines who she is in a deep way. On some matters, such as the matter of what constitutes a meaningful life, we are insensitive to pressures to coordinate and the costs of failing to do so. If "cost" enters the picture at all, it is the perceived cost of possibly being right and giving in to the pressures of being morally outnumbered—on this view, to give in would be to let go of what we think is true, to fail to give it a defense, and to let falsehood have its way.[36] Belief in the truth of our moral commitments is a very deep feature of

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[36] History is full of examples revealing the relationship between truth, identity and our moral commitments. Take, for example, the southern abolitionists in the nineteenth century American South. William Lloyd Garrison fought debt, ostracism, and threats to his life to continue publishing his anti-slavery paper, *The Liberator*. It was a cause he and his small staff thought true, a belief which ultimately cost his editor Elijah Lovejoy his life at the hands of a white mob. And one of the Grimkè Sisters, Angelina, responsible for the famous public plea, "God never made a slave, he made man upright, his back was not made to carry burdens, nor his neck to wear a yoke, and the man must be crushed within him, before his

intrapersonal and interpersonal moral conflict.

The simple account of second-order preferences for moral values does not capture the important difference between preferring something and being committed to an ideal. Understanding the true nature of our moral ideals and commitments is crucial to understanding the nature and limits on moral compromise. Much of the resistance to moral compromise occurs in cases like the one of my Libertarian friend. Compromise is idealism's foe. Any theory of compromise should not discount the following important aspects of our moral ideals and beliefs: these commitments inform patterns of behavior often over a lifetime; we are committed to making choices in light of them even when that choice becomes a mere expression of what we believe; they relate importantly to the kinds of persons we are, and we often believe they are true and will try to realize them in the face of great costs. How we are to reconcile the status and strength of our ideals with the reasons for compromise in the face of moral scarcity is the deep puzzle of moral compromise—it is a puzzle that the bargaining approach cannot adequately address given its inherently limiting assumptions about the nature of preferences and the nature of rationality. By omitting or downplaying the more complex elements in moral decision-making, the bargaining approach

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back can be fitted to the burden of perpetual slavery." For this she was permanently expelled from her family and native home in Charleston. And John Quincy Adams who pushed relentlessly on the floors of Congress against recalcitrant friends of the "Gag Rule", calling for "agitation, agitation, agitation, until slavery in the States was shaken from its base." Countless, nameless, people and groups risked or lost what was most dear to them to push for the abolition of an institution they believed to be deeply wrong and false. The epistemic stance exhibited in such cases is a kind of commitment to furthering one's position in the face of substantial costs. This behavior raises very interesting questions for an account of legitimate moral compromise: when does someone cease to be an "idealist" and become a fanatic? I will return to this issue in chapter 4.

to moral conflict remains a seriously incomplete tool for making action-guiding, normative recommendations for agents who reject: (1) a very thin view of moral commitment as mere preference, (2) the role of giving substantive moral reasons for one's complicated moral choices, reasons that extend beyond the mere reporting of an internal preference ordering, and (3) a view of all moral value, even rights, duties and ideals, as things which can be maximized or whose violations can be minimized.

B. Moral Indecision and Moral Uncertainty

Besides failing to capture the nuances of moral value as it is widely experienced by actual decision-makers, bargaining theory also fails to take seriously the agent who has ill-formed moral preferences and rankings, who has yet to work out the relative importance of his different moral views and beliefs. A good deal of work is being done on rational choice under conditions of uncertainty, but it is the preferences of others that is uncertain on models of uncertainty, not one's own preferences, the preferences of the chooser. Amartya Sen has written on the problem of "partial preferences", how to choose rationally when one's preference for something is mitigated by some other consideration.[37] However, neither of these attempts to address choice under uncertainty touch on the problem of uncertainty that is often at play in moral conflicts. Faced with a conflict between moral commitments, agents with a clear ranking of the relative importance of their moral commitments can simply follow the maximization model (again, assuming the particular moral values at stake admit of

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[37] Amartya Sen, *Choice, Welfare, and Measurement* (Cambridge: MIT Press, 1982).

maximizing, as far as the agent is concerned). But it is a rare reflective bird who can produce a ranking on the more difficult questions of his moral beliefs and values, especially when those values are in conflict. More often it isn't until we face a conflict that we even begin to think about sorting out our array of moral beliefs. When I teach the first-year medical students I urge them to take the time to think seriously about the ethical dilemmas and problem cases that we discuss in class and to work through their reasoning and personal values as thoroughly as possible, before they walk into the clinic for the first time. But this sort of abstract reflection is unusual, and even if they do follow my advice, the results are limited; they have to be. It is simply too difficult to anticipate the myriad of situations that one will encounter, especially in the clinical setting. And even if that were possible, it is very difficult to sort through what one believes in the abstract, in absence of some stimulus, some need to choose, some concrete set of events. Being admonished by your philosophy teacher can only go so far. Being educated by your Rabi, Priest, Minister, or parents also has its limits in terms of the fixity and clarity of belief. For the average person who has not thought through such difficult questions, who does not step forward with his moral beliefs in order, quite literally, a bargaining model for moral choice is not very helpful. Besides causing all sorts of grief and suffering, moral conflicts can also provide an opportunity for moral learning, and all the procedural and economic approaches to conflict resolution have missed this point. It is not enough to prompt the person to ask: "What do I want most? Or what do I prefer most?"[38] I've argued that this is a gross mischaracterization of what it is to hold a

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[38] Even this question is notoriously difficult and has plagued action-theorists for decades (centuries, if you go back to Plato's and Aristotle's worries about weakness of will). It is not

moral commitment, but it also grossly overlooks what is involved in developing a sense of how a person's commitments are related to each other, how one comes to adopt them, how they are changed and honed in sometimes subtle ways, as a result of the choices we face, not *ex ante* in a kind of Platonic moral vacuum. Often, the very fact that I find myself in a conflict signals a problem; something is awry in my beliefs and the way they hold together. What should guide my sorting out of this jumbled set of moral beliefs? How should I proceed? What reasons are there for placing honesty over preventing harm to others? Maybe I should discuss this with someone, reflect on it, think it over, and learn something about why these two moral claims are important to uphold, why they matter to me, and to what degree. When conflict presses me to give up something as important as a moral belief or principle, and I've yet to sort out the relative importance of these beliefs and what they require, it is a crude principle indeed that says "What do you want most? Okay, now try to get as much of that as possible." First, we know that the answer to the first question is a notoriously difficult problem in human psychology. Second, the way we come by our moral beliefs, the way we learn when faced with the challenges of moral conflict, should be taken very seriously in any account of when we should and should not compromise. More worrisome is the fact that most conflicts arise when at least one person holds very firm moral views. For the person who has yet to sort out what they value most, the default social model

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always clear how we determine the strength and nature of our desires, how those desires relate to reasons, and how reasons and desires motivate particular actions. See for example, Richard Brandt and Jaegwon Kim, "Wants as Explanations of Actions," in N. Care and C. Landesman, *Readings in the Theory of Action* (Bloomington: Indiana University Press, 1968), pp. 199-213.

of compromise as "splitting the difference"[39] puts the undecided (but not indifferent) person

at a serious disadvantage. If one side's moral claims are extremely demanding and the other

side's views ill-formed and undeveloped, splitting the difference between the two positions

clearly favors the firm believer, and this implicit privileging of moral clarity and resoluteness

needs some justification.

VII. COMPROMISE AS A PROBLEM OF THE MORAL PSYCHOLOGY OF COMMITMENT

The initial intuition that drove the general argument for compromise earlier in this chapter

still remains, though it has been seriously challenged on several counts: While it might seem

part of the logic of value to infer that pursuing more is better than pursuing less, and

accepting some is better than accepting none, it is not at all clear that this holds true for our

deeper moral commitments, obligations, duties, and ideals. And yet this intuition seems the

only way to drive a successful agent-relative argument for compromise, an argument crucial

for any theory that hopes to be successfully action-guiding over real cases of moral conflict.

The rational choice model of decision-making has been relied upon for decades in practical

problems of negotiation and conflict resolution and has attempted to take seriously the agent-

relative perspective of choice. Although, as we have seen, the maximization account of moral

value that drives these models of choice leaves many people behind. More specifically it

leaves behind two kinds of agents. Because of the bargaining conception of moral

[39] Martin Benjamin, *Splitting the Difference: Compromise and Integrity in Ethics and Politics* (Lawrence, Kansas: University Press of Kansas, 1990).

commitments as mere preferences, it cannot guide the agent who holds one or more very firm moral commitments, who believes that such commitments are not open to being partially realized in the sense required by rational choice theory. And because the efficacy of the theory depends on our ability to rank and compare our moral commitments as we do other non-moral preferences, it cannot guide the agent whose values are as yet unclear, unranked, or ill-formed. It also follows from this that bargaining theory itself does not shed light on the process of clarifying those relationships between our moral commitments, a process intimately tied up with the resolution of moral conflicts, as we will see in chapter three. If a person's commitments are not very firm or absolute and function like other sorts of preferences, and if a ranking can be made out, then the straightforward maximization model still proves a useful tool in modeling compromises moral preferences for such individuals, and it will be useful for guiding nonmoral compromises over interests for a much wider audience (whether to go to the opera or a local blues band, Bill and Ted or Bogart). For those who also have a moral preference for fairness, there will be further constraints that we can apply to this default approach to moral compromise as maximization, and I will look more closely at such constraints in chapter four.

The arguments I have offered for limiting the scope of bargaining theory as a model for moral compromise all have something in common. In different ways each criticism asks us to think more deeply about the nature of moral commitment from the point of view of the agents who hold those commitments, to ask questions about duties to others, moral beliefs, political and social ideals, from the point of view of agents who hold these duties, beliefs, and ideals. The philosophers behind modern rational choice theory—Hobbes, Smith, Hume,

Bentham, and Mill—certainly did look to individual human nature as a starting point for rules of the morality and politics of conflict, but it leaves us with a very bare notion of what is involved in our more difficult decisions about what we are committed to, what we believe to be true, what some people are willing to die for. It is hard to imagine Hobbesian Man and *homo economicus* manning the barricade or leading a starvation protest or blocking an abortion clinic. And many of our moral conflicts involve commitments of this more serious sort. When pressured by others to concede our views, some of us in some circumstances would accept great risk rather than see those beliefs defeated. Bargaining theory also comes up short on the complex process involved in changes of moral belief, the assigning of relative weights to moral principles, and the problem of moral exceptions; all of these make up the formidable area of moral uncertainty that many of us experience when our moral commitments come into conflict, when we consider compromise. The maximization argument offers a strong default defense for some of our less critical and heated moral disagreements, especially when coupled with an appeal to fairness, but we need an account of compromise that addresses the issues raised by firm believers and those with pockets of firm belief. The remaining chapters will try to address these two areas of weakness in the default view of moral compromise.

All of the talk about individual moral commitment and the importance these commitments carry for the individuals who endorse them, might seem an unusual focus for a problem a problem that is often social in nature. I think this is to misunderstand the arguments. I do not deny that moral conflict, even of a personal sort where others are not directly affected, is of a deeply social nature. We may seek informal advice, professional or

religious counsel, or the wisdom of others. If we reflect on the puzzles of compromise in the opening section, we see that all of the cases of moral compromise involve others to some degree. We are rarely pressed from within to alter or give-in on our own deeply held views without *some* pressure or prompting from another.[40] We often work out the meaning of conflicting and unclear commitments with others, at least with those who are close to us, if not in a broader public setting. Both the concept of compromise and most real moral compromises are going to involve more than one person, and in very important and sometimes positive ways, as we will see in chapter three.

The problem of moral compromise is deeply a problem of practical morality, and if we want such a theory to guide action in moral conflict, we cannot ignore these questions about individual motivation, reasons, commitment formation, and capabilities as they pertain to those people who are not preference maximizers over morals. Even those of us who can

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[40] In the solipsist's world the notion of compromise seems to disappear altogether. In a world of 'one' what sense does moral scarcity make? Or the morality of second-best when there is only one person's way to do things? There is a remaining, obscure sense in which compromise might still be relevant, even valuable. We can imagine a world of one in which the solipsist is prone to bouts of internal conflict. Reflexive compromise might make some sense. Much like two warring countries compromise for the sake of peace, the solipsist might be moved to restructure his values for the sake of peace-of-mind. We can imagine a solipsist suffering from *extreme* dissonance among his values, a lack-of-fit with the reality of his world of one. Even in a world of one it might be that to have one's commitments in massive conflict could be disturbing and self-defeating, even if no one else exists to be affected by the consequences of such inner turmoil. All of this, though, assumes that we can make sense of a "committed solipsist" and a "morality of one". This is difficult to imagine from the vantage point of our socially laden moral history. Assuming we cannot imagine a morality of one, all that remains is a kind of Parfitian, aesthetic evaluation of the hypothetical conflicted solipsist in which we might imagine that a world of a well-adjusted solipsist is better than a world of one whose moral commitments are in deep disorder. In the next chapter I will address the less obscure, but related problems of the morally divided self, and schizophrenia, that arise especially in situations of life-threatening moral conflict.

imagine relying on the maximizing model for some moral decisions, need to face up to the likelihood that we will find ourselves in moral conflicts with firm believers. If we hope to cooperate and resolve our conflicts with firm believers, it would be wise to think through what reasons can be given for compromise on commitment, as understood from the firm believer's point of view.

CHAPTER TWO:

SEPARATION COMPROMISE AND THE FIRM BELIEVER

Moral conflict arises when the human drive to see our moral beliefs realized in the world clashes with the reality of others—other beliefs, other persons, other ways of life. The general argument I offered for compromising on our moral commitments assumed that we can all think in terms of "maximizing" our moral commitments, getting as much of our beliefs realized as possible, in any given conflict, where compromise represents the concessions a person makes to bring about this end. For many people, however, moral belief is not something that easily fits this logic, if it fits at all. For the firm believer compromise becomes a truly paradoxical idea. Many of us hold firm moral beliefs and are driven to see these beliefs realized in the world, as much as possible and in as complete and true a form as possible, but often the very fixity of those beliefs prevents us from realizing our moral commitments at all, when our only options are compromise or significant loss. Respecting rights, doing one's moral duty, fulfilling one's filial or divine commitments, are frequently understood as all-or-nothing requirements of morality and often tied deeply to the person's sense of identity and worth. For others there is confusion or a lack of certainty about how such important commitments ought to play out in actual decisions, especially when there are several conflicting commitments at stake. What is important to keep in mind is that such people are not moral exotics. We do not need to point to the attitudes of Saints and Martyrs or to a handful of morally undecideds to see that the simple maximizing argument for compromise does not map significant regions of actual moral experience.

In this chapter and the next I will offer a series of arguments in favor of limited forms of compromise for the firm believer and the morally undecided, and these arguments support several practical moral strategies and reinforce the value of existing social mechanisms that are available for those agents who are not moved by the bargaining account of compromise.[1] I separate the discussion between two related but distinct forms of compromise, Separation Compromise and Direct Compromise. The difference between the two discussions is primarily a difference in focus. In the first, I focus very closely on the agent, on the firm believer, and bracket consideration of the others involved or the particular compromise that is struck. It is not an arbitrary or theoretical bracketing but one that reflects those situations in which the agent and the agent alone must decide how to handle the conflict at hand. I show what role separation compromise can play when the relevant moral conflict lies within oneself, or when the others involved in a conflict are unknown, too hostile to negotiate with, or when time is simply not available to find out more about the attitudes of others or to persuade them toward peaceful negotiation. Separation compromises are the accommodations even firm believers may have good reason to make when they are put on the moral defensive (or choose to be on the moral defensive) and a great deal rides on the decision to make some concession or to hold fast in our moral beliefs. The example I gave of Yitzhak Rabin will fall into this category, as will the case of the Jehovah's Witness parent faced with the decision to transfuse his child, and the case involving the current policy on

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[1] The strategies and mechanisms that I defend for these two types of agents might also apply to agents whose ranking is known and whose commitments are not firm, since the maximization account of compromise is a minimal strategy. Bargainers might have reason to endorse these strategies and mechanisms as well.

fetal tissue research. In such situations there is some room for choice—the agent is not faced with an "offer she can't refuse"—yet the stakes are very high and the pressure to compromise very high.[2] This type of compromise carries a heavy price and may even have tragic results. Direct compromises, on the other hand, are those we may have reason to make in more peaceful, reflective situations among others, as a possible path to greater moral understanding and moral growth. This second type of compromise will be the subject of the next chapter. In this chapter I want to focus on the darker side of compromise and look frankly at the costs it poses for the firm believer who does not wish to abandon or concede his moral commitments. I also want to consider some crucial protective strategies and mechanisms for sheltering moral belief. Since the simple maximizing argument fails for this type of agent, I will instead present an argument for minimizing the psychological violation to the commitments at stake. The argument stems from a critique of Amartya Sen's teleological conception of rights, a conception that depends implicitly on a consequentialist understanding of minimizing violations to our moral commitments. Instead, I offer an argument for minimizing the violations of one's beliefs through various forms of psychological distancing, or what in the psychiatric literature is called "doubling". This argument will support a number of crucial strategies and mechanisms for surviving or avoiding particuarly difficult or hostile moral conflicts. I then consider the serious drawbacks to this survival approach, and explore the degree to which it relies on potentially dangerous versus protective forms of self-deception. What follows is a defense of indirect,

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[2] I will say more about the role of coercion in compromise, below.

psychological forms of compromise as a means of moral and sometimes personal survival. When our back is mostly to the wall or when we choose not to engage with others in compromise, and the costs of persisting in our uncompromised beliefs are very high, these separation compromises offer a way of protecting our moral beliefs and minimizing the damage done to firm moral commitments, while avoiding some of the more serious costs of protracted conflict.

I. MORAL SCARCITY THROUGH THE EYES OF THE FIRM BELIEVER.

I have said already that what we find so threatening about moral conflict is in part the scarcity that it implies for realizing our own commitments to the fullest extent. Real estate for the unimpeded expression of our moral beliefs is scarce and the prominent spots are available only at a premium. The more radical my views and the more public exposure for them that I seek, the higher the potential cost for seeing them realized in a world of moral scarcity. If I am a Pro-Life advocate who is content to keep my moral views on abortion to myself, applying them only to my own personal decisions, then no matter how firm the belief in the sanctity of life, I will not consider societal limitations or the conflicting views of Pro-Choice advocates as imposing a kind of scarcity on my ability to express my moral beliefs.[3] If I believe that the truth of my views requires a wider expression of them, requires advocacy

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[3] Though the firmness of my moral views on abortion might create tension among some of the other interests and moral views I hold, causing an internal struggle when faced with these personal decisions.

among those who oppose me, then the breadth and strength of opposing moral views will limit my ability to have my moral views prevail and scarcity for me looms as a larger threat. This limitation, this threat, has both internal and external sources: Internally, the threat is a function of the agent's commitments, the degree to which they are absolute. Even if the agent's commitments are not absolute, threat will be a function of the agent's desire to have control over his moral choices when his commitments are less firm and not have others decide for him by force majeure. Externally, the threat stems from a certain degree of real hostility or danger in the conflict itself, danger of loss or harm. There are then complicated interrelations between these internal and external aspects, between facts about the psychology of the agent and facts about the situation. The degree of felt hostility will sometimes be fairly objective: being interned in a concentration camp and pressured to make difficult moral choices therein is an obviously threatening situation. Feeling pressured to "negotiate" with hijackers and terrorists is a threatening situation. In disagreements like the current debate over fetal tissue research, the degree of perceived threat varies among those with different moral beliefs, and different strengths of belief. While someone with "Pro-Life" views may feel threatened by participating in a policy on fetal tissue research, such involvement will not seem threatening at all to those who are not opposed to abortion, or who see it as morally distinct from the act of beneficial research on existing tissue. In what follows, I'll be assuming a mixture of objective and perceived threat, partly because they are not easily pulled apart, as we can see in the fetal tissue case, and partly because taking seriously the deep affront that compromise poses to individuals requires that we also take seriously the individual's personal experience of being threatened.

In the last chapter I argued that a bargaining approach to moral compromise will fail as a guide for decision when the agent has a good sense of her preferences for what she ought to do and perhaps even a ranking, but the commitments at stake, she feels, are absolute commitments and so not open to being maximized. Such commitments and beliefs have the added feature of being closely tied to the person's sense of who she is, and this too makes it difficult for the agent to make a simple maximizing choice or trade-off. This type of agent faces the impossibility of both wanting her commitments realized in the truest and most complete sense and wanting also to avoid the costs of persisting conflict, including the chance that she will see none of her commitments realized in her choice. The pressure to concede coupled with a deep personal stake in a particular moral outcome creates fear. It is an obvious fear of loss, and for the person who has such a personal stake in what they believe morally, moral conflict can threaten a loss of self; it can mean losing part of who you are. Self-loss may take on a literal meaning in cases like the Auschwitz prisoners who felt pressured to exchange dignity and filial obligations for their lives; this can also be seen in the case of the compromising Jehovah's Witness who, with transfusion, accepts a spiritual death and, without it, a biological death. In cases like the psychiatrist, torn between confidentiality and disclosure to prevent harm, self-loss is more figurative and symbolic. He risks undermining two important parts of his professional and private self: the one who believes it important to uphold confidentiality standards and the one who feels deep compassion toward a potential victim, an innocent third party. In trying to strike a compromise between these commitments she risks personal loss on one side or another and that loss is rightly seen as threatening to her sense of who she is, reflected in part through the

moral beliefs she has chosen to live by. The threat for the firm believer has both external and internal origins. It is contingent on the nature of conflict and the attitudes of other parties, but it is also a function of our particular moral beliefs and the strength of those beliefs.

For a neutral party in a hostile environment with no stake in the disagreement there is not this sort of direct perceived threat, though there is often the threat of being caught in the crossfire. Threat to our moral commitments can travel. And the firm commitments of others travel too. This type of indirect threat may very well motivate a relatively neutral party to get involved in the heated moral debate of others and to encourage compromise solutions. Consider the U.S. involvement in the Israeli-Palestinian conflict. Political and economic interests, plus fears of being "caught in the crossfire" have motivated the U.S. state interests in the region. Many American Jews and Arab Americans of course experience a more direct moral stake in the conflict and see the opposition as posing a much deeper kind of threat; geographical distance may do little to mitigate this second, more personal sense of threat.

II. MINIMIZING THE VIOLATION TO ABSOLUTE MORAL COMMITMENTS

In chapter one I offered a general argument for compromise, rooted in the logic of value— that if something is a good to be pursued, then having at least some of it is better than losing it all, than having none. "Get as much as you can and cut your losses when threatened." From the general consequentialist approach to moral choice we should seek to maximize value, and where that cannot be done, as is usually the case in serious moral conflict, we should seek to minimize the loss of value. The central problem with this maximizing argument is that it

does not do justice to our real moral commitments, what they mean to us, the truth they hold for us. The reality of threatening situations and hostile others creates a sense of paradox for anyone with moral commitments like these. We have an obligation to follow through on our moral commitments as best we can, but this idea of "As best we can" remains unclear, especially where firm belief is concerned. Should someone die or allow others to die before compromising those firm commitments? What form can compromise take over firm commitments, if these commitments resist the sort of maximizing account offered by bargaining theory?

As I tried to show in the Jehovah's Witness case and others, the very structure of absolute commitments blocks the attempt to minimize violations of those commitments. These difficulties are further exacerbated when the other commitments involved are also absolute in structure (say, when one must choose between two lives, and so the rights of two individuals not to be harmed, much less killed). The maximizing approach failed because it failed to fit the structure of many of these moral commitments. One response to this line of argument is that the moral commitments of the Jehovah's Witness failed to fit the rational maximizing approach, and so it is the Jehovah's Witness who is irrational in his beliefs. We have gotten the problem of compromise the wrong way round, someone might say. The mistake lies in the way that firm believers are formulating moral commitments, not in the logic of the argument for compromise as a means of maximizing what one believes. The way to resolve these moral conflicts is to reformulate our account of the commitments at stake so that they admit the sort of maximizing or minimizing strategies. Another move is for firm believers to reformulate the account of absolute commitments so as to avoid conflicts

preemptively, by setting up a system of prima facie absolute constraints that do not admit of conflict, or by building exceptions into the general principles with the use of specificatory premises.[4] I will look at this second move in chapter three. I would like first to look at a recent attempt from within the consequentialist tradition to reformulate the side-constraint conception of rights into a consequentialist conception of rights, offered by economist and social philosopher, Amartya Sen.[5]

Recall that the Jehovah's Witness parent is faced with a conflict between two absolute commitments: the value of his child's life, expressed in terms of the absolute right not to do harm as well as a positive right to aid one's child (or patient) in a life-threatening situation despite the absolute prohibition against the ingestion of blood and the severe spiritual consequences of violating that prohibition. The parent cannot give the child "a little blood", nor in many of these cases involving trauma or life-saving surgery can the parent walk away, turning down all treatment, without losing or seriously harming their child. In emergency situations the law has taken such decisions out of the hands of the parents, and in these cases the moral conflict is inherited by the physician who must then choose between the rights of the parent to raise a child within a certain faith or set of beliefs, the right of the child not to be harmed and to be aided and the belief among many Jehovah's Witnesses that

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[4] For example, see, John Finnis, *Natural Law and Natural Rights* (New York: Oxford University Press, 1980).

[5] Amartya Sen, "Rights and Agency", *Philosophy and Public Affairs*, vol. 2, no. 1 (1981), pp. 3-39.

unconsented-to transfusions are like rape.[6] Often, parents are faced with the moral conflict

as they decide whether or not to bring their child to a hospital at all, knowing that transfusion

is a possibility with any serious injury or illness that calls for surgery. So the question of

moral compromise remains despite how the law handles the emergency care of children.

Couching this conflict now in terms of Sen's system of "goal rights" we can see that the

father's role in the case is analogous to the role of Donna in Sen's case, someone who knows

in advance that her friend Ali is in danger of being attacked and who is in a position to

prevent the attack by breaking into Ali's home and warning him. Like Donna, the child's

father in our case is in a position to prevent the violation of an absolute commitment, one

that is within his belief system the equivalent of a rape, but he can only do so by violating

the right of his child not to be harmed and to be saved in a life-threatening situation—the

conflict is something akin to rape versus loss of life, or at least a very serious risk of harm.

For someone like Robert Nozick[7] who views negative rights as absolute, as side-constraints

on goal-directed behavior, it's not clear how we are to choose when such rights come into

conflict. When viewed as absolute side-constraints there seems to be no way to evaluate the

consequences of violating one right over the other, in this case transfusing the child to save

his life versus respecting the parent's right to religious freedom and noninterference (the

deep belief that the child would be raped by the transfusion adds a further right into the

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[6] For an interesting account of what it might mean for the parent to give over responsibility to the physician, see Francis Kamm, "Responsibility and Collaboration," *Philosophy and Public Affairs*, vol. 28, no. 3 (Summer 1999), pp. 169-204. I will return to this issue of responsibility in the discussion of complicity in chapter four.

[7] Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), pp. 28-33.

balance). What it means for a right to be absolute is that there can be no utilitarianism of rights, no comparison between the two states-of-affairs based on the number or severity of violations occurring in each, or the consequences of such violations. Nozick allows somewhat vaguely that in serious and massive violations, such as the Holocaust, that we might then allow a consequentialist evaluation of such a state-of-affairs, but gives no further guidance on how this would work within the absolute side-constraint conception of rights.[8] What Sen presses us to do by his example is to think of the gap left by a side-constraint account of rights when a rights violation is viewed from an outside party who is in a position to stop the violation but only by violating another right (Donna in his case and the parent in the Jehovah's Witness case). Ali's right not to be attacked and the child's right not to be harmed generate side-constraints on the actions of the potential violators: the attackers in case one and the physician or clinician who transfuses the child, but the side-constraint view generates no direct obligations for the potential interveners to intervene and stop or minimize the violations. If, as Sen suggests, we view such rights as both intrinsically valuable but also as capabilities whose protection or destruction can make a state-of-affairs better or worse, then we can say that the person in a position to intervene for the sake of minimizing rights violations, should do so. So from the point of view of Donna, you violate Ali's property right in order to warn him of the imminent bashing, thereby saving his life. But no where does Sen give us the criteria for making such a compromise. Instead he banks on the intuitive difference between a right to property and a right to life, the Jean Valjean Intuition: that a

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[8] Nozick, *Anarchy, State, Utopia*, pp.28-29.

right to life is more important than the right to material possessions and where they conflict we should compromise the right to property in favor of promoting the right to life. Change that conflict slightly to a right to life versus the right of a woman to have control over her body (a very important right of self-ownership), and people are heatedly divided on which should take precedence. Similarly, in the case of the Jehovah's Witness parent there are at least three very important rights at stake, one or more of which must be compromised, and we have no clear concept of what it means to minimize the violation of a right that is on Sen's account, "very weighty". The goal-conception of rights will be rejected by most absolutists on the grounds that what it means for something to be intrinsically valuable and absolutely inviolable is that it can never be sacrificed as a means for bringing about some other commitment, even another absolute commitment. For those who are willing to accept the consequentialist conception of rights, the only guidance for minimizing violations of absolute commitments is to hope that some clear intuitions emerge about the importance of certain rights over others, and the gravity of large scale losses versus individual losses. And even if we can drum up pretty clear intuitions about such cases in a cool hour, we overlook what this compromise means for the person who holds the conflicting commitments. For the absolutist, or for those non-absolutists who wish to respect the beliefs of absolutists, we have no account of what it would mean to minimize the violation of an absolute moral belief, whether a right or some other moral requirement. And for the moral absolutist in cases like Sen's or the Jehovah's Witness, we can give no reasoned account for compromising, at least not in terms of the commitments at stake, unless we can develop a better account of what is involved in minimizing violations to such commitments.

The consequentialist proponent of compromise might still say, "so much the worse for absolute commitments and firm believers". Why should we not accuse the Jehovah's Witness of being self-indulgent and squeamish from the consequentialist point of view, for not bravely doing what morality requires? Aside from the case I have already made out against this attitude toward serious moral commitment, we now have a further argument to show that even from the consequentialist perspective, we have as yet no account of how to "do as little damage as possible to the child's rights". In order to make out a consequentialist account of compromise where rights and other absolute moral constraints are involved these commitments must be converted into the moral currency of consequentialism—preferences, utility, well-being, a good state of affairs. I have argued that some important and widely held moral commitments are not fungible in this way. This objection also fails to take seriously the connection between the person's sense of who they are and the particular moral decisions they make, even those decisions made under duress or the pressures of conflict.[9] As Bernard Williams has argued in a case very similar to Sen's Ali case, when an agent finds himself deeply disturbed by the prospects of having to choose between two different moral violations it is a mistake to dismiss those feelings as mere "self-indulgent squeamishness", as though it were only a matter of the agent needing to buck-up and bite the consequentialist bullet. Williams suggests that this kind of evaluation of the agent alienates the agent from his moral feelings, from his sense of integrity, as well as from the real nature of the choice and action

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[9] Bernard Williams, "Consequentialism and Integrity" from *Utilitarianism For and Against*, ed., Smart and Williams, reprinted in *Consequentialism and Its Critics*, ed., Samuel Scheffler (New York: Oxford University Press, 1988), pp.20-50.

at hand.[10] To say to the morally committed: "Act on the predominance of reasons and don't look back" is to mischaracterize the very structure of moral commitment and its relationship to our sense of who we are. For the agent, *not* having a clear sense of the "weight of reasons" is exactly the problem. Assuming we can somehow just act on our best guess of the weight of reasons and be justified in doing so makes a mockery of the experience of remorse and regret. This predominance of reasons approach reduces these moral emotions to mere irrational impulses to be corrected by the agent-neutral point of view, when it is the agent-neutral point of view that has failed to capture or inform the agent in real conflict: failed in substantive moral guidance, failed in giving credence to the sense of loss no matter what course of action is taken, and failed in offering strategies for coping with this loss or for preventing future loss.

The person who is morally resolute about one or more commitments is open to an important internal critique. What I think we can and should say about firm believers, like the Jehovah's Witness, is that holding moral beliefs that are *not* open to some sort of minimizing strategy is at times deeply self-defeating. This is not to diminish the experience of deep moral commitment, but to look frankly at the costs involved. The absolutist may be compelled by the nature of his commitments to sacrifice everything, rather than respect some of what he believes to be right. The more these commitments comprise part of the firm believer's identity, the more self-defeating refusals to compromise become. Conflicts within a world of pluralistic values *do* alienate the person with a deep sense of moral commitment

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[10] Williams, " Consequentialism and Integrity," p.38.

(this includes deeply committed consequentialists), and we should expect this; the firm believer should expect this. What Williams intended as a kind of reductio on consequentialism is actually a profound fact about the reality of moral decision-making for *anyone* who has a personal stake in what they believe and who finds themselves in the position of having to choose: all, none, some. Expressing one's moral commitments within the folds of a moral community, within the family, in a church or synagogue, is more often than not comforting and reaffirming. Thrusting oneself out into the world of other moral views is an alienating experience. This is not a problem with consequentialism or deontology, or any other particular moral theory. It is a fact about morality writ large.

This, I think, begins to uncover what is tragic in compromise choices for the firm believer. Compromise is not only tragic in the sense that moral dilemmas are tragic, that no matter what one does, one will act wrongly. It is also that no matter what one does, one will either face self-defeat or alienation.[11] Reflecting again on William's account, what I mean by moral alienation is a separation between oneself, one's identity,[12] and the decision at hand or the action one takes. It is the gap between moral belief and moral action. In order to work toward an account of what it could possibly mean to minimize damage done to absolute moral beliefs we need to first acknowledge this underlying tragic sense to the compromise paradox: self-defeat or alienation. When the firm believer faces moral compromise—giving

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[11] In this way, perhaps, compromise presents a meta-dilemma to the firm believer, insofar as choosing to adhere to firm beliefs may mean setting oneself up for a higher frequency of moral dilemmas.

[12] Williams uses the word integrity. Williams, "Consequentialism and Integrity," p. 38.

up some substantial moral commitment in order to preserve some other substantial moral commitment—he faces something alien, a choice that fails to fit his sense of the wholeness and fixity of his commitments. The Jehovah's Witness in the urban emergency room with a bleeding child, faces this sort of alienation. "This is not *me* signing the consent form to have my child transfused". Parents coping with tragic accidents and illness with children often describe the events as "walking through a fog", or "going through the motions", "doing what I have to do". This type of reflexive coping behavior is not what I have in mind, but rather the feeling that accompanies the awareness of choosing against what one believes morally, at least in part (including the attempt to even think of one's commitments in these minimizing terms: going against my commitments "at least in part"). Given the tragic side of these compromise choices, firm believers have good reason to not court moral conflict, to set up daily life in such a way as to minimize encounters with opposing views or morally challenging situations. That is, unless they are willing to countenance a significant degree of self-defeat or the alienation that may be involved in permitting trade-offs between inviolate beliefs. It is a choice between the way of life of many Amish or the way of life chosen by the Pro-Life activist, Mahatma Ghandi, and Malcom X.[13]

The Amish choice is a prohibitive choice. Many firm believers may not wish to go

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[13] In a fuller version of this project I hope to address the significant decision on the part of activist firm believers to repeatedly put themselves in the thick of things, even at serious risk of harm to themselves, for the sake of taking a religious, moral, and/or religious stand on an issue. I do not at all wish to argue that such choices are not praiseworthy, to be admired, etc., but I do wish to argue that they by necessity contain an element of irrationality, insofar as such agents deliberately and with awareness choose a path of self-defeating behavior. I think this is highly embraceable irrationality, and the world is a more mysterious and exciting place for it, but it is irrationality nonetheless.

to such extremes to protectively isolate themselves from those who do not share their views, or even if they do, emergencies like the one facing the Jehovah's Witness may pressure them into engagement with the wider world. Also keep in mind that we need not have an entire way of life that is morally stringent, to face this problem. We might have one or two commitments that we hold firm, such as believing in the absolute value of life or the inviolability of human rights to noninterference. Many of us are partial firm believers. We have pockets of inviolability and non-negotiable moral territory within otherwise quite flexible beliefs and interests. Any of us fitting these descriptions (the firm believer and partial firm believer) when faced with the option of self-defeating behavior (not taking one's child to the Emergency Room to avoid having to face the possibility of a transfusion), may be better off choosing some form of alienation. While it is a somewhat bleak alternative, there is something to be said for this choice and herein, I would like to argue, lies the only reasonable account of compromise among firm believers on the moral defensive.

To make the argument more explicit: If we can come up with a conception of minimizing the harm done to moral commitments, we can offer a version of the crude "some is better than none" argument for compromise, even for the firmly committed. And we should remember that in the case of separation compromise, the "none" does not simply mean that I don't get what I want, but that my commitments are lost by walking away, and we must endure the costs associated with protracted conflict—very often violence, huge losses to myself and others, loss of productivity and the other activities that bring joy to our lives, all of the costs associated with a lack of peace. The most difficult test-case for the plausibility of separation compromise is the case of dealing with terrorists. By the logic of

moral commitment and what it means to protect something that we believe to be true, coupled with the high price of not conceding at all and the rationality of self-preservation in threatening situations, I think it follows that we ought to minimize the moral carnage where we can, even if it involves indirectly dealing with moral terrorists. Especially in these life-threatening cases, it will be right to attempt indirect, separation compromise with a terrorist, but as we will see, the outcome will often be nonetheless tragic.

III. PSYCHOLOGICAL MINIMIZATION AND SEPARATION COMPROMISES

Minimizing the harm done to absolute moral commitments is a psychological phenomenon. Moral commitments are rarely to be divided, doled out, and exchanged like money or exchangeable commodities and this poses a serious problem to economic models and other maximizing models of conflict resolution. Moral commitments are usually related in important ways to other moral commitments, and attached in important ways to the person who holds them to be true and worth pursuing. The person put on the moral defensive with very little room for offensive decision-making, can still control the damage done to his beliefs by placing psychological distance between himself and the necessary compromise. For firm believers who find themselves in situations like those described in the chapter's opening, situations that are threatening in the way described, the only alternative to self-defeat (which may include serious harm) will be to consider an indirect form of compromise, one that minimizes the violation done to the commitments the believer wishes to preserve. Such a choice is alienating and may pose other psychological costs on the agent, but this is

what is realistically involved in non-ideal morality, where here we are talking about a morality of "least worst". Accounts of minimizing the harm done to firm commitments have failed in large part because they focused on the structure of value, not the belief structure or attitudes of moral agents. There several ways in which the agent might still have some control over the damage done to the beliefs they hold and also several valuable mechanisms for separating agents from compromises. There are protective measures that the agent can take to preserve strong beliefs both subjectively in his own mind, and there are existing mechanisms and procedures that can help shelter agents from the direct violations of compromise. These protective measures and mechanisms, while they depend crucially on real psychological capacities, are nonetheless supported by deeply normative reasons, namely, the reasons we have for preserving the role of moral commitments in our lives: because we believe them to be true, because we are not who we are without them.

If direct moral compromise is giving-in on at least some of what you believe or are committed to morally, through straightforward concession (like signing the consent form to have your child transfused, violating your beliefs as a Jehovah's Witness), then indirect compromise is allowing an outcome to come about by some other means, an outcome that in fact is a compromise between the conflicting absolute commitments at stake, but where the agent refrains from endorsing that outcome directly. This withholding of endorsement is a way of indicating that one disagrees with the opposing view and yet assents to the compromise position as the least worst option. Distancing oneself from the final outcome becomes a way of preserving one's beliefs in the eyes of others and in one's own mind. It is a way of saying "This is still true and right, but I am facing an impossibly difficult choice

between self-defeat and embracing something I don't believe, so I choose to allow it but not to embrace it and I will continue to pursue these beliefs to the extent that I am able to in other, perhaps more peaceful circumstances." Setting one's identity apart from the compromise, disowning it, can be a way, not of disavowing responsibility for it, but rather disavowing belief. Let me try to make this less abstract with some examples.

The kinds of indirect compromises I have in mind can take several forms: (1) use of a decision-making representative, (2) reliance on a procedure, (3) separation between different roles, (4) separation between intent and a particular compromising action, and (5) symbolic gestures of dissent or reparation. The common thread in each of these is the presence of some degree of epistemic separation between the agent's beliefs and a compromise resolution that requires some concession of those beliefs. Separation can be achieved through the deliberate withholding of endorsement of the compromise, represented by an intentional act of the agent, as we will see in 1, 4, and 5. Separation can also be enabled through mechanisms that the agents may or may not intentionally choose. The important point is that such mechanisms exist and can play a crucial role in indirect compromise, as we will see in 2 and 3. I will look at examples of each of these, then I will spend some time discussing the underlying moral psychology presumed by these strategies and look also at the psychological and normative downside to this approach.

A. Separation through Arbitration

One way for an agent to minimize the direct violation of absolute commitments caused by a compromise decision is to rely on another person to make the decision, to delegate the hard

moral choice to another, or to accept an offer from someone to make the decision on the firm believer's behalf. One option open to the Jehovah's Witness in our earlier case is for the parent to let the physician make the decision about transfusion for the child. The difficulty with this move is Sartre's insight, that you make your choice when you choose your advisor; insofar as the parent is aware of the physician's stance on transfusion, telling the physician "do what you think is best; the decision is in your hands" will amount to consent for the transfusion. If the parent chooses a physician who has a reputation for overruling parents with court orders, then he has essentially chosen to be overruled, to have his child transfused. There is very little room here for the firm believing parent to separate himself from the compromise, since he is acting more in partnership with the physician by handing over permission to decide. One way to use the mechanism of arbitration that avoids this problem is to stipulate that the arbiter should be chosen on his or her reputation of fair dealings or making wise choices, not on the grounds that he or she has a reputation of making specific substantive choices, in this case, of overruling or not overruling a parent. One technique sometimes used in Jehovah's Witness cases is to choose an outside party to arbitrate the decision, someone not involved in care of the patient, like a bioethics consultant or hospital chaplain. (Such a move is often used by the physicians as well, to put some distance between firm beliefs and the need to make a compromise decision. Having someone arbitrate the decision can give clinicians some distance from their own personal moral commitments that may make a direct choice very difficult for them.) A second way that arbitration can create protective space for firm belief while avoiding the Sartrean problem is through imposed arbitration. In the case of children in need of life-saving treatment, law provides a trump

card: the decision can be taken out of the hands of the parent. In the Jehovah's Witness case,

if the physician who deems the transfusion medically necessary seeks a court order to have

the procedure done despite the parent's nonagreement, the parents have not consented to the

procedure and while the invasiveness of the choice is severe, the child's life might be saved

and the parent has not directly compromised a deeply held moral commitment. Someone else

has taken on the difficulty of choosing compromise. Given the importance of respecting

voluntariness and freedom of choice, especially in moral decisions, there is often a kind of

game played by the parties to imposed arbitration. Those who argue for this approach claim

that it is a way of taking a moral burden off the shoulders of the parents, and of doing what

they want done anyway, namely, saving the life of their child.[14] Given the potential for

serious violations to parental rights, individual rights, and the costs associated with

overruling a person's choice through legal means, this form of imposed arbitration as

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[14] Fortunately there are several clinical compromises available today for the Jehovah's Witness patient with the increasing use of blood-saving surgery and blood-expanding drugs, which allow some surgeries to be performed without the use of transfusion. These have required compromises on the part of surgeons who would prefer to operate with transfusions and avoid the added complications and equipment needed to perform bloodless surgeries, and it has required compromise on the part of the Jehovah's Witness patients to accept some manipulation of the blood, including specifically the recycling of their own blood and the use of some plasma or blood products to expand blood volume. Strict interpretations of the prohibition against ingestion rule-out the use of this compromise solution since allowing one's blood to leave the body and return is considered a form of ingestion by some. For many however, creative uses of clinical technology, coupled with negotiations and discussions with the Jehovah's Witness communities, offer further means of minimizing the violation that some medical interventions impose on this population while increasing their access to live-saving treatments. See D. Ridley, "Jehovah's Witnesses' Refusal of Blood: Obedience to Scripture and Religious Conscience", *Journal of Medical Ethics*, vol. 25, no. 6 (December 1999), pp. 469-72; O. Muramoto, "Bioethics of the Refusal of Blood by Jehovah's Witnesses: Part 3. A Proposal for A Don't Ask Don't Tell Policy," *Journal of Medical Ethics* vol. 25, no. 6 (December 1999), pp. 463-68.

imposed *legal* arbitration ought to be avoided and reserved for only the clearest cases of abuse or neglect, where using the legal trump is the only way to protect the person in question from serious harm. There are forms of non-legal imposed arbitration that institutions can avail themselves of to help handle difficult moral choices involving firm believers. A good example is the required appeal to the hospital ethics committee in cases of medical futility. This need not invoke a bureaucratic response; in most cases a consultation by a single member of the consulting team can help diffuse the situation through discussions and negotiation. (I will talk more about the procedural aspect of this approach below.) The crucial point is that in order to avoid the Sartrean objection we need to impose one basic normative constraint on such arbitration mechanisms: that they not be substantively biased in favor of a particular decision, but should rather be designed and/or chosen based on a reputation for fairness in deliberation.

B. Separation by Procedure

A second valuable mechanism for creating protective distance between a firm believer and compromise, while still reaping the benefits of concession, is to rely on a procedural process for making the decision. A longstanding area of contention between families and physicians and nursing staff has been the issue of continuing aggressive treatment on critically ill patients with very dim prognoses. Frequently family members wish to pursue care at all costs and despite the prognosis, and a physician feels that such care is futile, and that comfort care, easing the patient's suffering, would be more appropriate and respectful, and less costly to all concerned. In other cases the role is reversed and the family is ready to let go of their

dying loved one, but the physician insists on pursuing aggressive measures, often refusing to sign a DNR, which would allow the patient to die should they go into cardiac arrest. In these cases it is often the nurse who raises concerns and expresses his or her discomfort with, say, resuscitating a dying patient, who has no quality of life or extremely low quality of life and no chances for recovery. For anyone who has seen a CPR performed, the nurses argue, it is an undignified and painful way to go, with gasping breath and bruised or cracked ribs, and the likelihood of being brain damaged or comatose upon "successful" resuscitation. Such attempts are "futile" in that they are inappropriate, disrespectful, and even harmful to the patient—not to mention the prolonged pain it can cause the family and the stress it can cause the medical staff. On the other side, for the physician or family members who wish to continue at all costs, ceasing active intervention is giving up, or failing in one's role as a healer and a life saver. One of the residents recently told me that he went on service at a local intensive care unit and the Attending Physician promptly announced to the team, "No one dies on my unit tonight." Critical care is often perceived of as a battle to be lost or won and deeming a case "futile" can for some be tantamount to choosing surrender over defeat, where defeat is so often considered the more honorable option. Even when defeated, there is some valor to be had in the last ditch effort. At least we can say, "we put up a good fight!" To handle these very difficult moral decisions surrounding medical futility several hospitals nationwide have now adopted procedural futility policies.[15] When a concern is brought forward, usually by a physician who does not feel comfortable continuing care in the face

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[15] Amir Halevy, B.A. Brody, "A Multi-Institution Collaborative Policy on Medical Futility," *Journal of the American Medical Association*, vol. 276, no. 7 (August 21, 1996), pp. 571-74.

of family members who want everything done, a process of review is triggered in an attempt to reach a resolution. The case is reviewed by a medical ethicist on call who organizes a conference with the family and physician in an attempt to reach an agreement. Barring agreement in the family-physician discussions, a meeting of the ethics committee and/or a group of physicians knowledgeable in the area convene to review the clinical information about the patient and try to reach agreement about the prognosis and the sense in which the case is at all "futile". One of the reasons for relying on a procedural approach is that few people agree on a definition of "futility" and it has proved helpful to sort out the meaning on a case-by-case basis. The family is included in this discussion and a decision is reached by this group. The decision is binding within the hospital, though the family has the right to transfer the patient to another physician in another facility who is willing to continue treatment.

As with the choice or imposition of arbiters, procedural mechanisms can either be chosen by individuals or imposed on them. In the case of futility procedures, it is the latter, but the result for the commitments of those involved, both the families and medical staff, the mechanisms can be very valuable. From the standpoint of a physician or family member who feels extreme discomfort about giving-up on a patient or loved one, this can be a helpful way of taking the decision out of the hands of those directly affected and offering a procedural buffer for deciding the outcome.[16] In practice, what has been most helpful has been the

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[16] Patients and families are still given the option of transferring to another hospital (in most states the hospital is required to attempt transfer for a period of time), and physicians who remain uncomfortable with a decision to continue treatment or the decision to withdraw treatment have the option of transferring care of the patient to another physician.

period of discussion prior to the committee meeting—to date, all but a handful of cases in Houston have been resolved in the earlier steps of the procedure, through discussion and negotiation. Though cases are usually brought forward by a physician (and in fact the procedure was designed to assist physicians when families wish to continue inappropriate care), it might also prove to be morally protective for physicians who believe strongly in the sanctity of life, regardless of the quality of that life, and who do not want to directly make the decision to discontinue aggressive treatment. Like the Jehovah's Witness case, this is a way of having the decision taken out of your hands, but being able to live with the compromise without directly endorsing it.

C. Separation of Roles

A third strategy for minimizing the violation to absolute commitments in moral conflict is to seek refuge in an alternative role, most often a professional role. The professional codes of ethics of physicians, lawyers, and politicians, for example, carry with them much more demanding duties of sacrifice for the sake of others and an accompanying suppression of the professional's more personal moral ideals. Elsewhere I have argued that the blurring of professional lines and increased transparency of professions changes the way we ought to think about the force of role-specific duties, especially as these weakening institutional duties compete with a professional's more personal moral commitments, including her sense of professional purpose and her ideals of what it is to be a good doctor, good teacher, great senator. It will be important in these professional contexts, as in other more public contexts,

to consider the role of compromise, especially separation compromises.[17]

It is useful, I think, to draw on the personal survival tactics of such professionals when they face moral conflict as professionals. How do they maintain their more private moral ideals? In the intimate account of Yitzhak Rabin's political life written by his wife, we see the deep tension between Rabin's role as Statesman and peacekeeper and his private ideals.[18] He spent the early years of his adult life as an idealistic soldier struggling for the Jewish cause, his family's well-being, and the ideals of his Jewish heritage. As Prime Minister he was often faced with decisions that threatened to undermine these ideals, in his own eyes and in the eyes of many Jews. Henry Kissinger has often been described in similar terms, as a man with a definitive border between his idealistic private life and his more pragmatic public persona.[19] Both realized that the demands of public life included strong

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[17] Maureen Kelley, "Professional Purpose and Moral Judgement: Teaching Across the Health Professions," *Journal of Medicine and Philosophy* (forthcoming, 2001).

[18] Leah Rabin, *Rabin: Our Life, His Legacy* (New York: GP Putnam's Sons, 1997). It will be interesting to read the autobiography of Madeline Albright when she completes it. In interviews she tends to be quite open about the blurring of lines between her own moral beliefs and heritage and her role as a negotiator in the Middle East peace process. I think there is an interesting project here for feminist writers, looking at the degree to which women in positions of power may behave differently than men vis-a-vis the separation between personal moral beliefs and those endorsed in public speeches, decisions, and policies. A comparison between Kissinger and Albright would be particularly interesting, since the former is famous for his strong division between private morality and public politics.

[19] There is a special problem for the politician: for whom are we minimizing the commitment violation? To the negotiator/politician or to the nation or cause being represented? If the latter, do we need the consent or assent of the voters? If the former, what sort of limit might the responsibilities of public office place on any personal attempt to minimize commitment violations by distancing oneself from one's decisions? For a political leader, sometimes mere assent to a policy or decision may be taken as an endorsement. It may turn out that public figures have a much narrower normative window for withholding

reasons to accept and facilitate many compromises, often over deeply moral and religious matters. One way to accept these burdens of office is to try as much as possible to protect one's own sense of personal moral conviction by protecting and continuing one's more private moral practices, reaffirming and living by them when not in the more public role.

These examples illustrate the tension that arises from the personal perspective when epistemic separation is used for the sake of achieving a compromise over a deep moral conflict. I will say more about this in the next section, and again in chapter four, when I discuss our psychological capacities for assuming different roles, and what such separation implies for the agent's moral responsibility.

D. Separation of Intent

A final option for the firm believer, is to employ reasoning like that used in the Doctrine of Double Effect. Those who ascribe to the normative view that only intentional actions are candidates for wrongdoing and can sincerely withhold their intention from a compromise they would never directly endorse, according to the doctrine, are then not compromising an absolute commitment because there is then no conflict between commitments. Those who do not ascribe to this particular normative view can still rely on the general strategy of separation of intent in forms similar to the Doctrine of Double Effect.[20] Much of great

moral endorsement.

[20] Some have argued that the Doctrine of Double Effect is not open to use by just anyone, but only those who hold a very particular view about the deep moral (and religious) relationship between intentions and the good. See for example, Joseph Boyle, "Who is Entitled to Double-Effect?" *Journal of Medicine and Philosophy*, vol. 16, no. 5 (October 1991), pp.

interest has been written on this doctrine, and the debate continues to reach ever deeper

levels of subtlety and nuance, but for the purposes of illustrating this last form of indirect

compromise, let me give a brief and somewhat simplified overview.[21] The classic case used

to illustrate the doctrine is that of an obstetrician faced with a pregnant woman who will die

unless her baby is taken early, presumably through an extremely early vaginal delivery or

an abortion, and the developing baby cannot survive either of these interventions. If nothing

is done, both mother and baby will die. Another case that is sometimes used is that involving

the "culling" of fetuses in multiple pregnancies, usually due to fertility treatments, when the

death of some of the fetuses is necessary to increase the likelihood that the remaining fetuses

will survive. According to longstanding Catholic moral doctrine, it is permissible in the first

case for the physician to accept the death of the baby as an unintended side-effect to the

actions necessary to save the life of the mother. Faced with a choice between two lives, the

physician, particularly if she herself is Catholic, finds herself in the situation I described

early. She has three choices, and each involves some violation to the Catholic belief in the

sanctity of life: (1) do nothing and allow both baby and mother die, but have no direct hand

in the deaths, (2) deliver the baby and use whatever medical support is necessary to keep the

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475-494.

[21] Warren Quinn, "Actions, Intentions, and Consequences: The Doctrine of Double Effect," *Philosophy and Public Affairs*, vol. 18, no. 4 (Fall 1989), pp. 334-351; Francis Kamm, "The Doctrine of Double Effect: Reflections on Theoretical and Practical Issues," *Journal of Medicine and Philosophy*, vol. 16, no. 5 (October 1991), pp. 571-585; Francis Kamm, "Physician-assisted Suicide, The Doctrine of Double Effect, and the Ground of Value," *Ethics*, vol. 109, no. 3 (April 2000), pp. 586-605; D. Sullivan, "The Doctrine of Double Effect and the Domains of Moral Responsibility (Observations on an Analysis of the "Moral Act" According to Thomas Aquinas)," *Thomist*, vol. 64, no. 3 (July 2000), pp. 423-448.

baby alive (or allow the mother to die but keep the mother on life support and dialysis for as long as possible in order to "incubate" the developing baby until it reaches viability, (3) take the life of the baby and save the mother. A similar analysis can be applied to the case of multiple pregnancies that are not coextensively viable. Much hinges on the act-description chosen to describe each choice and consequentialists have objected that the doctrine reduces to a kind of gerrymandering of the act description to reflect Catholic doctrine, when in fact an implicit consequentialist judgment is being made about the different values of two lives, and the life with greater value is being saved at the cost of the life with less value.[22] From the point of view of the Catholic physician, a firm believer in the sanctity of life and yet a physician charged with upholding a duty to save the lives of her patients, the only way that she can minimize the violation to the sanctity of life commitment is to avail herself of a compromise solution, designed to minimize the loss of life, while still trying to preserve her commitment to her beliefs by employing the reasoning of the doctrine of double effect. According to DDE, what I have called endorsement maps intention or aim, not mere knowledge or foresight. Withholding endorsement from the immoral act (bringing about the death of the baby) is expressed in the act description. The degree of symbolic endorsement of the moral compromise will reveal itself when the physician defends her action to others— to the parents, the ethics committee, her Priest, herself:

> I am going to do my best to save the life of the mother by performing this procedure (endorsed act), but tragically I can see no way to save both the

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[22] Warren Quinn, "Actions, Intentions, and Consequences: The Doctrine of Double Effect," *Philosophy and Public Affairs*, vol. 18, no. 4 (Fall 1989), pp. 334-351.

mother and baby and the baby will not survive the procedure (withholding of endorsement).

By distinguishing between act and intention in this way, Catholic doctrine has created normative space for indirect compromise over absolute commitments. The compromise outcome is the same as if made by a secular, consequentialist physician, or by a murderous physician who harbors secret homicidal intentions toward the baby, but acts as if he wishes to save the mother. What makes the compromise direct or indirect depends on the moral psychology of the agent performing the act. For the Catholic, it is made indirect through the combination of offering a defense for her actions that employs the strategy of psychological separation between the endorsing power of her intentions and her compromise decision. It is revealed in her defense of the action to others, and in her self-defense within her own moral and spiritual conscience. On a more agent-neutral evaluation of the action we may very well find the doctor blameworthy and culpable for the death of the baby, or we might find her responsible but excuse her actions given the impossible nature of the situation. From the agent-neutral point of view, the doctor had her causal hand in the compromise, regardless of the psychologically laden description of the act. However, so much of importance lies in this psychological connection to the action, from the point of view of the firm believer. Once she has decided that the price of walking away is too high (transferring the patient or allowing both to die), the only normative space for distancing herself from a compromise she would just as soon not make is the space that only she can create by withholding her endorsement of the terrible choice.

E. Symbolic Distancing

One can also imagine ways in which the firm believer might employ counter-endorsements after the compromise decision, symbolic acts and even activism in support of the commitments compromised to further the commitment in other ways. The physician might join in pro-life marches, give money to research on hypertension and preeclampsia and other conditions that commonly jeopardize pregnancies. Such actions might serve to "build up" and restore damaged beliefs after they have been diminished through compromise. Symbolic distancing from compromise decisions can also be a way of indicating one's dissatisfaction or begrudging approval of the compromise, a way of withholding more direct endorsement. Consider also the following account of such a counter-endorsement made by Yitzhak Rabin:

> In January 1949, Yitzhak was sent on his first diplomatic mission as a member of the Israeli team negotiating an armistice agreement with Egypt on the island of Rhodes. Yigael Yadin, chief of operations of the IDF, led the Israeli delegation, of which Yitzhak was a somewhat reluctant participant, because he felt Israel had halted its offensive against Egyptian forces far too early, denying Israel a decisive victory in the Sinai. When the agreement was hammered out, Yitzhak felt that Israel had made far too many compromises, especially in leaving Egyptian forces in the Gaza Strip, and refused to put his signature to the document - a symbolic gesture that did not invalidate the agreement in any way, but made Yitzhak's position clear.[23]

In juridical decisions the dissenting opinion often serves this symbolic function. It provides a stable means for registering opposition to a decision, in many cases, though certainly not

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[23] Leah Rabin, p. 84.

all, where joining in the majority decision would represent too significant a compromise for the dissenting judge. Again, this is a means of psychological distancing made public, a way of registering what one stands for or does not stand for in the eyes of others and before the eye of private conscience. It is a secular form of penance that acknowledges the compromise, but through symbolic gestures and rituals whose meaning is often determined and interpreted by others, tries to make amends for the compromise. I will return to a discussion of symbolic distancing and its relationship to complicity in chapter four.

Though these forms and mechanisms provide protective moral distance from compromise, I do want to emphasize again the tragic element for the firm believer faced with very compelling reasons to compromise. These strategies are the best minimizing strategies we can hope for in trying to take very seriously firm moral commitments and yet still live in a world where compromise is sometimes necessary, even vital. I want to turn now to a discussion of the psychological capacities underlying this separation of endorsement and compromise and consider some of the normative objections to this approach that I've offered. The two questions I want to pay special attention to are the following: (1) To what degree is self-deception involved in these indirect compromise strategies, and what normative problems does it raise? (2) What is the normative significance of assenting to a compromise while withholding a stronger endorsement in terms of moral complicity? In what follows I will attempt to address both questions, though I reserve a more detailed discussion of theories of complicity for chapter four in the discussion of limits on compromise.

IV. Faustian Bargain or Warranted Self-Deception?

When firm believers face moral compromise and try to minimize the harm done to their moral beliefs by using one of the strategies mentioned above, to what degree does separation involve a warranted form of self-deception and to what degree is it "a deal with the devil", a form of moral complicity with wrongdoing? To tip my hand, I will argue that there is both self-deception involved though it admits of healthy degrees, and that the agent cannot avoid strict causal moral complicity in compromise, though complicity may be partially mitigated through symbolic acts like the ones mentioned in the case of the obstetrician above. It is a position that reflects the tragic nature of the compromise paradox as I have tried to portray it so far.

I want to begin by looking at what psychologists have had to say about the psychological phenomenon behind the sort of separation I am recommending for firm believers. As human beings we are pretty remarkable in our capacity for putting forward starkly different personality traits, creating "personae" even other selves. Psychologists and psychiatrists have labeled this phenomenon as "doubling". In the psychological literature there is an important difference between the neurosis that is schizophrenia and the human ability to conjure up different personae to handle different roles and challenges. This turns out to be a crucial human capacity for handling stress in general and as I've argued, it is an important capacity for firm believers to harness in order to better cope with the moral and personal stress of moral conflict and compromise.

The crucial normative question to ask is how to distinguish between, on the one hand,

the firm believer who relies on "doubling" to minimize moral wrongdoing or badness through indirect compromises and, on the other hand, the "firm believer" who uses doubling as a cloak for wrongdoing with impunity. Since Plato and later Plutarch's telling of the Ring of Gyges myth, discussion of the "double" has usually gone hand-in-hand with discussion of evildoing and the avoidance of responsibility for evildoing. The modern case is someone like Hermann Goering, by all accounts a charming man, with an engaging sense of humor and capacity for delight, a devoted father and husband and loyal friend, and yet also a man who was a mastermind behind the atrocities of the Holocaust.[24] Like most sociopaths Goering cultivated two selves, compartmentalized his personality with divides that allowed him in a sense to lead two lives, held together only by the most tentative psychological threads. Unlike Heinrich Himmler and other Nazi henchmen, Goering took care to delegate direct killings to the underlings and put distance between himself and the atrocities of the camps. What distinguishes the morally permissible distancing of the Catholic physician and the pathological behavior of a Gyges or a Goering? I think we can begin to answer this question by looking at a case that falls somewhere in between these two, the case of Jewish physicians interned in the Nazi camps who in varying degrees participated in the immoral medical programs of the Nazis, providing medical care for the guards or assisting in the various forms of euthanasia used against fellow prisoners.

Psychiatrist Robert Lifton has spent much of his professional career investigating the experience of physicians interned in the Nazi concentration camps of World War II. More

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[24] Douglas M. Kelley, *22 Cells of Nuremberg* (New York: Greenberg Publisher, 1947).

generally, his work has made him an expert in the field of human psychological responses to situations of severe moral conflict and stress. Lifton offers a particularly interesting account of the Jewish physicians interned in Auschwitz who, despite tragic circumstances and much moral compromise with the Nazis, managed to survive and maintain a sense of themselves as "humane physician, husband, father."[25] This moral survival was made possible through the use of the doubling capacity. Psychological doubling is our ability to create personas or aspects of ourselves "who" then handle the decisions required by the competing roles we find ourselves in, or have chosen to fill.[26] These other aspects can serve as a carapace, protective shell, taking the brunt of a difficult moral decision which goes against the grain of one's core moral views. This capacity for forming other personas can literally be life saving in dire conflict. In perhaps the most extreme example, Lifton documents the "doubling" or splitting of self which occurred among the Jewish physicians interned in the Nazi concentration camps.[27]

Lifton found that the doubling phenomenon tends to involve a life and death dimension. Doubling "was perceived by the perpetrator as a form of psychological survival in a death-dominated environment; in other words we have the paradox of a killing self being

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[25] Robert Jay Lifton, *The Nazi Doctors* (New York: Basic Books, 1986), p. 419.

[26] I will look more closely at this question in chapter four: to the degree that I am thrust into a conflict how does that alter (if it alters at all) the moral allowance for psychological distancing? Should we have different standards for the prisoner, for the Catholic who chooses to be an OBGyn, knowing that she will face conflicts between the lives of mothers and babies, or the politician who knows the importance of moral compromise as a means of averting economic, social, and military catastrophes?

[27] Robert Jay Lifton, *The Nazi Doctors* (New York: Basic Books, 1986).

created on behalf of what one perceives as one's own healing or survival."[28] What separates

moral doubling from the psychological splitting witnessed in schizophrenia is the element

of holism. It is crucial for the prior self or the ideal self to survive the actions and choices of

the double under duress. What distinguishes the moral double from a schizophrenic is that

there remains a connection between the two selves, a dialectic between the two personalities.

In order for the personality as a whole to survive and to function in the world this connection

must be maintained. Kierkegaard described the schizophrenic as someone whose self,

through extreme creative imagination gets lost in possibility and cannot make it back to

"necessity" and to the primary self.[29] The psychopath or schizophrenic splits off a self,

sequestering a portion of the personality in a way that requires the prior self to be

amnesiac— what Lifton and other psychiatrists have called a kind of "psychic numbing" or

what Pierre Janet has called "dissociation". Lifton points to a psychological distinction

between the psychic numbing and dissociation invoked by the prisoners and that often

invoked by murderers and rapists who can only perform their deed as a kind of

somnambulist, harnessing a temporary state of amnesia. People in such a deep state of self-

deception will also be immune to what Bruce Aune has called, "illusion-shattering" facts,[30]

pointed out by others, such as "This knife is covered in blood that matches your DNA type."

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[28] Ibid., p. 419.

[29] Soren Kierkegaard, *The Sickness Unto Death*, 1849 (Anchor Edition, 1954), 169-170.

[30] Bruce Aune, "Speaking of Selves," *Philosophical Quarterly*, vol. 44 (1994), p. 290, cited in J. David Velleman, "Self to Self," *The Philosophical Review*, vol. 105, no. 1 (January 1996), p. 39, n. 2.

In the case of the sociopath there is little or no remorse, nor often memory of the prior acts. For the prisoners, there is post-event awareness, guilt and remorse, and indeed much of the survivor's remaining lives were spent trying to make reparations for their actions and trying to come to terms with what they had done. For the sociopath, the function of the second self is the avoidance or absorption of guilt. The second self is often described as the one "doing the dirty work."[31] The sort of distancing employed to survive serious moral compromises relies on a crucial connection between prior and later selves, a connection that ensures awareness and a sense of accountability. Doubling in this second sense is protective, an armor for confronting and surviving evil, though not without lifelong damage caused by guilt and remorse, the scars of wrongdoing.

This suggests that we should take expressions of remorse and attempts to offer counter-endorsements as indications that the separation invoked by the agent who participated in an indirect compromise was a justified survival separation, and not a pathological one. The psychological capacity of doubling can be used for good or bad ends. Under certain circumstances, the creation of an alternate self can be an important moral strategy when the agent is under duress. We can begin to see to what degree is it a positive, protective form of self-deception, and too what degree it becomes a sleight of mind and a cover for malicious wrongdoing.

In a more recent work, Lifton actually puts forward a broad view of the evolution of the human personality, suggesting that we are becoming more and more equipped to handle

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[31] Ibid.

moral conflict, more adapted to a world of pluralistic values. After decades of studying individuals under the stress of changing environments, Lifton has developed a very dynamic theory of the self, what he calls a theory of the "Protean self." His basic thesis is that our current historical context with all of its upheavals, change, tentativeness, along with our increased technological ability to communicate and spread information at an amazing rate and scope, and the threat of violence and death by weapons of mass destruction, has lead us to adapt by becoming protean selves. Our psychological or cognitive make-up is as it has always been, he argues, only we have been pressed by circumstances and the prevailing cultures to make use of more diverse and varied responses to our rapidly shifting environment. We have within us the possibility of forming other selves, as in the "doubling" phenomenon described above. These other selves remain adumbrated until called upon or needed in difficult, or merely different circumstances. The degree of difference in "selves" will depend upon the severity in change in circumstances. Some individuals may not call upon their protean capacities at all; others, all the time, depending on the roles they choose to fill, the degree to which they are involved in public causes, etc.[32]

I think Lifton offers a plausible evolutionary argument for employing these strategies of moral survival, as a means of successful adaptation to moral diversity. But surely there is more to the defense normatively. Just before discussing the specific compromise strategies I mentioned the deeply normative reasons that motivate the firm believer to pursue these strategies: that the person believes his commitments to be true, and that the commitments are

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[32] Robert Jay Lifton, *The Protean Self* (New York: Basic Books, 1993).

very intimately tied to his sense of self. When faced with the options of losing all through

costly conflict or directly compromising on commitments one believes to be true and with

which one identifies deeply, indirect compromise can be the only means of preserving truth

and preserving oneself. I do not think that a plausible account can be made out for a kind of

proactive Proteanism, without begging the value question in favor of pluralism. To say that

we should actively pursue complex personalities with complex value systems, without

prompting of threat or serious pressure, is to assume that this is a better vision of the good

life, of the good personality. On either purely normative or empirical evolutionary grounds,

this remains to be seen. What is of great importance to me here is to give credence to the

moral experience of the non-pluralist of those visions of the good life that involve at least

pockets of deep moral commitment. The Protean account does lend important psychological

support to the argument for separation, indirect compromise in threatening situations. It is

especially valuable in shedding light on our abilities to handle the really difficult case of

dealing with terrorists. Should we just stoically take the loss as a martyr would do? Such

individuals can be extraordinary and inspiring in their devotion to moral truth, but surely the

life of the moral martyr is too much to ask of most of us, certainly too much to require.[33] My

account, I think, offers a way of taking Kant's principle of "ought implies can" seriously in

the context of bitter moral conflict. The underlying psychological capacity provides the "can"

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[33] And not everyone will find the martyrs inspirational. A common reaction to martyrdom
and sacrifice is anger among the followers. We hope, and the terrorists fear, that a martyr will
rally the people and inflame the cause, when in fact great moral causes often die off without
the rallying point of a central, engaged personality, a *living* and invigorated defender of the
cause and a practical organizer of the movement.

to the general "ought" implied by the acceptance of most moral principles despite the practical limitations presented by hostile others: "protect the moral truth; do not abandon one's moral obligations to others; do what is right; protect and defend oneself when threatened by others". It involves some degree of self-deception in the form of putting psychological distance between what one believes and the compromise one indirectly assents to or is involved in, and so it is a less than ideal account of "can". But often this is the best we *can* do.

V. THE ELEMENT OF TRAGEDY IN SEPARATION COMPROMISE

Indirect compromise is often the only means for moral survival when nothing goes as we hope and yet when the cost of walking-away, of making no choice, looms too large. In its less deliberate form, mechanisms enabling indirect compromise prove extremely valuable in offering protective havens for firm believers who do not wish to live extremely isolated lives. I have defended both the deliberate separations and passive reliance on these mechanisms as the only account we have of minimizing the harm done to the moral commitments of the firm believer. It is the firm believer's best defense in a world of multiple views and strong moral opposition, though it is not without tragic elements.

The implication for firm believers may be that they should not put themselves in public roles or roles of significant social responsibility, unless they are prepared to compartmentalize their moral commitments between public and private to a significant degree, or to deal with the price of indirect compromise, the struggle with guilt, remorse and

the efforts of counter-endorsement and reparation.[34] In some compromises the violation done to one's deepest beliefs may be irreparable. To the degree that they did not have the option of avoiding these conflicts and the psychological and spiritual price associated with compromise, people like Yitzhak Rabin and the psychiatrist and the Jehovah's Witness become tragic figures.

One of the elements of tragedy is that we cannot avoid complicity in the compromise, even if indirect, and so firm believers remain responsible for these choices. I will look at this question in greater depth in chapter four. First, I want to turn to a more positive account of compromise whose case is strengthened by the somewhat bleak account of separation compromise just offered here. Given the great costs of unresolved moral conflict, and the psychological costs associated with compromising under duress, we should consider very seriously ways in which we might ward off the need for separation compromise. One way is through active attempts to resolve tensions and disagreements between our moral views before the tensions erupt into full-blooded conflict.

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[34] I will consider this possibility in greater depth in the next chapter.

CHAPTER THREE:

DIRECT COMPROMISE AND MORAL LEARNING

Compromise is one way out of a moral conflict that is perceived by the agent or agents to be a moral dilemma, or at least a very serious clash between moral principles and the meanings we attribute to them. It can be a way of facing two mutually exclusive moral choices and trying to find a possible third choice that preserves elements of the seemingly exclusive options, or an entirely independent option that fleshes out the ambiguity inherent in moral concepts and rules. In the last chapter we looked at those cases of moral conflict that do not admit of direct compromise for the firm believer, those cases where the values do not admit of partial realization from the point of view of the agent and where the agent is unable to reflectively pursue a third option, either because time is short or because the others involved are not open to negotiation and discussion of alternatives. I argued that maximization accounts of value, whether bargaining theories or other forms of consequentialism that call for the agent to minimize the violation done to values, cannot offer guidance for these sorts of agents faced with moral dilemmas of this kind. Even the "preponderance of reasons" account that says to agents "do the best you can do; act on the weight of the reasons available to you and don't look back" begs an important question about how we come by such a preponderance of reasons and ignores the phenomena of regret and loss that many people experience when moral commitments and beliefs go unrealized. The best hope that the firm believer has when faced with hard conflict in those circumstances is to avail herself of one of several indirect compromise strategies. This I offered as a way of giving more content to

the "do the best you can do" adage implicit in the maximizing account of compromise.

I would like now to make out a more optimistic case for compromise. Considering certain forms of direct compromise can offer more than just a protective separation for firm believers; Compromise can also provide a means of better understanding the nature of our commitments and what they require of us, and a way of better understanding the relationships between commitments. This chapter is about seeking that elusive "third option" when faced with two or more mutually exclusive moral obligations or values by entering into the perspectives of others through the use of creative thinking and imagination. It is taking the "moral step", seeing other views and other people as "other" and trying to understand what this otherness implies for one's own important moral commitments. I think compromise can be defended as a stage in this process toward intellectual and moral maturity, a means of better defining the content and truth of our ideals, what they mean to us, how they fit or fail to fit with the views of others, and a way of learning from others. When we willingly enter into a moral discussion with others and find ourselves at a moral impasse, or when we discover tensions within our own moral values when pressed by others in less harried and more reflective moments, the attempt to resolve these tensions through compromise can often lead us to new insights into difficult moral problems, offering the opportunity for moral growth and learning.

After saying a brief word about the conditions necessary for direct compromise, I will offer three arguments for compromising under these conditions. These arguments are meant to appeal in particular to the firm believer and the person who does not yet have a clear sense of how her values ought to be weighted vis-a-vis each other. So while these arguments may

have a more general appeal, they are meant to specifically address the types of agents not moved by the general maximizing model put forward and criticized in chapter one.

I. MORAL SCARCITY AS AN OPPORTUNITY FOR MORAL LEARNING

We have looked at the problem of scarcity for the expression of our moral values, through the eyes of the agent with firm moral beliefs. As I argued, the basic maximizing argument for compromise offered by the bargaining approach failed to resonate with the experience of two types of agents, the firm believer and the person who has not yet sorted out the relationship between his values. I would like now to consider how this fact of scarcity can still support compromise solutions to conflict, even in more peaceful disagreements among others. Suppose we have a set of commitments and for the reasons discussed in chapter one, we cannot realize them all, and do not have a firm sense of how we ought to prioritize the commitments or a good sense of how important they are to us comparatively. When our commitments conflict we might have at most a vague sense of each commitment's importance, relative to the others. We are sometimes unsure which of our commitments should take precedence and how to compensate for the loss or violation to the others. If it were not for the existence of others and the experience of disagreement and hard choices, very few people would attempt to sort out such questions about the relationships between their commitments. This is true for the firm believer and for the person who has simply not reflected on the issue at hand and is as yet unsure how the conflicting commitments ought to weigh in against each other. Even in more peaceful settings, scarcity still exerts some

pressure to reconcile inconsistencies in value—without some pressure from opposing views, it is difficult to appreciate the need to reflect in these ways. Many of us are fairly lazy when it comes to doing maintenance on our moral views. We don't want to fix inconsistencies and resolve tensions and anticipate the need for exceptions until we have to.

Returning again to the case of the Psychiatrist, we can imagine such a person being either very firmly committed to his patient's confidentiality, or simply unsure how the duty to uphold patient confidentiality and the duty to disclose privileged information to prevent possible harm to an innocent third party should weigh against one another. In either scenario the case reveals how an otherwise difficult situation for the agent can be turned into an opportunity for both the person making the choice and for others who will likely face similar conflicts. This specific conflict emerged from a deeper and more general tension inherent in the physician-patient relationship, especially in the psychiatric setting. As such, we can imagine trying to resolve this deeper and more general tension preemptively, perhaps through debate in the courts, or in professional psychiatric groups. Appreciating the element of opportunity requires a shift in attitude from one where "compromise as damage control" is of central concern to one where finding a long-term resolution of the conflict and conflicts like it is of central concern. It is in this sort of setting that we begin to see that these clashes between moral requirements, no matter how firm the requirements, can provide an opportunity for debate and a further honing of our beliefs and the relationships between these beliefs. Gaining some distance and perspective on the particular clash of moral commitments can help mitigate the threatening nature of conflict and the opposing views of others. This shift in attitude can also free up our faculty of moral imagination and allow us,

especially as a group, to discuss the ramifications of particular moral requirements and try to work through what the inconsistencies imply for our general beliefs. What turns scarcity from threat to opportunity is the attitudes of the parties involved, from a myopic focus on damage control to a broader view of both the relative importance of one's beliefs among others and the possibilities for a long-term resolution of conflict among others. These attitudinal changes are often but not always a function of particular settings. As we saw in chapter two, the more defensive, agent-relative view is common in pressured, last minute decisions, especially those involving coercion from others. And the wider perspective is often fostered in a more leisurely debate over long-term policy. Agents can certainly behave defensively in peaceful committee settings and act with broad vision in dire conflicts of great emergency. What is most relevant is the shift in focus and attitude. Adopting this broader perspective can be valuable for both the firm believer and the person who remains unclear about the relationship between her moral values and the relative weight she might apply to these values were they to come into conflict in a particular decision (and these two features may very well exist in the same person).

I recently had a medical student say, on the first day of our medical ethics case discussion group, "I consider myself to be an ethical person; I have pretty firm ethical beliefs and I wonder what I have to gain from this discussion group. I know what I believe and I don't expect that to change." Thirty minutes later in the session this same student was struggling aloud with a case that challenged his understanding of what it means to be a good physician in the ideal sense of a medical healer who is above financial concerns, and a physician who also must make a practice work as a business, for self-regarding reasons but

also for the sake of maintaining a stable and efficient practice for his patients. His internal understanding of the moral aims of the profession were in tension, it turned out. He only realized this in the course of discussion. He could have just as well confronted this moral conflict out in the world, as most physicians do, a much less leisurely setting. For a medical student who has yet to think through the proper relationship between these and other conflicting moral ideals and requirements, debating with experienced physicians and each other about the boundaries between values can offer a crucial lesson in preventative ethics; often through these discussions we arrive at compromise solutions to hypothetical moral problems, before encountering a real case. I think this student's initial reaction to having his views uncomfortably jostled is not so unusual, and we should expect many firm believers to balk at the idea of seeing opposition and the possibility of striking compromises as anything more than an affront and nuisance. Of course the arguments and discussion in the remaining pages are intended to persuade the firm believer as well as those with areas of uncertainty that discussions about compromise can indeed provide significant opportunities for growth and deeper understanding.

Before going on, I think it is important to understand how scarcity is experienced by the person who has yet to sort out the tensions within his own moral beliefs. The threat to firm believers is fairly obvious and it will take some argument to show how to convert threat to opportunity for this type of agent, but the threat to the incomplete thinker is less obvious, and so it may seem to follow more clearly that considerations of compromise provide him with an opportunity. The threat of scarcity for the incomplete thinker is unlike the threat to firm believers. It is not a threat of having to give up what one believes very strongly, but the

threat of being imposed upon, being pressured to accept something that one is not prepared to accept for the morally arbitrary reason that you have yet to organize your values in a tidy ranking when everyone else about you has a ranking. This sort of asymmetry is common in group decision-making and may merely seem unfortunate for the person who is undecided and lacks clarity of thought on the moral debate. But it is more than unfortunate; it is morally arbitrary to endorse a moral decision through forced default. In fact it is no sort of endorsement at all. Such a person, however, has a chance to come to a clearer understanding, but not under conditions of threat, hostility, or even impatience, but more likely with respectful conversation and reflection.

Take the case of Larry, a member on an IRB considering a surgical research protocol that would include an invasive placebo arm, general anaesthesia plus a surgical incision. Larry has strong views about the importance of informed consent in general and he also places high value on the consequential benefits of controlled trials. He is new to the IRB and has yet to think through the relative weight that the value of informed consent should have vis-a-vis the broader aims of science and the possible therapeutic benefits to specific research subjects. Much less has he thought about the degrees of deception that might be warranted for the sake of obtaining better data, nor has he yet considered the moral difference between a control arm using sugar pills versus a more invasive control using real incisions and anaesthesia. He comes into the meeting unsure about how all of these things ought to weigh in the decision to approve or reject the protocol, but is ready to think it through with others. Ideally, we hope that such meetings are the places where this sort of reflection and weighing will occur. In this meeting, however, everyone but Larry has come to the table with the same

agenda. The other members of the IRB are sure that this protocol should be approved and they aren't in the mood for further discussion. The decided group looks at the indecisive member impatiently, and the chairman of his department says "We are really under the gun to get this data out. The department needs the funding on this grant. It's an important study for us." They make no attempt to address the ethical concerns about the placebo-arm, or perhaps someone makes a half-hearted stab at a defense saying, "benefit probably outweighs cost here; we should go ahead with this." He is not offered the opportunity to formulate and express his concerns about the moral conflict inherent in this decision and he is being railroaded to join in the group decision. Larry resents being pressured by the more dogmatic position of the others and wonders why he joined this IRB. He feels insulted and threatened.

As I said in the discussion in chapter one, it is important not to confuse Larry's indecision with indifference. This is the case of someone who wants "to do the right thing" but as yet does not have a sense of what the clear choice should be. Someone who is truly indifferent between the options will not be troubled by endorsing either option or some third compromise, without further debate or reflection. To be treated *as if* he is indifferent when he is undecided is an affront for the following reason. While many of us, at least as children, came by our moral views in at least initially unreflective ways, through the authority of parents, teachers, or religious authority figures, at some point this becomes an inappropriate way for reflective, autonomous adults to act with each other. From the point of view of beings capable of some reflection and choice, including many children and adolescents, acceptance of substantive moral belief for no reason *other than* a claim to authority, a forceful appeal to consensus, or the mere fact that I am uncertain and others not, is morally

arbitrary. Substantive moral belief involves some engagement by the believer with the content and meaning of the belief and its implications for responsible moral action and choice in light of the belief. When factors such as authority and consensus are coupled with reasons, persuasion, time for reflection, consideration of the alternatives, the individual has a chance to truly own their moral views, to actively rather than passively accept them. (And active acceptance of this morally substantive sort is compatible with belief based largely upon unwavering acceptance of a higher spiritual authority, as long as there exists some mental space to reflect on the nature of this higher authority and the deep meaning of one's belief.) Since Aristotle we have recognized the need for relying on the clever use of moral rudders—pleasure, incentive, punishment—to steer the moral education of young children, but the mark of moral growth and maturity is the active, reflective and acceptance of moral beliefs. Hostile and close-minded attitudes on the part of others strip the person with unformed moral values of his chance to be truly engaged in moral choice in just this way. It robs the agent of any chance he might otherwise have to make a reflective, authentic choice. It treats him as a small child, and what mature person wouldn't find this threatening, if not at least insulting?

What ensures that these situations remain relatively unthreatening for both the firm believer and the person who has yet to sort out the relationships between his views is that everyone comes to the table willing to discuss difficult moral issues openly and to listen to and consider opposing arguments and view points. There is then one minimal condition that must hold in order to mitigate the potentially threatening nature of value conflict: the attitudes of the agents involved must be respectfully and sincerely open to genuine debate

over the moral issues. Without this, the situation of scarcity degenerates into the situations described in the last chapter, where the best one can do is to minimize the violation done to one's beliefs. Even if we are able to motivate this shift in attitude, the problem of trying to minimize violations to firm beliefs does not disappear, but I hope to show how the process of moral learning can help us ward off future violations through the preventative ordering of our commitments and principles. It is in this way that moral conflicts within ourselves and among others can present an opportunity for growth and learning when the pressures to consider other views, even compromise, are the intellectual pressures of respectful persuasion rather than purely threatening or recalcitrant opposition.

II. THREE ARGUMENTS FOR DIRECT COMPROMISE, AIMED AT THE FIRM BELIEVER

When we are on the moral defensive, usually when we are dealing with unfriendly others, accepting a compromise plus one of the psychological distancing strategies is often the only means of surviving the conflict, or at the very least, protecting some semblance of what one believes to be true. Compromise becomes the least worst option. Do firm believers and persons who are unclear on the relative weight of their commitments have any reason to consider compromise as anything other than a defense mechanism? I think there are several strong reasons for a more positive, direct account of compromise and I would like to offer three arguments to support this view: (1) The first is that direct compromise can help ward off the self-defeating price of future conflicts; (2) The second is an argument from an appeal to fallibility; (3) The third argument appeals to the fact that almost all moral principles and

beliefs underdetermine choice and action, and compromise solutions can help us fill out these underdetermined areas of value. These arguments are intended to get the firm believer to the negotiating table, to get him to engage in the process of exploring the possibility of the elusive third option to the dilemma or conflict.

A. Avoiding Future Conflict

The general argument for compromise that I offered in chapter one was a consequentialist argument that appealed to the logic of having some rather than none of what we value represented in a choice, in the world. The beliefs and values of others necessarily limit the possibilities for realizing our own moral commitments, but we should try to realize as much of those commitments as we can within those limits. This argument for compromise as a means of preempting protracted conflict and the costs associated with it remains as a default for those are moved by purely consequentialist reasons. But as I tried to show in chapter two, anyone with even pockets of firm moral commitment will find this idea of realizing "some", realizing partial commitments, to be strange and inimical to the very conception of moral commitment. When on the defensive, the only way to minimize the harm done to these commitments and yet avoid the costs of continued conflict, is to pursue an indirect compromise strategy. This is an imperfect option, for a variety of reasons, as I argued, but it is the least worst option for the firm believer in such situations. Now we need to consider what that same logic of moral commitment implies in conditions of relative good will among others, when disagreement exists but the others involved can be identified and have expressed a willingness to talk and discuss possible solutions. These conflicts can still be

very costly, or potentially so. Costly conflict can take the form of all out war between parties (Israeli-Palestinian conflict), or violence and intimidation on a smaller scale (the abortion debate and animal rights debate), or possibly having to make personal tragic choices (Jehovah's Witness or the Psychiatrist with a dangerous patient). Even peaceful negotiations can turn sour and result in great cost to those involved. The possibility of facing such an outcome is a strong reason for preemptively considering compromise solutions to the disagreement. Walking away from the negotiating table or never stepping up to it, can fan the fires of disagreement and lead to an escalation of moral tensions. This is very costly for all concerned and gives strong incentive for taking advantage of the relative peace to practice preventive reflection and discussions on the positions at stake.

If a firm believer remains unpersuaded by this consequentialist argument, we can cast this argument in non-consequentialist terms.[1] In chapter two I discussed the way in which the persistence in one's firm commitments and a refusal to consider even indirect compromise can be deeply self-defeating. It's not only that the outcome of never compromising will be a bad outcome, the consequences negative for the person or those affected by protracted conflict, but that something internal to the person imposes strain and difficulties when making hard moral choices among others. Fanatical firm belief can be self-

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[1] Making an appeal to imminent and widespread disaster, should negotiating fail, was a common tactic of Henry Kissinger. Shimon Peres recounts Kissinger's negotiating style in these terms, "He would invariably begin the first round of discussions by reviewing the state of the world since his last visit, describing, in dire terms, how the situation had deteriorated and the dangers multiplied. Anti-Semitism was on the rise everywhere, he warned. The Arab world was restless and resentful; he had barely managed to retain its interest in the peace process. If we failed now, disaster would follow." Simon Peres, *Battling for Peace: A Memoir* (New York: Random House, 1995), p. 141.

defeating in the face of conflict among others who are willing to consider a concession to your position. And these small concessions on the part of the opposition can represent a small victory over a wholesale loss. Eschewing compromise among those amenable to discussion, debate, and possible concession is defeating; it is shutting the door on the one peaceful opportunity for expressing what one believes to be true. Entering into discussions about possible compromise solutions to the conflict offers the possibility of warding off the more shared and serious costs of conflict but it also offers the chance to ward off these more personal costs for the firm believer.

A third variation on this argument, posed to the firm believer, is to argue that in those cases where there is a foreseeable loss to one's own views, or a very serious foreseeable outcome that will cause great harm to others, and these terrible outcomes will likely rise out of a failure to reach a compromise now, the firm believer may find himself responsible for failing to attempt compromise as a means to warding off these great harms to himself and others. Historians of World War II have suggested that, if the Communists had only compromised with the Socialists, Hitler would not have come to power. Insofar as this was a foreseeable outcome of the parties failure to come to an agreement, we might now, or sometime after the rise of the Third Reich, hold the Communists and Socialists partly responsible for not trying harder to come to some agreement that would ward off a much greater evil, a general harm to countless others. I offer this third variation on the avoiding-future-conflict argument as a suggested variation. We would need a full-blown theory moral of complicity to make out the argument, and so I will return to this suggestion in the section on complicity in chapter four. The point is to think about the various non-consequentialist

ways that we might appeal to the firm believer who is not moved by straightforward consequentialist arguments for direct or preventative compromise. Holding the firm believer responsible as someone whose failure to attempt reasonable measures for preventing a great future harm or great evil, represents complicity with that harm or evil, might be one way to appeal to a non-consequentialist.

B. Fallibility

In *On Liberty*, Mill offers a series of arguments for preserving freedom of expression within society. These arguments can be run as arguments for a particular type of government and also for moral behavior between individuals, as Mill himself admits at several points. The first is an argument based on human fallibility. Attempting to silence an opposing view assumes infallibility. Given that historically humans have been proven to be wrong about all sorts of scientific and moral beliefs, given the fact of our fallibility, the opinion that we are attempting to suppress may be true or at least partially true, whether we believe it to be true or not. By allowing an authority to suppress some opinions believed to be false we risk silencing possible truth. And he adds, let's assume the view we wish to push without debate is true; without being subject to conversation and lively engagement with opposition it will soon be perceived as mere dogma and prejudice.[2] At this point Mill's argument splits along rule-utilitarian and rights-based lines, as does much of his thought. The crucial premise is ambiguous between these two. On the whole it is beneficial for a democratic society to allow

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[2] John Stuart Mill, *On Liberty* ([1859]New York: Viking Penguin, 1988), 96-97, 116.

all opinions to have a chance of expression in the market of ideas; we are more likely to

discover truth this way.[3] He also adds that no one has the authority to suppress ideas on our

behalf, to decide what the general public should and should not be exposed to by way of

thought and opinion. It is wrong to "exclude every other person from the means of judging."[4]

I take Mill to be suggesting here that it would be a serious violation to take away someone's

right to decide important matters of opinion, politics, and morals.[5] The conclusion is in any

case overdetermined: suppressing debate violates a right to deliberation and makes it less

likely that a society will thrive and discover deep truths about the world. He considers the

objection that though we might admit fallibility, this does not discharge our obligation to

form the truest opinions possible and to assert those views in good conscience against views

believed to be pernicious and false. "There is no such thing as absolute certainty," but we

have sufficient assurances to guide our own conduct and to forbid bad people from

perverting society.[6] Mill counters that free debate is the only tool for assuring that a belief

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[3] Ibid., p. 77.

[4] Ibid., p. 77.

[5] Isaiah Berlin echoes these sentiments when speaking on Mill below:
> Man is most himself in choosing and not being chosen for; the rider
> and not the horse; the seeker of ends, and not merely of means, ends
> that he pursues, each in his own fashion: with the corollary that the
> more various these fashions, the richer the lives of men become...the
> more numerous the possibilities for altering his own character in
> some fresh or unexplored direction, the more paths open before each
> individual, and the wider will be his freedom of action and thought.

Isaiah Berlin, "John Stuart Mill and the Ends of Life," in *Four_Essays on Liberty*, p. 178.

[6] Ibid., pp. 78-79.

is "certain enough" to act on. Once it has been exposed to counter arguments and has survived without refutation, it may be assumed to be a guide to action. It is one thing to assume a view to be true because it has withstood criticism without refutation, and quite another to assume it to be true in order to shelter it from the possibility of refutation.[7] In a passage that is now wonderfully ironic in Mill's favor, he says "If even the Newtonian philosophy were not permitted to be questioned, mankind could not feel as complete assurance of its truth as they now do." Sometimes, he says, we are simply not receptive to particular truths and that receptivity comes with a different generation, a different time. It remains important to recognize this tendency in human history and to cultivate open-mindedness.[8]

The fallibility argument, especially the appeal to the phenomenon of "partial truths", provides a strong defense for compromise.[9] Given the contingencies of our moral beliefs, on personal and social history, and the substantial human track record of past mistakes over matters of moral, religious, and scientific truth, the firm believer should enter the fray of moral debate and consider the opposition because the firm believer's views might be wrong, or alternatively, only partially right.[10] The opposition's views may be true, or partially true.

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[7] Ibid., p. 79.

[8] Ibid., p. 81.

[9] Again, the non-pluralist will not likely be moved by the argument from "partial truths" but rather by the possibility that there might be some singular truth to the matter other than the one they hold to be true.

[10] See for example, G.A. Cohen, *If You're an Egalitarian, How Come You're So Rich?* (Cambridge: Harvard University Press, 2000), chapter one, "Paradoxes of Conviction", and George Sher, "I Could Be Wrong," *Journal of Social Philosophy and Policy* (forthcoming).

Compromise, understood as a third alternative to two mutually exclusive moral requirements or beliefs, can be an important means of constructing those possibilities.[11]

Even moral fanatics or some religious extremists should feel the force of this argument. The religious fundamentalist, for example, might appear to be a special case where the strength of faith in God makes any appeal to fallibility otiose. But even when one's grounding for moral beliefs is rooted in faith, important areas of uncertainty may remain about what these beliefs require one to do, or what means one ought to take to achieve certain firm ends. If the fundamentalist has vowed to wage the Holy War, some doubt and fallibility remain. The fundamentalist might ask, Is *this* the holy war? Is *this* what it means to win? Is *this* the enemy, or is the enemy to be found elsewhere? If I am obligated to take the word of my spiritual leaders at face value, with full trust and faith, there is the possibility that one's spiritual leaders are mistaken. If someone has killed in war, Aquinas offers that one ought to wait three years to receive communion. Why three years? And if the blood of another taints me in such a way, why war? Maybe we have been wrong about justified killing in the name of God. One may vest great faith in certain religious ends and ideals and the scripture but have questions about the appropriate means to those ends and ideals, and about the correct path. Even great spiritual leaders have acknowledged their fallibility on these matters and remain open, if not to secular forms of compromise, then to reflection on the deeper meaning of one's principles of faith and revelation. As several philosophers have

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[11] In chapter four I will consider the implications that the fallibility argument might have for specific compromises between individuals whose position, if wrong, is more seriously wrong.

reminded us, even Saints have ordinary human flaws,[12] among them is fallibility, and the appropriate attitude toward fallibility may be humility, the humble realization that one may not have the whole truth. This brings us to a third argument for compromise, one that involves conceptual compromises about the specific meaning of our moral principles and commitments, when these concepts are unclear and lead to conflicts between different moral requirements.

C. Underdetermination

It is commonly understood that moral principles and requirements are underdetermined when it comes to guiding us over particular decisions and courses of action. This underdetermination comes in two varieties: The moral principles can contain vague concepts, whose meaning is open to several interpretations. The moral principles may also fail to prescribe their own relative importance or weight vis-a-vis competing principles; one must appeal to some third principle or else make a pragmatic decision when prima facie moral principles come into conflict in particular circumstances. Considering possible compromises on the concepts and the principles can help fill out these areas of underdetermination. In fact, what we are often doing when we deal with that vast area of underdetermination in practical morality, is compromise. Compromise helps us pick up where our moral principles and concepts leave off.

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[12] Susan Wolf, "Moral Saints," *Journal of Philosophy*, vol. 79 (1982), pp. 419-439; Lawrence Blum, "Moral Exemplars,"; Robert Adams, "Saints," *Journal of Philosophy*, vol. 81 (1984), pp. 392-401.

Take first the problem of conceptual vagueness. The Biblical prohibition against the ingestion of blood does not help the Jehovah's Witness choose a course of action when one alternative involves a new "bloodlike" substance, or the recycling of one's own blood through a machine during surgery or the storage and later transfusion of one's own blood. A great deal is left open for interpretation. The original prohibition could not have anticipated the recent changes in technology, the role of life-saving human blood transfusions, much less artificial blood products and substitutes. Two conceptual parts of the prohibition are open to interpretation in light of these advances and changes. First, what counts as "ingestion"? It is not verbal trickery to ask whether or not what is morally objectionable about eating or drinking the blood of an animal or human is diminished when the blood being taken into the body is the individual's own banked blood, taken out of storage only for use in a medical emergency requiring transfusion, or when one's own blood is recycled into a machine that adds blood "expanders" and other products that help increase the blood volume, lost due to surgery or trauma. Also, it may prove morally relevant that a third-party is performing the transfusion—the person who is not actively taking the blood into his body, is not strictly ingesting. Surely this is a very different kind of action than the sort of "ingestion" prohibited in the Biblical prohibition. A possible conceptual compromise on ingestion might be to say that these other kinds of technologies are "transfusings" not "ingestings", and it may be morally relevant to add that they are *life-saving* transfusings, to distinguish it from the more casual ingestion involved in eating meat for nutrition or pleasure. Similarly, we can ask, what counts as "blood"? The new blood expanders are referred to as "blood-like products", others as "blood products", others still as "blood

replacements". What matters is what stuff the name refers to. Arythropoetin is a common blood expanding product used in these cases. If arythropoetin is like Cheez Whiz, a well known "cheese product", then Jehovah's Witnesses should be morally home free, for there is no cheese in Cheez Whiz. But in fact blood expanders do contain blood products, such as platelets and red blood cells. So calling it "blood-like" is a little bit of a moral misnomer. It is rather "part blood". The new synthetic blood products like Hemopure use highly purified cow blood as a base, so again, not so synthetic. The relevant normative point is whether or not the prohibited substance includes a range of substances that are like the prohibited substance or resemble it in some ways but not others. This becomes both a conceptual and a practical question, with the candidates for conceptual compromise being the permissibility of "blood-like products" or "blood substitutes".

To take another example, consider the moral prohibition against killing. It is notoriously underdetermined when it comes to defining what counts as a victim (animals, fetuses, embryos, an attacker?), what counts as "killing" (actively taking a life, passively standing by when you could safe a life by intervening, withholding knowledge about a potential danger or a potential killer?), and the possible mitigating role of consent and voluntary requests to be killed. Conceptual compromises on 'victim' and 'killing' and 'voluntary' have in fact helped us better define what counts as murder. The basic concept of 'victim' is "the subject of an injury or killing". The idea of justified self-defense is a compromise on the conceptual notion of 'victim'. By virtue of being made a victim, one can then victimize the victimizer. Otherwise, it is impermissible to victimize innocent others. We have compromised on the notion of victim in our debates over abortion and animal rights as

well, with some offering, rightly or wrongly, that though fetuses are the subject of injury and the injury leads to death, they are not 'victims' in exactly the same sense that a slain adult is a victim. The implicit conceptual argument tends to be that moral status of some kind is necessary for the status of "victimhood". If a kid shoots his classmates, they are all victims. If a physician terminates a pregnancy at 28 weeks, the very developed fetus is probably a victim. If I forget to feed my cat for a few days, she is a victim. If I swat a mosquito and kill it, but I don't get it before it has drawn my blood, I think I'm the victim, not the squashed mosquito. If I kick a rock down the sidewalk just to watch it roll, only some animists and others who have read too much Empedocles and Leibniz will think I victimized the rock. There is consensus on some of this but much disagreement, and that is why the idea of conceptual compromise is such a useful one. The conceptual vagueness over moral terms becomes morally charged just as conflicts between principles and obligations become charged, sometimes more so.

Meaning and interpretation matters deeply to people, traditions, and groups. In Haiti, the women in rural areas still have a practice of burying their placenta after they give birth. It is thought to bring the soul of the mother and child together in the afterlife. In the hospitals when staff try to find out where the women have come from, often the women are unable to give the name of a town or street, but if you ask them where the placenta is buried for each birth, they can tell you the exact location of their home. Digging up the placenta or disturbing the site in any way is considered the moral equivalent (or worse) to disturbing a grave. According to some Haitians' beliefs such a violation would victimize the mother and child, whether alive or dead. We imbue all sorts of objects with moral meaning and experience the

violation of those objects deeply; we understand the general concepts of 'victim', 'life', 'death', 'harm', 'sanity', 'agency' very differently and the inherent vagueness of these concepts leaves open an opportunity for give-and-take on meaning. Such compromises are not mere semantic games but serious negotiations over morally laden language. There are many substantive moral compromises to be struck between the Haitian animists and the real estate developers, between the pro-life and pro-choice groups, between the advocates for the insanity plea and victims' rights groups, and countless more. Compromise can be a way of filling out conceptual indeterminancy and so a way of quelling deep moral disagreement, at least over the practical decisions guided by the moral principles in which the concepts are imbedded.

Compromise can also be a way of better formulating our more general moral principles, not so much to clear up conceptual ambiguity, but to better define the relative importance of the principle vis-a-vis other important moral claims when the come into conflict through the pressures of practice. "Making an exception" is a kind of compromise, a very important one. The self-defense exception to the absolute prohibition against killing is a type of compromise on the original principle, tailored to handle those situations where we think the absolute prohibition against taking life becomes incoherent when it does not allow for saving the life of an otherwise innocent victim. In this way compromise solutions can help bridge theory and practice. Our lasting and widely shared moral principles, like "do not kill; do not harm innocent others; keep your promises; tell the truth" have staying power and universality built into their underdetermined structure. They are elegant and flexible and will last the test of time because in part they leave room for adaptation to changes in our

understanding about humans in the world, changes in technology, changes in religious and cultural beliefs. This kind of underdetermination is a virtue and compromise as the art of moral adaptation through principled exceptions, can help us navigate the regions left unexplored by our principles.

Since Aristotle's account of *phronesis*, moral philosophers have struggled to explain what exactly is involved in the problem-solving and reflection that occurs in our attempts to connect our moral theories to real moral problems. There is still much disagreement about what exactly is and should be involved in this process, and because this battle is being waged in exactly that territory where moral compromise is most relevant, I think it would be helpful to situate direct compromise within this larger debate over theory and practice.[13] Competing positions continue to include the following as accounts of what it is we should be doing:

(1) *The Application View:* We can avoid conflict by constructing a system of moral principles that do not conflict *ex ante.* To make specific moral decisions we then apply theory to practice via deduction from more general moral premises to more specific action-guiding premises with the aid of moral judgement [Aristotle, Kant, Donagan, Finnis, Herman, Korsgaard];

(2) *The Intuitive Balancing View:* We can at best intuit which principle should be given more weight in particular cases, and try to strike balances between competing principles in specific cases of conflict. To this, some also add that we should attempt to strike a reflective equilibrium between theory and practice, revising our theories in light of insights gained from our experience with paradigm cases [W.D. Ross, Rawls, Social Choice Theory,

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[13] For an excellent update on this battle as it applies in particular the field of bioethics, see the entire issue of *Journal of Medicine and Philosophy*, vol.25, no. 3 (2000).

Contemporary Casuists];

(3) *The Specification View*: Moving from theoretical moral principles to practice should involve the further specification of those general principles with ever more precise formulations of the starting principle. [Henry Richardson]

The natural place to situate compromise as a direct give-and-take between principles or values is within the Balancing View, where explicit revisions and concessions are made between values that are in tension or in conflict, in a way that tries to preserve what we think is important and true about each of the values at stake. Insofar as the deductive Application View promises to avoid conflict preemptively, there will be no room for compromise. According to natural rights theorists like John Finnis, as I mentioned in chapter two, one can be an absolute moralist and yet avoid the need for moral compromise by setting up a system of absolute prima facie duties that do not in principle conflict.[14] I think logically, advocates of moral compromise need to concede this position, but it remains to be seen whether such principles escape the problem of conceptual underdetermination, leaving room for at least some direct compromise, even on the natural law accounts. The Specification account has come under fire and has yet to be endorsed by anyone other than the proponent, as a defensible third position.[15] The central complaint is that while further specifying the detailed

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[14] John Finnis, *Natural Law and Natural Rights* (New York: Oxford University Press, 1980).

[15] Henry S. Richardson, "Specifying Norms as a Way to Resolve Concrete Ethical Problems," *Philosophy and Public Affairs*, vol. 19, no. 4 (Fall 1990), pp. 279-310; Henry S. Richardson, "Specifying, Balancing, and Interpreting Bioethical Principles," *Journal of*

content of a moral norm can give us a better sense of what to do when a case falls under that specification, it does not offer a justification for any particular way of specifying among several possible specification; we replace a conflict between norms with a conflict between competing specifications. We are then thrown back on the balancing account when we must make judgments about the relative weight of the different principles as we attempt to specify them.[16]

The specification view depends on the balancing view and vice versa. We often have trouble balancing conflicting commitments until we further specify what those commitments require in a particular case or conflict. And when we try to specify we sometimes have before us several candidates for specification of the principle. More likely what goes on is a kind of reflective equilibrium between specifying and balancing. My sense is that only a hybrid account will capture the full range of phenomena that exist in the region between any theory and practice. Where core principles, including the natural law candidates, can be made clear and conceptually unambiguous, direct deductive application plus some judgment about the relevant action-guiding premise in each case can guide us over particular choices. Where there is conceptual ambiguity or where *prima facie* principles conflict and we are faced with unclear or competing deductions from the conflicting principles, then we need to further specify the content of one or both of the principles. Sometimes the attempt to specify the

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Medicine and Philosophy, vol. 25, no. 3 (2000), pp. 285-307. For critical responses to this view see the other contributors to the above issue and also: Tom Beauchamp and James Childress, *Principles of Biomedical Ethics: Fifth Edition* (New York: Oxford University Press, 2001), pp. 15-18.

[16] See Beauchamp and Childress, *Principles*, p. 17.

content of a norm will dissolve the conflict. More likely, in cases of conflict, there will be several possible ways of specifying the norms involved and in doing so we will find ourselves trying to balance the competing claims, often appealing to the spirit of the original norms or principles and trying to strike a compromise between them. I think it may be more helpful to try thinking of "applying" theory to practice as a decision tree, beginning with attempts at deduction where possible, then appealing to specification for those cases where clarification of one principle can resolve the problem, and appealing to balancing where both specification and application fail to produce a single justifiable resolution to the conflict.[17]

Compromise can enter in at any point where there is a conflict between conceptual understanding in an original principle, conflict between two different principles, or conflict between competing ways of specifying the principles. I will borrow an example from Alan Donagan to illustrate the way in which compromise solutions can address the problem of conflicting moral principles, by exploiting the degree to which the principles are

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[17] Beauchamp and Childress suggest that both specification and balancing are needed, since each addresses a different dimension of moral principles: "Specification entails a substantive refinement of the range and scope of norms, whereas balancing consists of deliberation and judgment about the relative weights or strength of norms. Balancing is especially important for reaching judgments in individual cases, and specification is especially useful for policy development." Since there are cases where the decision can be made clear with further specification and without any balancing, it is not clear that we necessarily need to appeal to both in our practical decisions. There are many cases where policy development is greatly aided by balancing (e.g., animal research policies, school prayer policies, abortion policies, defense policies), and as Henry Richardson has helped us appreciate, specification plays a crucial role in reaching judgments in individual cases. See Beauchamp and Childress, *Principles,* p. 18; Henry Richardson, "Specifying Norms as a Way to Resolve Concrete Ethical Problems," pp. 302-308.

underdetermined.[18] Take someone who believes the following three propositions about specific moral obligations in a specific case:

(1) I ought to save this life.

(2) I ought to keep this promise.

(3) I cannot both save this life and keep this promise.

When an agent encounters a conflict like this, or when we reflect on the common occurrence or even possibility of such a conflict, one general response is to think through what this implies for the principles as they apply in these specific circumstances, and what it implies about the deeper meaning and corresponding formulation of the principles.

The principles behind the specific requirements are, roughly:

(1) Human beings have a moral duty to save the lives of others.

(2) Human beings have a duty to keep their promises to others.

When stated in this general form most moral principles fail to encompass possible exceptions. To include exceptions within the statement of the primary principles can be understood either as a further specification of the meaning of the original principles or as a modification of the original principle in light of the value of a competing principle. It is in this way that the problem of moral exceptions is also a problem of striking moral

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[18] Alan Donagan, "Consistency in Rationalist Moral Systems," *The Journal of Philosophy*, vol. 81, no. 6 (June 1984), pp. 296-297.

compromises, though on the level of principle. Reflecting on the general principles and the conflict as stated above, debating the relative importance of saving a life versus promise-keeping, we might come up with a third compromise course of action that can be stated as follows:

> (4) Compromise Principle: When one can save a life only by violating a lesser moral commitment, such as keeping a promise, one should save the life and make reparations for the broken commitment.[19]

It is in this way that moral disagreements and debate can often lead to the development of more nuanced understandings of our general moral requirements and principles. Through discussion and attempts to construct compromise principles, often based on actual and hypothetical exceptions, we can begin to arrive a better appreciation of the relative-value of our moral beliefs. To refuse to consider compromise on our basic moral principles leaves us with an incomplete account of the meaning of particular moral obligations. To endorse promise-keeping or honesty in a vacuum, without considering compromise forms of the principles, is to cling to an incomplete understanding of the meaning and force of honesty and promise-keeping as they relate to other important values, such as saving lives. This

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[19] In light of the arguments about the effect of compromise on firm believers, and in light of Bernard William's insight about the importance of regret as a sign that someone takes his moral obligations very seriously, we should add the following to the Compromise Principle:

(4') Amended Compromise Principle: When one can save a life only by violating a lesser moral commitment, such as keeping a promise, one should save the life and make reparations for the broken commitment. It would also be right for the agent to feel regret about the broken commitment.

motivation for considering compromise on moral principles and values should have particular force for the person who has yet to sort out the relative weight of his values and who has yet to grapple with the relationships between the various moral beliefs within his own mind, and between his beliefs and those of others.

Martin Benjamin has argued that we should not characterize the outcome of such moral learning as a compromise, since all parties (or the agent in an intrapersonal conflict) have come to reject the initial positions as mistaken and have come to accept a third position. "There is no problem about being compromised because in autonomously replacing one's initial position with what is now regarded as a superior position, one has changed one's views rather than betrayed them."[20] He suggests that at most we should characterize the new position as a "synthesis" of the previous views or a middle of the road position that "splits the difference between the polar positions."[21] This is an important objection to the more positive account of compromise I have offered here, but I think it trades on a mistaken equivocation between four perspectives on the decision being made: (1) the agent's own understanding of the choice he's made as he accepts the reasons for adopting the new position, (2) the view from others not party to the choice who still believe the original, unchanged position to be true, (3) the agent's view of the choice sometime after the decision, after encountering unfavorable reactions by others and after reflecting on the change that the choice represents vis-a-vis his former state of belief before the choice, and (4) the view from

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[20] Martin Benjamin, *Splitting the Difference*, p. 35.

[21] Ibid., p. 35.

a more neutral, a kind of outside observer position.

To better appreciate the normative import of the first three perspectives, think of someone who has been raised within a devoutly Christian family and community; call him Joseph. Among the beliefs that Joseph holds to be true and that is held to be true in his moral community is the belief that abortion is morally wrong, no matter what, wrong even to save the life of the mother. Joseph goes off to college and takes a philosophy course or two and has in depth discussions about the implications of this more extreme view on abortion. After much discussion with a professor of a pro-choice bent, Joseph struggles with the problem, but comes to accept that the coherent and true position to hold is that abortion is wrong, except when the life of the mother is at stake. When the only way that the life of the mother can be saved is by performing an abortion, then the abortion is deeply regrettable but morally permissible. This new view, in light of the reasons for holding it, sits well with Joseph and he feels that he has matured in his moral thinking about a very difficult problem that was much more complex than he had realized before. That is Joseph's internal perception of the change in belief.

Then, Joseph goes home for Thanksgiving Break and attends the big pot luck at the church on Sunday night. Interested family friends ask Joseph about his studies and are curious about all the philosophy courses he's been taking recently. "What kinds of things do you philosophers talk about?" someone asks. He tells them he's taking a course in medical ethics and mentions some of the problems in the field. "What about abortion?" someone asks. "I hope you're setting all those liberals straight on that!" Joseph feels uncomfortable and quietly says, "I've been giving that a lot of thought, and, well, I think it's a little more

complicated than I thought. I think there might be some important exceptions." The long picnic table falls into a tense silence. From the point of view of his fellow believers, Joseph has given in, has compromised, has conceded the true view by accepting his revised and more liberal position on abortion. So there is this important second perspective from which we can view a change in moral beliefs. From this external vantage point, vis-a-vis the judgment of the moral community that backs the initial position that was conceded in Joseph's choice, Joseph has compromised. Similar judgments have been made about Henry Kissinger and Yitzhak Rabin after their many compromises with the Palestinians.[22] The sentiment expressed by many at the time was that despite being statesmen, these men were guilty of selling out their own people.

There is then the way we react or adjust to such responses, and this is the third way of viewing a change in moral belief. Most of us are not immune to such judgements from family, our religious groups, or other moral communities—these judgements often matter to us. Whether or not we think on the inside, intellectually, that we have every good reason to hold the modified view we now hold, in the light of criticism from fellow believers now left behind, we might very well feel alienated from a once secure community and backing. They are telling us that we have let them down, have given something valuable away, and

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[22] As Leah Rabin recalls, "Kissinger was considered a traitor by many Israelis. Yitzhak, of course, felt that Kissinger was a 'virtuoso' at the negotiating table—at times a formidable one—and that time would prove his great contribution to Israel's defense and security....Henry Kissinger is of course Jewish. While he, I felt, always had the interests of Israel deep in his heart, he did his best to keep his personal feelings in check. He was an evenhanded mediator between Israel and the Arab nations—at times for us Israelis maddeningly so! In the end, that made him more credible to all parties." Leah Rabin, (1997), p. 157.

we might feel that we have given something away. "You've changed," they say, with a tone

of deep disappointment. And although we might look upon our change of mind as something

that is on balance an improvement, we begin to appreciate that this change was not

innocuous; in some ways it has weakened our relationships to certain others. Having friends

and former fellow believers react with disapproval might also lead us to see our change in

belief with some sense of sadness, or at least poignancy, not only in terms of relationships

lost or altered, but in recognizing through the eyes of others that we have changed and can

no longer be the person we were before, the person who held those pure and firm beliefs. It

is similar, perhaps, to the general nostalgia that some people experience that first time they

hear themselves talking and what they hear is not the voice of uncomplicated idealism from

their youth, but a more qualified or jaded voice. It is in this sense that Joseph may feel that

he has conceded something, that he has left a mindset, a place, and a group of people that he

can never fully return to again. Even from the point of view of someone who *recognizes* that

they have grown and learned, there might be this sense of regret and longing for a purer and

simpler way of being, a longing for lost innocence, and if not for that, then for the comfort

and support of the moral community one has abandoned in light of one's new beliefs.[23]

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[23] Another way of describing the kind of compromise that occurs in feelings of nostalgia for an earlier time or a simpler self is to think of it as a meta-compromise on the kind of person you wish you could be, were the world not the way it is. You thought your position was clear, your principles true as they stood, but as it turns out they are ambiguous and do not guide in all cases. This realization, even if it comes through reasoning and persuasion, may for some involve an important measure of regret. There is especially a concession involved from the point of view of the firm believer. Purity of belief has given way to a plurality of belief, simplicity to complexity, principle to exception. Not everyone embraces a move toward more complex or pluralistic moral principles with equanimity. To assume so is to beg the question in favor of the truth of pluralism, a truth many people do not find to be self-

The fourth perspective on changes in moral belief is the view from bare reason, the more neutral point of view from someone who looks at the progression of ideas and the reasons in support of adopting this new position and says: "Look Joseph, you may feel all of these things, you may feel that you have compromised, but consider the arguments and the reasons. Remember the discussion. You have every reason to hold this new position; it really is irrational to feel regret and it is certainly a mistake to think that you've compromised anything. You've learned, that's all." Martin Benjamin and others who defend the idea that moral learning is just that, learning, and not compromise, are relying only on this last perspective of the choice, to the exclusion of the other three. From the neutral point of view, having sufficient reason is sufficient. There is a kind of tautology of attitude built into this perspective, and a radical bootstrapping of the emotions that is supposed to occur with changes in ideas.[24] According to this view, we should correct our lagging attitudes and emotions to fit the pull of good reason, end of story. One way to understand the normative role of these other perspectives is to see them as capturing the relevance of moral emotions as potential safeguards on false rationalization, self-deception, or lack of sincerity and

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evident.

[24] I think such emotional bootstrappers are rare birds, and the only two I have met in my lifetime both go through a very interesting song and dance after the bootstrapping has occurred, a kind of post-hoc rationalization of the bootstrapping, rehashing the arguments and lingering over the pile of reasons that support their new position, seeking approval and confirmation that indeed they shouldn't feel any regret, saying out loud, "I don't regret it at all." It may be that even the rare bootstrappers in this song and dance are exhibiting some of the pains that occur in a deep shift in belief, a sense that something is lost and they need to remind themselves that something more was gained in order to mask the sense of loss, but I will have to leave that question to the psycho-therapists.

authenticity, as important markers of change in our moral personality. What I have in mind is the role that critical observers can play in reminding us where we have come from, morally speaking. They provide a check on a lack of authenticity and sincerity, on someone who says "Oh, I've *always* believed this, this is nothing new!" It is an intellectual check on the converted to acknowledge their moral and intellectual journey, because it lends greater sincerity and coherence to the person they have become. Another view is that even within a consideration of reasons, the fact that Joseph's adoption of a new moral position has caused him to feel alienated from a set of relationships that once gave him a sense of comfort, belonging, a sense of support, provides good reason to feel regret, to feel that something valuable and irretrievable has been conceded. In this sense, moral learning is a kind of compromise, though admittedly weaker than the compromises discussed in chapter two, where we concede beliefs that we still strongly hold to be true. Moral learning of the kind defended so far is importantly related to a form of direct compromise, an adaptive and fruitful form of compromise, but compromise nonetheless.

III. MORAL IMAGINATION AND DIRECT COMPROMISE

Attempts to resolve conflict through compromise often fail for practical reasons—some petty, some significant. The deep practical reason for failure is the underlying paradox of moral commitment among others. By being deeply committed and putting ourselves in situations with others who do not share our commitments, we put ourselves in conflict's way. Often the best way out of this in the long-term is to imagine our way out of it, to seek

creative alternatives to the options of living with costly conflict or retreating into isolation with one's firm commitments intact and unchallenged. Aristotle and Kant gave a central role within their ethical theories to the human capacity for moral judgment. When moral principles conflict, "the decision rests with perception", as Ross said, quoting Aristotle.[25] Whether we call it intuition, judgment, perception, understanding, practical reason—this fundamental capacity is the human bridge between theory and practice, no where more so than in deliberation over conflict. To exercise it well requires the possession and cultivation of the related capacities of human imagination, our capacity for insight, wisdom, savvy, creativity, a sense of fairness and balance, the ability to recognize the spirit over the letter of the moral law, the ability to engage and disengage, to reason in creative and sometimes challenging ways. This cluster of capacities is central to direct compromise, and several of the particular capacities can be helpful in defensive compromise as well.

Like "moral psychology", the term "moral imagination" has become ubiquitous in the moral philosophy literature of the past ten years, and it is not always clear what philosophers mean by it.[26] I would like to take some time to lay out an account of the imagination and then discuss the ways that this cluster of capacities is relevant to moral compromise. Beyond establishing what I think is an important conceptual tie between compromise and imagination, I hope to motivate and give some content to educational efforts

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[25] Ross, *The Right and the Good*, p. 42, Aristotle, *Nicomachean Ethics* 1109b23. See Richardson, "Specifying Norms," p. 289, n. 21.

[26] See for example, Edward Tivnan, *The Moral Imagination: Confronting the Ethical Issues of Our Day* (New York: Simon and Schuster, 1995).

in negotiation, arbitration, ethics consultation, and personal resolution of moral conflicts. I have offered three normative arguments for direct compromise under certain conditions, but succeeding in specific conflicts will be contingent on our abilities to harness certain imaginative capacities.

Intense commitment, whether to a person or to a cause or set of beliefs, is often accompanied with intense focus, even a kind of myopia. Preserving and sustaining a pure commitment under pressures to abandon it sometimes requires this sort of mental "shutting-out" or putting on blinders to others. The arguments from the price of conflict, fallibility, and underdetermination provided strong normative reasons to firm believers to lift those blinders and to widen their focus to include the reality of others and other beliefs. We possess a variety of related capacities to make this shift in perspective, and also the ability to retreat, if need be, as was discussed in chapter two. Imagination is connected to direct compromise in two general ways: (1) the attitude we need to adopt in order to make the very discussion of compromise possible requires the exercise of imagination, and (2) actually arriving at particular solutions requires the exercise of imagination. When we turn to compromise in more peaceful, reflective settings as a means of warding off or ending moral conflict, we need to first appreciate the reality of others and second, we need to think resourcefully and creatively about the views we already hold, and about different possibilities and new alternatives. Human imagination can serve an important exploratory function in morality: it can help us consider moral points of view that are different from the moral views we already hold, and it can help us to create new views through a recombination of the values we already embrace.

The notion of imagining ranges from the literal "imaging" that Plato, Descartes, and Locke attributed to the mind's processing of sensory images into mental images, to the "free play" of the aesthetic imagination in Kant's *Third Critique*, to the more radically free imaginings of children's stories and fantasy writers. For Plato, imagination was an indistinguishable mix of perception and belief, disdained for its lack of cognitive authority. Throughout his dialogues, early and late, we see that to be an "image" is to be necessarily imperfect, literally less than ideal. The function of the imagination was limited to the crude creation of images in the mind and its epistemic reliability was highly suspect in terms of its accuracy or as a means to certainty.[27] Hume, like Plato, saw the imagination as a threat to reason, though he acknowledged that the understanding must sometimes rely on properties of the imagination.[28] Aristotle viewed the imagination as a "movement resulting from an actual exercise of power,"[29] and was the first to set out "voluntariness" as a distinctive characteristic of imagination. He was also the first to note our ability in imagination to detach ourselves from the sway of emotional response, though it is not until Kant and the German romantics that we get a real sense of the imagination as a kind of freedom: freedom from the demands of reason, freedom from the emotions, freedom from direct sense-experience, freedom to create new ideas. The powerful aesthetic imagination, thought Kant, "creates

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[27] Plato, *Sophist*, 264A4-6.

[28] David Hume, *Treatise*, I, IV, vii. John Locke also conceived of the imagination as a sort of delivery system for material brought in by the senses, though in parts of his epistemological work he suggests that the imagination may have more freedom to create new ideas, as compounds of the components brought in by our senses.

[29] Aristotle, *DeAnima*,II,3,429a1.

another nature out of the material that actual nature gives it," and may even "restructure experience...yet also follow principles which reside higher up, namely, reason."[30] What we do not find in any of these accounts and I think what is still missing in our understanding of this powerful set of capacities are the ties that exist between several forms of imagination and our emotions, and this is a crucial missing link for a better understanding of the moral imagination, particular where the emotion of sympathy is concerned.[31] Imagination covers a whole range of mental abilities, combinations of which turn out to be especially relevant for moral judgment in general, but also for those who on a regular basis are faced with moral conflict. In order to understand how imagination can be linked to conflict resolution, I would like to start by offering a list of several related but distinct types of imagination drawn from philosophy, psychology, economics, art, literature, and experience:

> **(1) Literal Imagining**: The capacity to form images of existing things, like the faces of absent friends, places we have visited, or a striking image from a movie.[32]

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[30] Immanuel Kant, *Critique of Judgment*, §49. With Ryle and Wittgenstein we see a move away from the notion of imagination as a unique faculty of creative mental imagining and an emphasis instead on imaginative activities or distinctive imaginative behavior.

[31] It is interesting that the cognitive status of the imagination was so diminished by Hume and to some degree by Adam Smith, and yet the virtue of "sympathy" played such a central role in their respective moral theories. This capacity for imagining the existence and particular predicament of others is central to any moral theory and this tension between their epistemologies and ethical theories remains a puzzle.

[32] I rely on John Kekes' very helpful categories of imagination for the basis of 1, 2, 4, and 10, above. See John Kekes, *The Morality of Pluralism* (Princeton: Princeton University Press, 1993), p. 101. However, I strongly reject Kekes' position on limiting the scope of specifically *moral* imagination solely to the category of what he calls "creativity" and what

(2) Imagining Possibilities: Mental exploration of what it would be like to realize particular possibilities which have not yet been realized but which are possible to realize, even likely, such as recovering from a loss or finishing a dissertation.

(3) Imagining Radical Possibilities: Exploring different scenarios, circumstances, beings, societies, images, and stories which reach beyond our known experience and history or recombine experience and events in a novel way, as revealed most often in the work of non-representational artists and science fiction writers.

(4) Imaginative Reasoning: Reasoning by induction, reasoning by analogy, being able to reconstruct what is implied deductively or what is implied in a concept or symbol (unpacking meaning), or synthesizing two or more premises or ideas into a new premise or idea.

(5) Iconoclastic Reasoning: Stepping entirely outside the paradigm of accepted assumptions and challenging the structure, or revealing an internal inconsistency of deep magnitude or great irony, as Quine accomplished in his "Two Dogmas of Empiricism", and as Donald Davidson has accomplished in his reactions to Quine.

(6) Sympathy and Empathy: Being able to extend one's emotions to the situation of another to varying degrees, being able to vicariously experience the force of another's predicament, as we do when in the presence of a person in great pain.

(7) Disengagement and Reflection: Being able to remove oneself from the exigencies of a situation, particularly from one's own role in it, in an attempt to gain a more neutral perspective.

(8) Self-deception: Imagining that the facts are other than they are or skewing the facts or probabilities in a way that downplays what we find

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I call "imagining possibilities" (category two, above).

harmful or disturbing in order to avoid the suffering that this causes, or to maintain our sense of hope or self-esteem, such as when we selectively remember the positive aspects of an old friend or loved one.

(9) Proportion, Balance, and Salience: Having a visual, visceral, or intellectual sense of how the parts or pieces relate to the whole or how opposed elements can be positioned in balance to one another, as we see in the mobiles of Calder or the plot of a Dickens novel. Also being able to recognize literally prominent, or figuratively prominent features of a landscape or situation, such as knowing that the Grand Central Station is a central location to meet in New York City.

In the descriptions alone we can begin to see the ties between the elements of the imagination and direct compromise, and the brief examples give us some direction on the types of behavior that we might encourage as a way of educating imaginative decision-makers. We can see right away the central role that imagining possibilities will play in both filling out the underdetermined areas of our moral principles, especially when the principles conflict. John Kekes has suggested that *moral* imagination belongs exclusively to a version of the second category, imagining possibilities, as he says, "It is moral because one central concern of the agents engaged in it is with evaluating the possibilities they envisage as good or evil."[33] This does seem to be a central capacity for moral reasoning among others in conflict, but I think moral imagination involves all of the above, not merely being able to envision likely possibilities. Let me first say something about the two different ways that we can think of possibilities in conflict, then I will turn to examples of the other capacities.

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[33] Kekes, p. 101.

The general human capacity of imagining possibility occurs along a continuum, from direct imaginings based on solid predictions to radical, even fictive imaginings about hypothetical scenarios and other worlds. There can be such a significant difference in degree of possibility that I think a distinction in kind is warranted, and can help us distinguish between the extremes on the continuum of creative thinking. There is an interesting literature in economics on the behavior of the entrepreneur that helps shed light on the different forms of creative imagination. In the economic realm the entrepreneur is either the problem solver, the inventor, or the iconoclast, depending on the view one takes of human creativity. Entrepreneurial behavior is not restricted to the realm of production and exchange of goods and services, but occurs also in the realm of ideas and beliefs and non-monetary values. Nicolaus Copernicus and the molecular biologists behind the Human Genome Project are scientific entrepreneurs. Margaret Mead was a cultural entrepreneur. Nat Turner, Martin Luther King, and Elizabeth Cady Stanton were moral entrepreneurs. There are examples of individuals and groups who made incremental changes possible and those who imposed a radical shift in ideas. Corresponding to the first type of possibility, among the types of imagination, is the fairly conservative understanding of entrepreneurial behavior offered by economist Ludwig von Mises. For Mises the entrepreneur has only the capacity to work with existing possibilities and does not have the capacity to make drastic leaps of insight. The entrepreneur creates new possibilities through recombinations of and inferences from existing knowledge and observation; he just makes this inference before anyone else does, beating the competition to the punch. Israel Kirzner, on the other hand, takes a much stronger view of our capacity for imagination, pointing out that in fact great leaps of insight are

possible. On his account the entrepreneur looks at a market gap and "sees" something which is not there, reads a new opportunity into the gap.[34] The Mises version of the entrepreneur is closer to the second type of imagination in that it involves few imaginative leaps, though it still relies on significant creative exploration of economic possibilities. We see more examples of the radical imaginings on Kirzner-side of the spectrum, if we look at the history of political revolution, science and invention, and the avant guard movements throughout the history of art. The Mises parallel in science may be seen in the more regular activities of laboratory science. In Thomas Kuhn's terms, while the stuff of everyday science contains very few leaps and paradigmatic shifts, the more spectacular findings and leaps (such as Friedrich Kekule's dream of the snake swallowing its tail, which led to his discovery of the Benzene ring) have come from a much more dramatic capacity for imagining what has not previously existed, often what was not thought to be even possible. Speaking of the imagination of the artist, Kant sheds important light on the mysteries of the strongly creative imagination in his *Third Critique*:

> Now if a concept is provided with a presentation of the imagination such that, even though this presentation belongs to the exhibition of the concept, yet it prompts, even by itself, so much thought as can never be comprehended within a determinate concept and thereby the presentation aesthetically expands the concept itself in an unlimited way, then the imagination is creative in all of this and sets the power of intellectual ideas (i.e., reason) in motion: it makes reason think more, when prompted by a certain presentation, than what can be apprehended and made distinct in the

[34] Israel Kirzner, *Discovery, Capitalism, and Distributive Justice* (Oxford: Basil Blackwell, 1989).

presentation (though the thought does pertain to the concept of the object presented)."[35]

Kant's idea here, of conceptual expansion, maps very nicely on to the idea that compromise can sometimes offer ways of expanding on our understanding of moral concepts. Some of the best examples of this have occurred in our moral debates over the meaning of "subject" and "agent". All of the great rights debates and the compromises struck along the way, have been powered by imagining new possibilities for these two concepts, and continue to be powered by our creative conceptual thoughts.

Closely tied to the imaginings of varying degrees of possibility is the imaginative uses of reason and logic. Reasoning by deduction alone over moral matters can leave us in a kind of logical sand trap, unable to see the way out of the conflicting principles. Maybe our assumptions are wrong. Maybe we need to consider similar cases and how we have resolved conflicts in those cases. Sometimes taking a logical leap through analogy or induction can get us out of the predicament, if not give us a good start. Again this type of reasoning is occurring right now in some of the more peaceful discussions and written debates on abortion and animal rights. As we try to sort out the difficult issue of what counts for moral status, what is required to be a moral subject, analogies to other moral beliefs about other kinds of agents or things has been helpful. Must a thing be sentient to qualify as a subject, and to what degree? If we think animals are subjects, then what about a human in a persistent vegetative state? Are such individuals 'former subjects' in the way that a full-term fetus

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[35] Immanuel Kant, *Critique of Judgment*, (315), (Hackett Publishers), p. 183.

might be considered a 'future subject' or an embryo a 'potential subject'? If we find it morally and legally justified to grant decision-making authority to adults by virtue of certain capacities for understanding, then why should we not also be prepared to grant decision-making authority to those older children and adolescents who display those same capacities? The imaginative use of analogy can help us resolve certain inconsistencies in our thinking and can also help us see the way toward possible compromise solutions where the analogy is not a perfect fit. Though some children and many older adolescents, especially those suffering from terminal illnesses, display the capacities needed for competent decision-making, they display them less consistently than adults and still tend to be part of a complex relationship involving parents or guardians. The doctrine of pediatric assent is essentially a compromise between allowing full consent from minors and disregarding involvement entirely in order to protect parents' rights.[36] And this compromise was arrived at in part through the imaginative use of reasoning by analogy about the moral decision-making authority of competent and incompetent adults.

Sometimes what is needed to end moral deadlock is something more contrary to the existing positions and assumptions, and this brings us to role of iconoclastic imagining. Kant thought that the play of the imagination becomes engaged when our attempt to express something exceeds the limits of our existing concepts. I think this captures the phenomenon of avant garde art as well as the attempt to construct solutions to serious and unprecedented

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[36] American Academy of Pediatrics, Committee on Bioethics, "Informed Consent, Parental Permission, and Assent in Pediatric Practice," *Pediatrics*, vol. 95, no. 2 (February 1995), pp.314-317.

moral conflict. In such cases the conceptual categories of experience stretch beyond capacity, beyond their usefulness in capturing and articulating the problem at hand. When this happens, the time becomes ripe for alternative concepts and alternative solutions. We have for the most part rejected the once prominent moral category of "dutiful slave" as an incoherent moral category, just as we have rejected much of what is normatively and metaphysically implied by Aristotle's Great Chain of Being. At one point, it took iconoclastic thinking to break away from those concepts. The Gay Rights movement is a good example of current iconoclastic moral thinking about the moral meaning of 'marriage' and 'family' with potentially significant implications for the moral and legal status of same-sex married couples. The changes are occurring in incremental compromises between the iconoclasts and the moral and legal conservatives, with some states recognizing same-sex cohabitation. In its more dramatic form the human imagination prevents us from resting on the laurels of an overconfident morality.

Two correlative capacities of moral imagination are our capacities for sympathy or empathy, and disengagement and reflection[37]. To get to the negotiating table at all requires the basic moral shift in thinking of oneself as one among others. The further step required for striking compromises with others is a certain degree of sympathy with the equally precarious predicament of others, who, like oneself, want to see all that they believe to be true, realized in the decision and who may experience concession as a deep personal cost. It

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[37] As Christine Korsgaard has argued, along Kantian lines, the human capacity for reflection is what gives rise to morality. See *Sources of Normativity*, (Cambridge: Cambridge University Press, 1996).

requires sympathetic thinking to imagine the other, not as a powerful threat, but as someone equally afraid of losing or of being shown to be mistaken, of being challenged. It also helps to listen sympathetically to another make the case for the other position. How did the person come to hold the moral values they hold? What is the history behind their moral claims? What do these values mean to the person? Moral imagination as sympathy requires not only that you know *that* someone believes something, but also why and how they believe it. A good candidate for international "Enemy Number One" right now is the Taliban of Afghanistan. This group has quickly established a record of severe rights violations, especially of women, young girls, and through the excessive use of punishment for crimes like theft and adultery. Most recently there has been a worldwide furor, panic, and sadness over the Taliban's destruction of the priceless cultural artifacts, the Buddhas of Bamiyan. Human rights groups have tried to seek change with this group and recently, an envoy of representatives from other Islamic groups traveled to Afghanistan to try to stop the destruction of the statues. Such attempts at negotiation have been unsuccessful, but one writer's observation struck me as a way forward. Paula Newberg, a former advisor on Afghanistan to the United Nations observes, "The Taliban as a whole are a phenomenon of war, and I think even their attitude toward women is a phenomenon of war rather than a phenomenon of Islam."[38] The effects of being immersed in a violence-soaked environment in a war that has gone on for twenty years, to be deprived of stability, safety, and hope for the future, deprived also of education, the implications of this are difficult but important to

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[38] Barbara Crosette, "Taliban: War for War's Sake," *The New York Times* (March 18, 2001), section 4, p. 2.

imagine. This I think is a really remarkable insight, a sympathetic insight into the context and predicament of a very unsympathetic group. The way forward may be to first try to sympathize with the conditions and history that has precipitated the group's reactionary response. Appreciating the context of violent chaos may help us understand what it is they feel is at stake (a return to violent chaos). Offering alternative means for achieving the stability they so badly need, other than the return to a very violent, narrow, and inappropriate invocation of Muslim law. Appreciating the position of the Taliban is the first step to striking a resolution of this conflict and one that deeply challenges our capacity for empathy. Exercising this capacity is most difficult when we are trying to identify with someone more vulnerable than ourselves, more powerful than ourselves, or someone whom we feel certain is committing an egregious moral error. It may also be most important to exercise the capacity in these difficult situations, given the price of a failed compromise. I will return to a discussion of substantive asymmetries in the moral views at stake or among the agents in terms of the strength of assertions or power of position, in chapter four.

The correlate to imaginative empathy is imaginative disengagement. Much has been written on the importance of taking "the moral point of view", of the Ideal Observer, and this remains a crucial way of exercising imaginative disengagement in order to gain objectivity of perspective on moral disagreements. There is another form of imaginative disengagement that is also important to compromise and that involves gaining some emotional distance rather than only cognitive distance. I think both are important to successful compromise. The imagination can help us empathize and feel deeply about the others involved in a conflict, but sometimes feeling too deeply, especially about one's own cause, can impede resolution.

Though it would be a mistake to strip all passion from our deep moral commitments, it is important to realize the degree to which passion can blind us and make it difficult to see the wisdom in considering compromise (or the wisdom in opting for a less violent form of "walking away", or separation, as described in chapter two). Our imagination can help us exercise real emotions in a direction that is supportive of peaceful compromise. Aristotle first noted the imagination's capacity to free us from emotion in a way that sense perception does not.[39] I may form an image of Hanibal Lector, but I will not feel the rush of adrenaline that would accompany meeting him in a dark alley in Florence. Aristotle's understanding of theatrical tragedies was that it could be emotionally cathartic in this way (contrary to Plato who believed it to be an incitement). Personal Defense classes often ask women to imagine being attacked or even raped in order to face the emotions associated with such a violation and to empower oneself to more calmly face a real attacker, allowing one a better chance to cooly strategize in the heat of the moment. So there is this cathartic role for emotional imagining that enables unclouded judgment and emotional disengagement when needed. There is also a second sense in which emotional imagination can help us can help us gain perspective on a difficult disagreement. We sometimes imagine what we would do and how we would feel if a loved one were seriously hurt or ill, even dying.[40] Imagining this scenario, while difficult and accompanied with feelings of real sadness, is not nearly as difficult

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[39] Aristotle, *DeAnima*, 427b22-23.

[40] A very useful time for this exercise is when one is in a serious and heated argument with the person, but that unfortunately might also the time when it is easiest to imagine the person getting bitten by a rabid dog with some glee.

emotionally as the actual experience would be, but it is painful enough to put the disagreement in perspective. In this way imagining the worst-case scenario can help us to consider and work through otherwise inconsiderable solutions. This ability can prove especially valuable in direct or preventative compromises, in our attempts to ward off the protracted and costly conflict. We can imagine the worst possible outcome, and the emotional cost associated with that outcome, then return to our other modes of imaginative reasoning and imagining of possibilities in light of this new emotional frame of mind. Both kinds of imaginative disengagement are really shifts in perspective that are brought on by a special kind of hypothetical emotional *engagement*, and so somewhat ironically, emotional disengagement depends on our capacity for imaginatively engaging with oneself emotionally. It is an attempt to harness the right sort of emotions and to bracket the emotions of anger, bitterness, hostility that can cloud even our own real interests as well as our overall sense of what is at stake in the disagreement. We are engaging some emotions and disengaging others.

The final form of imagination, imagination as a kind of self-deception, serves, as we have seen, as a vital capacity for surviving compromises that are not of our own choosing or ones that are simply too costly to bear. This kind of imagining can take the form of wishful thinking, mental distancing, and rationalization. This sort of imagining is unlike the other capacities for imagination in that it is protective and reactive rather than productive and engaged. It does not typically get us any closer to a long-term resolution of the problem at hand, though it may buy us valuable time for reconsidering options, stalling costly outcomes, or just time for "cooling off". The abilities that I considered in great detail in the last chapter

can help us survive and cope with unavoidable moral losses of compromise, but at a psychological distance. The price of a long-standing use of imaginative deception is very much like the problem of weakness of will. The internal conflict, left unchecked, can lead to conflicting emotions, actions, allegiances, as well as the accompanying frustration, anxiety, mistrust from others, lack of self-respect and thwarted goals. It does, however, serve a crucial temporary function for those special cases of defensive compromise, and even a longer-term function for very deep-seated and intractable moral disagreements, when the separation takes the form of long-term procedural or geographical separation.

There will be limits on the moral imagination (as there were on "doubling" as a protective strategy in defensive compromise). Impossible claims and solutions that create practical contradictions will limit the extent to which the fruits of our moral imagination can be harnessed in actual choices. For Kant,

> [T]he faults of the imagination are that its inventions are either unbridled or unruly. The unruly invention is the worst kind. Unbridled inventions can find their place in a possible world (that of fable), but unruly inventions cannot find their place in any world because they are self contradictory."[41]

Tensions and fictions can remain instructive and insightful, just as the example of a novel's hero or heroine, though mere fiction, can suggest possibilities to us; so too can a wildly divergent suggestion or iconoclastic thinking suggest a paradigm shift in our understanding that may ultimately point the way to a compromise resolution. Introducing blanket

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[41] Immanuel Kant, *Anthropology*, p. 72.

contradiction does not help us solve a moral disagreement, but the recognition of existing

contradiction between values is often motivates the search for a compromise or synthesis

solution.[42]

The other limit on imagination in conflict is its inherent open-endedness. How do

we choose between the numerous perspectives and imaginings delivered up by the parties

to a disagreement? Imagination, like direct sensory perception, is subject to "blind spots" and

other perceptive biases. Two people can look at exactly the same object and see two

completely different things. Kant offers the example of Helvetius, "a lady looked through

a telescope and saw in the moon the shadows of two lovers; the clergyman, who

subsequently made the observation, said 'not exactly Madam; they are two belfries of a

Cathedral'."[43] A more mundane example is that of the eye witness to an accident. There is

a reason why police officers do not stop with one eye-witness account, but rather try to piece

together the "True account" by identifying areas of agreement and contradiction in the

various accounts of witnesses. We suffer from similar perceptual biases in our moral

perceptions, and so in the ways we choose to describe the very conflicts we find ourselves

in, and we have seen how this poses problems for determining greater potential fallibility in

a disagreement. Where a pro-life advocate looks at fetal tissue research and sees "complicity

in murder", a pro-choice advocate may see "two separate and morally licit acts, abortion and

beneficial research"; still a third person who thinks abortion is an immoral act but sees also

the benefit of the research may see "beneficial research which is making the best out of a

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[42] On a grander scale, it might be helpful to think in terms of Hegel's insight into the role of contradiction, or thesis and antithesis, as precursors to a possible compromise or synthesis.

[43] *Ibid*, p. 69.

moral mistake." Here we have three very distinct normative descriptions of the same act. This is not surprising when we consider the nature of moral beliefs as opposed to those based on mere sense-perception and learning. As discussed in chapter one, moral beliefs are unlike ordinary beliefs about reality in that they carry a heavy emotional and identity-conferring component in addition to the cognitive component of ordinary beliefs. My moral beliefs, more so than my beliefs about dark matter or the cause of the American Civil War, are emotionally charged in ways that can bias my perception of a disagreement over abortion, despite being fairly objective in a disagreement about black holes or the role of historical significance of the Battle of Bull Run. The only way to handle the problem of the multiplicity of perception is to recognize the risk of bias and expose our imagingings to the imaginings of others, along Millian lines, for the value of free expression.

It is true that we have a tendency to suffer from moral blind spots and "deaf" spots when trying to see clearly toward a solution to a value conflict, or when trying to listen to an opposing view. Pushing our capacity for resourcefulness in moral thinking, we can begin to compensate for our blinded or deafened moral senses. Our ability to reason creatively in moral conflict is not so unlike our ability to rely on our other senses when one is impaired. Kant recognized this sense of imagination as resourcefulness by noting the way in which a blind person will compensate for the missing sense of sight through heightened imagination and use of the other senses, feeling size and shape through touch, perceiving space through echoes and reverberations.[44] Helen Keller was able to compensate for her loss of sight and hearing with an astoundingly acute sense of smell. Simply by smelling people she could

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[44] Immanuel Kant, *Anthropology from a Pragmatic Point of View* (1978 ed.), pp. 47-48, §22.

decipher the sort of work they did or where they had come from. "The odors of the wood, iron, paint, and drugs cling to the garments of those who work in them....When a person passes quickly from one place to another, I get a scent impression of where he has been - the kitchen, the garden, or the sickroom."[45] She also enjoyed music through vibrations in the radio or by pressing her fingers to the singer's lips. If you read the accounts of the great peacemakers and diplomats, especially those faced with moral conflict on a grand scale like former Israeli Prime Minister, Yitzhak Rabin and former Secretary of State, Henry Kissinger, you see just this kind of resourcefulness and surprising reliance on capacities other than direct communication and deductive reasoning. In the heat of conflict and an attempt to find a resolution it is almost as if they were relying on a sixth sense, a moral sense.

In research on the senses this phenomenon is sometimes described as "synesthesia", the ability to translate one sense in terms of another, or to rely on a concert of senses in way that almost seems like a unique way of perceiving.[46] It is often attributed to musicians that are strikingly "visual" in the architecture of the music as we see in the work of Bach and John Cage, or in vivid and complex mappings of feeling and emotion as we experience especially in the work of Beethoven or the contemporary Tango music of Astor Piazzolla. Or a visual artist that makes the observer feel, hear, and smell things—a great example is one of Susan Rothenberg's recent paintings of a horse going to water in the early morning, or the noisy, clattering warmth of the early Dutch paintings of mealtime and drinking. These artists' capacities to traverse sensory boundaries with great genius and insight are truly exceptional

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[45] Reprinted in Diane Ackerman's, *Natural History of the Senses* (New York: Vintage Books, 1990), p. 23.

[46] Ackerman, pp. 287-299.

and we can find exceptional correlates in the realm of moral decision-making.

The truly great diplomats and the less famous but trusted and wise arbiters in Synagogues, Churches, schools, hospitals, Congress, courts, often have one trait in common, and that is this somewhat rare ability to sense a balance and proportion to a moral conflict, a sense of visual salience, what is most important, what is ancillary, what relates to what, what is a fair outcome, what do they hear people saying, what are people *really* saying, what is at stake, how do we see, hear, and reason past it all. While the capacities of moral imagination that I have described are capacities that most of us probably have and can learn to exercise, this last sense of moral synethesia is something like a moral sixth sense, but more likely a very special kind of person. Such a person who embodies a deep wisdom that is at once sophisticated and natural, is rare in the way that a Bach or a Rembrandt is rare, and can serve as an ideal example for those of us who remain unable to envision a way past moral conflict.

IV. CONCLUSION

In the last chapter I argued for a minimal form of moral compromise based in part on the psychological nature of moral commitment and also on certain psychological capacities to accept compromise under difficult circumstances and yet to minimize the harm done to our commitments. Here I have argued for a more positive, direct form of moral compromise, appropriate in those circumstances where we are among others who are open to debate and negotiation. Here too, I tried to show that we have the capacity to successfully embrace this account of compromise, that it is not too demanding from a practical point of view. The most

straightforward understanding of the moral imagination is that it is just our application of our imaginative capacities to moral problems, questions, and conflicts. I have tried to show that there is a much broader and deeper way of harnessing the imagination in the service of conflict resolution, that there are imaginative capacities specific to moral reasoning, and we would be wise to try to cultivate these capacities. The imaginative capacities can help us to stretch beyond our accepted assumptions and beliefs, our perceptions about a particular dilemma or conflict, and to seek alternatives or new combinations of values. The call for using the moral imagination is a call to do more to sort out conflict, and more to reach an understanding over continued conflict when the alternative is costly protracted conflict or moral isolation.

CHAPTER FOUR:

THE LIMITS OF COMPROMISE

I indicated in the introduction to this project that I wanted to challenge two misconceptions about moral compromise: the view that compromise is not open to a normative defense but is rather that pragmatic remainder that is left over when our moral theories fail us, and the view that, even if we could offer a normative defense of compromise, it would surely be impossible to offer a defense that takes seriously the experience of firm believers. I hope, through the arguments I have offered to this point, to have called into question both of these assumptions about compromise. Throughout the positive defense of compromise I focused on the best case that could be made out for each type of compromise: bargaining over morals, separation compromises for the firm believer, and engaged compromises for the firm believer. I now want to consider in greater depth, the normative constraints that might be imposed on these types of compromise.

I will consider two kinds of constraints. The first kind of constraint involves the fairness of particular compromise outcomes, how in particular we should handle certain substantive imbalances between the views at stake in a disagreement. The arguments in chapter one support a fairly limited, but still important defense of compromise as a means of maximizing one's moral commitments, insofar as one's commitments fit the preference maximizing model. Among such agents, many will recognize a commitment to fairness in one's dealings among others, and so in the first section I will offer several rules-of-thumb for fair compromises, several of which will apply to moral bargainers who share a value for

fairness. Other rules of fairness can be generated from the fallibility argument and will apply to compromises among firm believers, as described in chapter three. When fair outcomes elude us, the default constraint is an appeal to tolerance.

The second kind of constraint I will consider involves internal and external judgments about an agent's relationship to compromises: appeals to complicity and moral integrity. The arguments in chapter two support various means of putting distance between our firm moral beliefs and compromises that enable us to mitigate the severe cost of moral conflict among others. Though this distance provides often the only means of protecting one's beliefs, it may not shield the agent from responsibility for the compromise. An appeal to moral complicity can help us capture this idea. The arguments in chapter three supported an engaged form of compromise that even the firm believer will have good reason to consider in disagreements with others who express willingness to consider compromise. There, I suggested that even moral change of mind and moral learning can involve compromises with one's original views, especially as viewed from fellow believers who do not share one's shift in thinking. I think we should take seriously the commonsense belief that what appears as learning to the agent might appear as a loss of integrity to others, a betrayal of one's original beliefs. And the most viscerally persuasive cases made against compromise remain the emotionally charged Hamlet pleas, "This above all: to Thine own self be true."[1] Emotive or not, I think such pleas resonate with many people and give us reason to take seriously the claims of conscience and authenticity as possible limits on directly chosen compromises. Whether or

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[1] Shakespeare, *Hamlet*, Act I, scene iii.

not these various appeals to integrity can generate firm limits on compromise remains to be seen. I will begin, then, with a discussion of fairness, and end with an examination of complicity and integrity.

I. Appeals to Fallibility, Fairness, and Tolerance

The maximizing approach to compromise captured a very basic and intuitive defense for compromise, this idea that having at least some of one's moral commitments represented in a choice is better than having none represented. I argued that the range of agents to which this model can apply is seriously limited. People with firm moral commitments, or at least pockets of firm commitments, and people with areas of uncertainty among their moral commitments, will not be moved by the maximizing argument for compromising over moral commitments. For such people, I offered the arguments in chapters two and three. But for those people who are able to reduce moral commitments to preferences and do have a sense of what relative weight to assign these commitments to handle cases of conflict, it may still be important to consider more nuanced approaches to maximization that include other-regarding appeals to fairness among the agent's preferences or fairness appeals as generated from an ideal spectator account of preference maximization. As I mentioned in chapter one, maximizers may recognize, among their preferences, a preference for fairness, an appreciation of the instrumental value of fair dealings among others. The firm believers engaging in direct compromises as discussed in chapter three, may also have good reason to recognize appeals to fairness as generated by the argument from fallibility. I will begin first with the considerations of fairness that hold for firm believers who may be fallible, then turn

to the considerations of fairness that may govern compromises between more straightforward maximizers, as discussed in chapter one.

The general maximizing argument from chapter one was aimed at getting the moral bargainer to the bargaining table. The arguments from avoiding conflict, underdetermination of value, and fallibility of belief aimed at getting the firm believer (and others) to the negotiating table, and reinforced the value of seeking compromise solutions. However, none of these arguments can help us determine what would constitute a fair distribution of concessions when a substantive normative asymmetry exists between the parties, whether arrived at through bargaining or through the moral learning process defended in chapter three.

There are at least four significant asymmetries that can exist between parties to a moral disagreement, and identifying them can help us construct rules of thumb for evaluating the fairness of particular compromises. George Sher, in his discussion of abortion policy and compromise, has identified two relevant asymmetries that might exist between parties to a moral disagreement and has suggested than any theory of compromise should take these asymmetries into account. The first asymmetry is revealed by a hypothetical question about fallibility: Which position, if mistaken, is the more seriously wrong position? So it is an asymmetry in potential wrongness. The second asymmetry identified by Sher is an asymmetry between non-moral self-interest and our duty to protect the interests of others. In addition to these, I think there are two further asymmetries worth considering. The third asymmetry is a variation on Sher's second suggestion and occurs when self-regarding moral commitments (not merely self-interests) come into conflict with our obligations to protect

the moral interests of others, especially vulnerable others. And the fourth is an asymmetry between degrees of belief and arises when even firm believers or moderately firm believers attempt to compromise with extremely radical firm believers. I will consider each of these in turn, beginning with the fallibility test.

The fallibility argument from chapter three seems plausible when the parties to a conflict are in epistemic equipoise regarding the status of the moral views at stake, but what happens when there are substantive moral asymmetries within the disagreement? George Sher has raised concerns about two possible asymmetries in the context of compromising on the abortion debate.[2] The first is hypothetical in nature: one side or belief, if wrong, might be much more seriously wrong than the other. The second morally relevant asymmetry arises when a disagreement involves duties to oneself versus duties to others. Sher suggests that in the first case, the party advocating the potentially more seriously wrong view has a greater burden of concession. In the second case, he claims that "We can morally compromise our own interests, but never our duty to protect the interests of others."[3] I'd like to consider both of these claims, offer a critique, and later use this as a basis for constructing rules of fair compromise.

On Sher's suggestion, more of a concession should come from the view that, if wrong, has graver consequences than the opposing view(s). In the context of the abortion debate, if pro-choice advocates are wrong about the moral status of a fetus and we permit

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[2] George Sher, "Subsidized Abortion: Moral Rights and Moral Compromise," *Philosophy and Public Affairs*, 10, no. 4 (1981), pp. 361-372.

[3] Ibid., p. 372.

abortions, then we are committing mass murder. If pro-life advocates are wrong about the status of the fetus and we prohibit abortions, then we are seriously violating the rights of many women to have control over their bodies. As described it is hard to deny that mass murder is much worse than mass autonomy violations and so the burden of compromise should shift toward the pro-choice advocates, since this position, if mistaken, presumably carries with it a more serious moral cost.

The difficulty with this proposed principle is that it trades on the assumption that we can agree on some common description of the disagreement, such that a hypothetical fallibility scenario has some teeth. So often what is at stake in deep moral conflict is the very understanding of the moral values involved; each side feels that the other fails to understand the very nature of the decision or behavior. The abortion debate is a perfect example. To reduce this debate to the question of the moral status of the fetus is to overlook numerous other moral considerations and beliefs on both sides of the debate. For some pro-choice advocates, belief in the sanctity of life supports controlled, early abortions, especially in cases of incest, rape, or teen pregnancy. Such advocates weigh the life of the young girl or woman and consider the statistics about unwanted pregnancies and the ties to child abuse and argue that, whatever the fetus' moral status, it would be wrong for consequentialist reasons to prohibit abortions in such cases. There are also pro-life advocates who focus less on the question of moral status and more on the role or divine duty of procreation. (The same person might make out an argument against homosexual sex or contraception, not because of moral status of the hypothetically unborn, but because they believe the proper function of sexual relations is procreative, and so should be heterosexual and without artificial barriers

to conception.) To further complicate matters, in the debate over the Hyde Amendment and the Medicaid funding of abortion, and in the Supreme Court debates over these issues, the debate was largely cast in terms of a debate over the conflict between Church and State, the issue of tolerating diverse moral views while supporting entitlements that may actively undermine some views and encourage others.[4] In light of just these few iterations on the abortion debate, which view is potentially more seriously wrong? It no longer seems so clear. And even if we stick to the initial common denominator of fetal moral status, and assume that we can pick out this description as the relevant description for the hypothetical fallibility test, it is not at all clear that pro-choice advocates would accept that they are more seriously wrong. Mass rights violations, possible deaths in back-alley abortions, all the social problems associated with teen pregnancy for both the mother and baby, erecting old barriers to women in the workplace—it seems quite plausible that the pro-choice advocate might make out a good case for the pro-life position being potentially more seriously wrong. If both sides can make out a reasonable case for being potentially less seriously wrong, especially if we are to take the limits of human fallibility seriously, how are we to run the hypothetical test, from what point of view or standard do we measure potential wrongness? This adjunct principle seems to beg the very question of its underlying principle of fallibility—over a set of important questions, it assumes we can know the very answers that are in doubt. The proposed fallibility test assumes that we can agree on a common understanding and description of the beliefs and values at stake. A certain degree of shared certainty is needed

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[4] See George Khushf, "Intolerant Tolerance," *Journal of Medicine and Philosophy*, vol. 19 (1994), pp. 161-181.

in order to jointly apply the test. (And one might argue that such minimal certainty exists in the abortion debate over the question of the moral status of the fetus. In most serious moral debates we do not have minimal areas of agreement where a fallibility test can take hold.) It is one thing to recognize the force of a general appeal to fallibility, the possibility that we might be wrong in our beliefs, and this generates a strong reason to consider arguments against one's view, but it is significantly more demanding to ask opponents in a moral disagreement to settle on an account of who is potentially the more seriously wrong. The answer from each, given that they are in deep disagreement, is likely to be "the other guy". To begin to see that *your* position is the one that is potentially the more seriously wrong of the two is to already enter well into the kind of direct compromise discussed in chapter three. It is to begin to see the force of the counter position and the evaluation of one's own position as being more precarious, more dire, and to accept a stronger burden of compromise as a result.

In conversation, George Sher has suggested a more moderate position on the test, namely, one that requires that we make the greater concession when we *do* in fact believe that our views are potentially more seriously wrong. And some among the pro-choice advocates would accept this view and offer a greater concession. It is not clear how many serious moral conflicts will meet this epistemological condition, however. Another place for the counterfactual fallibility test is to use it in later stages of the moral learning process, one that is likely to enter in at later stages in a discussion when one of the parties has successfully

convinced the other of the greater potential seriousness of the other view.[5] If the parties to

reach that point in the moral learning process, then by the logic of the general fallibility

argument it does seem fair that the person whose position, if wrong, is more seriously wrong,

bear a greater burden of proof and argumentation than the other. I do not see that it follows

in any way from this admission of more serious counterfactual wrongdoing that this person

has an obligation to concede more *now*; afterall, they might be right. But by the potentially

serious consequences of their position, they may have a greater burden to prove their case

positively or to disprove the other position. In the abortion debate, pro-choice advocates may

have a greater burden to establish the lack of moral status of the fetus (or lesser moral status)

and to demonstrate the nature and extent of the harms done to women and unwanted

newborns, or adopted newborns, under a system of illegalized abortion or seriously restricted

access to abortion. That is very different than inferring from the counterfactual test that pro-

choice advocates should, ex ante, allow greater restrictions on women's access to abortion.

The fact is that a great deal of data has come in on the viability of developing fetuses, of the

capacity for survival and responses to pain. I think most pro-choice advocates have well

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[5] While the hypothetical fallibility test is difficult to apply in multi-party conflicts at the conflict's outset, it might still be useful at early stages in intrapersonal conflicts, with a single individual. One can imagine someone's reflections on moral conflict taking the form of Pascal's Wager. "If I'm wrong about this, then I have to accept consequence X" "If I'm right about this, then I have to accept consequence Y." Consequence Y is the more seriously costly belief to have, so I will choose the course of action and belief possibly leading to X. Since there is no other party to challenge the description of the relevant moral features of the choice, this might help an individual face a moral conflict with greater assurance. Of course someone might experience (as Pascal did) a kind of internal tug-of-war over the description, but this would probably be much less common than the difficulties that arise when there are multiple parties to a moral disagreement.

begun the direct compromise on abortion laws and policy, because this data supports a very different view on the moral status of the developing fetus. The warrant for this shift comes not from a counterfactual test of wrongness but from the present evidence about pain and viability. It is not possible on grounds of fallibility alone to push for any particular ratio of concession between parties ex ante. For that we need to appeal to a conception of fairness. Both the maximizer on morals who, among his preferences, recognizes the importance of fair dealings with others, and the direct compromisers, motivated by either appeals to fallibility or underdetermination, will be subject to certain conditions of fairness in the compromises they strike with others.

I'd like now to turn to the second type of asymmetry that can pose problems for achieving fair compromise, and several variations on it. The principle of compromise suggested by Sher, and mentioned previously offers a helpful starting point. Again, as he states it:

> Any account of compromise should reflect the principle that we have a greater burden to protect the interests of others over the interests to ourselves.

As it stands, this claim is ambiguous between several positions, but I take the following three to be the most significant alternatives: (1) Protecting the interests of others should always outweigh self-interest; (2) Duties to others should always outweigh duties to ourselves; (3) Duties to innocent others, not in a position to protect their own interests, should always outweigh duties to ourselves and self-interest.

The first version of the claim, and the way Sher states the claim, is too vague as it

stands. As I discussed at some length in chapter one, the notion of an interest is very broad and for our purposes, the more garden variety compromises over interests (such as what to have for dinner, which movie to go to, how to dress, which house to buy, etc.) are not relevant to the question of moral compromise and tend to obscure the more difficult questions about duties to oneself, rights, and duties toward others. To make the statement of the principle more relevant to moral compromise, I think we at least need to say that "protecting the interests of others" includes duties and obligations to others, and that by "one's own interests" we mean moral interests, such as concerns about moral integrity, rights, and obligations to oneself. To state it simply as a matter of self-interest versus moral obligations only allows us to say fairly obvious things like, "If you, an obstetrician, have to choose between compromising your interest in getting to your golf game on time or compromising your obligation to safely deliver your patient's baby without rushing the procedure or inducing labor, you should compromise your golf interests over your obligation to protect your patients' interest (mother and child)." So, the first principle of fairness in compromise is fairly uncontroversial, but is worth making explicit:

> F-1: We have a greater burden to protect and uphold our moral obligations
> to others over our nonmoral self-interests.

This formulation of a fairness principle trades on the intuition that the acceptance of morality in general implies a certain amount of self-sacrifice. That's what it is, we think, to take the moral point of view, seeing oneself as one among others. But this is not the whole of

morality, especially when we are concerned with the role of more personal and religious moral commitments, as we often are in cases of serious moral conflict. The more interesting and more difficult question is how to take seriously the moral requirements of faith, family, friendship, self-preservation and self-defense, health and well-being, when they come into conflict with (1) the mere interests of others, (2) moral obligations to uphold the rights or interests of others, and (3) duties to protect the rights or interests of innocent others, not in a position to protect their own interests. This seems to me to be the more robust set of problems implied by the self-interest versus interests-of-others statement.

When the mere interests of others clash with my moral commitments to self or family, despite the fact that the moral commitments are of a more personal nature, I see no reason why we should not treat this as inversely related to the case above, where my mere interests should be compromised before my duties to protect the interests to others should be compromised. We place the burden of compromise on the person whose mere interests are at stake. The Jehovah's Witnesses' right to live his life according to certain religious beliefs seems *prima facie* a more weighty consideration than the interest of the cardiovascular surgeon in getting through a quick surgery, one that involves a straightforward use of blood transfusions over the more complicated blood-saving techniques, when those blood-saving techniques are available to him. The Jehovah's Witnesses who have either as a group or individually gone toe-to-toe with various surgeons, departments, hospitals, and policy makers have, by the importance of their moral beliefs, put the *prima facie* burden of compromise on to those who have no principled objection to their views but only practical economic or efficiency interests at stake. The Jehovah's Witness is

right to protect and assert his moral beliefs when they come up against this sort of practical objection. (The internal logic of moral commitment may even require it.) And the physicians and hospitals are right to try to accommodate the commitments within their reasonable capabilities. The implicit argument behind this is the one offered in chapter one, the defense of moral commitment as an integral component of meaning in many people's lives. Mere practical interests are most often ephemeral and inconstant, having little connection to the person's sense of who they are and how they live. Our first assumption in considering particular compromise solutions should be to give *prima facie* weight to the moral obligations over the casual interests of others in the disagreement. More specifically, in the case of religious requirements, if they are correct in their beliefs, costs and violations of a serious and eternal nature may be involved. At the very least, from the agent's point of view, they believe that the violations are serious and eternal. This should be taken very seriously, for the reasons already discussed at great length in chapter one. It is important, though, to recognize that the principle is a prima facie rule—in particular it can be outweighed by the competing principle of "ought implies can". It would be too demanding for morality to require the impossible of those who find themselves in conflict with a firm believer. We can easily imagine situations in which the person who comes up against the moral believer is simply not able to bear the practical costs of what a compromise with such a person would require. It is within the means of many midsized hospitals to make some accommodation for those whose faiths and moral beliefs require special treatment, at the very least the sensitivity to assist in a transfer to a more appropriate facility. If the entire Jehovah's Witness community in Texas presented at a particular Houston hospital and demanded these

compromise treatments, the hospital could not be expected to meet the immense practical demands that this implies, fitting their facilities with the technology for handling bloodless surgery on such a large number of patients. But what in fact several regional hospitals have done across the country is to sit down and negotiate with representatives from this religious community and to discuss ways that the moral requirements of the patients might be honored within the limits of the hospitals' economic and practical interests. They have struck preventative compromises with the help of technological innovations and this has helped ward off the tragic moral emergencies that we discussed in chapter two. As a general rule of thumb, the presumption of greater compromise falls on the entity whose interests are nonmoral in nature, in this case the hospital. This gives us our second principle of fairness governing compromise over asymmetrical values:

F-2: We have a greater burden to protect and uphold our moral obligations
to ourselves over the nonmoral interests of others.

Should there be a shift in the burden of compromise when the conflict involves moral obligations of a more personal nature and obligations to uphold the rights and interests of others? The best examples occur in parenthood, politics, and the professions. In each case the agent acquires additional moral obligations to protect the interests and rights of others when the agent takes on a protective role, often a role involving greater knowledge and power over others. The asymmetry in the burden of compromise stems from the promise that is made—either explicitly in an oath or tacitly, by taking on the role with these established moral expectations associated with it. And arguably, the promise stems from a concern about

the abuse of power over vulnerable others.

Let's start with the last, with the professions. There is a view often expressed in the medical profession that physicians, by virtue of their fiduciary relationship to patients, have a greater burden to compromise integrity and legitimate self-interest when protecting self-interest would come at the price of sacrificing a patient's well-being and rights. On grounds of fairness, a staunch pro-life Catholic when considering whether or not to join the OBGyn department at an urban public hospital, should negotiate with her future partners and discuss whether or not they will be willing to accept her refusal to personally perform abortions. If that group is not open to negotiation or resents the burden that this places on the other members, she should seek another position.[6] It would be unfair to her colleagues to pawn off all abortions on them without negotiation, and it would be unfair to expect the patients and institution to yield to her beliefs when the very function of the institution is to provide basic minimum care to those who need it, regardless of socioeconomic background, ethnicity, or moral beliefs. She should join the staff at a Catholic hospital, or a private hospital that can make room for her serious moral concerns about abortion. It is not that her moral beliefs have no merit qua doctor, but that by choosing a particularly public role, she then puts herself in a position to either compromise or to wrongly foist her moral views on others.

Often professional positions offer the best avenue for both high-profile and low

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[6] If she accepts the position, even with such negotiations for separation of duties in place, as we will see in the next section, she may need to consider whether it is acceptable to be affiliated with a institution that performs abortions, whether she herself might not be complicit in the wrongdoing that occurs down the hall, by virtue of her membership in the operation.

profile moral crusading. Is this ever appropriate? Consider politics. By taking public office in a democracy a person takes on many associated duties to others—specific promises to constituents and supporters, the duty to fairly represent the voters rather than use the office for one's personal crusades and agendas, and certain duties to honesty and integrity as a public figure, and also the less clear obligations to uphold the institution or office (to uphold the honor and dignity of "The Presidency", for example). But in fact we often applaud that rare animal—the politician with a moral backbone—who is willing to take a stand on a controversial issue rather than subject us to the tortured verbal drivel of a moderate. In a democracy, constituents of a truly Millian bent might not care whether the politician voices views that are in opposition to her own, but when the politician compromises the values that were central to the campaign platform and upon which voters made their choice, then, as constituents, we feel betrayed. When the politician chooses to compromise he compromises his pledge to at least some voters. But if he chooses to be uncompromising in the voters' favor, he is upholding the interests of others he has sworn to protect. So when the professional's moral goals go hand-in-hand with protecting the rights and interests of others one has sworn or promised to uphold, the uncompromising behavior might be appropriate. A person who believes very strongly in equality and due process would be perfectly right to use the role of District Attorney of Chicago or New York or L.A. to assert her moral views. A lawyer and backer of the Arian Alliance has no place in the Anti-Defamation League. What matters normatively is the fit or lack-of-fit between the professional's moral beliefs and the understood and accepted goals of the profession (understood and accepted by the professionals but more importantly by the public who is served by them).

An important challenge to this general line of argument is raised by the value of the renegade moralists who go against the moral grain in order to challenge what they believe to be incorrect goals of the profession. Great good can come from this, in terms of needed moral change. Many still argue that there is no place in the medical profession for Dr. Kvorkian (and even palliative care or Hospice doctors). Aside from Kvorkian, physicians trained in palliative care use less drastic means of easing a patient's dying process and making the end-of-life more meaningful and less painful and yet are still referred to in the hallways as: "Dr. Death". What Kvorkian and others are doing is in part challenging the moral norms of the profession, asserting a substantive moral view about the importance not only of healing and cure but of easing suffering during death.

The argument for fallibility, I think, when coupled with the principle of fairness in compromise can make room for this exception. Insofar as a profession or institution is viewed as a moral agent of some kind, they should be held to the implied constraints of fallibility. As a profession, physicians might be wrong in their views and so they should make some room for moral advocacy, for example, on policy committees, oversight committees, and review boards. As moral advocates and reformers, the physicians still have an obligation to uphold the interests they have promised to protect, which may include not only patients but in some cases the institution and profession. This means that efforts at moral reform should be channeled into the appropriate forums for protest and resistance, consistent with upholding their promises to protect the interests of others, especially vulnerable others, like patients. This gives us a third rule for guiding moral compromise between moral agents in asymmetrical positions, where one has the power to compromise

the interests of others but has promised to uphold those interests.

> F-3: There should be a greater burden to compromise personal moral commitments when they come in conflict with the rights and interests of others whom you have promised to protect.

A slight variation on this principle captures those situations in which the others involved are especially vulnerable and unable to protect themselves or assert their moral claims on their own. The most common example would be the relationship of parent to child, but may include other relationships between those who have put themselves in a position to protect the interests of others (legal guardians, volunteers, social workers, teachers, guidance counselors) and those whose interests are especially vulnerable and who are not able to protect those interests without assistance (for example, people who suffer from mental illness or other forms of incompetency, people who are disabled, the elderly who suffer similar debilities, infants and children, fetuses in the later stages of development, animals).[7] The final proposed rule for governing fair compromises can be stated as follows:

> F-4: There should be a greater burden to compromise personal moral commitments when they come in conflict with the rights and interests of

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[7] The definition of vulnerable subjects will depend in part on the question of moral status, on what it is to be a moral subject. Obviously there is much controversy over the moral status of fetuses and animals, and it was not so long ago that we accepted the idea that children were the property of their parents. There is substantial consensus on the minimal position among opponents in the animal and abortion debates, that fetuses and animals are moral subjects of some kind, generating some obligations in others to prevent maltreatment and suffering. The case can be made out for stronger obligations, and there may also be additional subjects not mentioned here.

innocent others, not in a position to protect their own interests.

I would like to turn now to the fourth type of asymmetry that might exist between parties to a compromise. What happens when there is a significant imbalance between the strength and ardency of the views being asserted? Should we ever attempt direct compromise with believers who hold much more radical positions than our own? And by radical believers we should bear in mind an important distinction: The believer can be radical in his methods and tactics of negotiation, or the believer can be radical in the contents of his beliefs but not necessarily in the methods or tactics of bringing them about. The best example of the first type of person is the terrorist; the best example of the second type is the moral or religious zealot. Some people will be radical in both senses.

The conditions for direct compromise set out in the beginning of chapter three implicitly reject the possibility of directly compromising with dangerous or threatening individuals. The strategies in chapter two can help us defensively respond to threatening, even violent, pressures to compromise. I argued that in some cases, especially life-threatening cases, it may be right to attempt indirect, defensive compromise with a terrorist, but that these compromises often are psychologically costly, especially for the firm believer; they are often tragic. Should we ever attempt direct compromises, civil negotiations, with "reformed terrorists", persons not in the midst of an act of terrorism, but with a history of terrorist behavior? Given the conditions laid out earlier, including most importantly, a mutual willingness to consider concession, everything will hinge on the current attitude of the terrorist. Given the costs of protracted conflict, and presented with a Reformed Terrorist,

who consistently exhibits the willingness to negotiate, to consider mutual concessions, who does not use the threat of violence to push his claims, it seems reasonable to go to the table with such a person with an air of caution. This has been the great criticism of Rabin and his successors in the Middle East Peace Process, that they have negotiated with a terrorist, with a moral hijacker. Arafat has gone to great lengths to be perceived of as a statesman and to shake his shady past, but he remains only a few degrees removed from bloodshed and this history hangs about him, a shroud of irrationality and extremism. Once a person has proved capable of such tactics, they have permanently raised a barrier against future trust-relationships. There is a reason why we don't want a "reformed" rapist or "rehabilitated" child molester living down the block from us. Acts of violence cannot be wholly erased, no matter what our capacities for forgiveness. So, there is prima facie reason to wholly exclude the "terrorist on break" from peaceful attempts at direct compromise. With active moral hijackers, we are put on the moral defensive and we should revert to the arguments in chapter two. With the "reformed terrorist", when a great deal is at stake, it is reasonable to give the person a chance to demonstrate good faith, but an attitude of wariness and caution is completely appropriate in such settings, despite the risk that wariness can pose a barrier to successful dealings, as we have seen in the recent failed negotiations at Camp David II.

What about the second type of extremists, one who is not a terrorist in method by who holds unyielding beliefs? Is it possible to seek fair compromises with moral or religious zealots? In theory I suppose we might imagine an open-minded zealot who is able to suspend the attitude of extremism (fixity of belief, unwillingness to concede, desire to pursue his moral commitments at all costs or very high costs), and to engage in fair-minded reflection

and debate with others. Though in real terms, the act of suspending belief in that way *and* being a moral extremist are probably practically incompatible, at least very unlikely to coexist. But even assuming that the extremist can cultivate the appropriate attitude for considering direct compromise, will it ever be possible to strike a fair compromise with such a person? Unless the extremist is transformed by the arguments and comes to espouse more moderate views, it will not be possible to strike a fair substantive compromise with such a person, but it may be possible to find a third solution that circumvents the competing values at stake. In one sense, the moral extremist has unfairness built into his beliefs. If I split the difference with a moral fanatic, the fanatic will always win in an equal split. When he places himself among others, in a public setting where his position represents an extreme anomaly, the very fact of his extremism necessarily tips the balance in his favor. The default position of splitting the difference, given the moral extremist's starting point, will mean that any attempt to make an "equal" split will necessarily give more of substance to the extremist. With an extremist among non-extremists, all the non-extremists end up on the short end of the stick because the extremist's presence demands a greater concession, even if an "equal" concession. Compared to the moderate, the extremist may have relatively more to lose by compromising, given the firmness of his beliefs, but the extreme content of his beliefs mean that he will necessarily extract more from others.

What follows from this, I think, is not that it is impossible to strike fair compromise with extremists, but that the default of "splitting the difference" only works among relative moral equals. In compromise between non-extremists, given the relative affinity between the starting points, it will be more likely that they can find a third position or synthesis that

reflects partial elements of the starting positions. With an extremist at the table it will be more difficult to find a reasonable synthesis and more likely that the only acceptable compromise will involve circumventing the conflict with a completely different approach. The fetal tissue debate is a good example of this phenomenon. Without the most extreme pro-life advocates at the table, a more direct compromise policy could probably have been struck between the moderate pro-lifers and the scientists in favor of unlimited fetal research. Instead, the resulting policy is a complex moral gerrymandering around the issue of abortion, involving sometimes impractical and unnecessary separation between the parties involved. Accepting some inherent unfairness is one of the implications of taking moral commitment and the firm believer seriously in any account of compromise. It implies that the simple "splitting the difference" approach will not yield fair compromises with radicals at the table, and that more imaginative circumventing of the conflict may be the only mutually acceptable solution to the disagreement.

The crucial question is, how extreme is too extreme? In the end, the very arguments for engaged compromise limit the degree to which we can achieve fair compromises with moral extremists. The arguments for fallibility and underdetermination provide two important filters through which the attitudes of extremists must pass through. It is my hope that these two filters will appeal even to some extremists. As I discussed in the last chapter, the problems of fallibility and underdetermination are not problems faced only by liberal-minded pluralists. Even the religious extremist must ask, "Is *this* the Holy War?" "Is this person really the enemy?" "Is this what is required of me to be saved?" "What if I am wrong about this?" Many religious extremists will not be moved by these questions because to raise

the questions of fallibility or completeness is to question one's faith in Allah, God, or another divine authority. But even for someone pressing forward on the basis of faith and revelation, given what may be at stake if one is misguided in one's interpretation of scripture and revelation, these appeals may at least give them reason to pray on the matter, or to seek spiritual guidance and counsel. When one's spiritual counsel is Osama bin Laden, the negotiating game is likely up and hope for peaceful compromise will likely be defeated. But it is important to recognize that these arguments do have a chance of gripping firm believers such as this.

Martyrs, however, remain moral untouchables. We may pose the same questions about fallibility and completeness to a martyr, but when among those who threaten their beliefs, as in the cases discussed in chapter two, a martyr will by definition accept suffering and pain and even death, rather than apostasize. Nor will a martyr have reason to rely on the separation mechanisms offered in chapter two. The very sense of who they have chosen to be will be defined by embracing directly (or transcending) whatever trials are imposed on them by those who persecute them. The very harmful and costly outcomes that compromise is intended to avoid is the cost they are willing to bear. To the degree that moral extremists are willing and able to suspend the extremism and to seek peaceful compromise solutions, there is no reason why the outcomes cannot be relatively fair outcomes, representing those whose views are at stake. But the normative constraints of fairness on engaged compromise essentially require such a person, especially the martyr, to be something other than who they are, to cease being a "moral extremist" for the purposes of seeking peaceful resolution. In the end, the arguments motivate an attempt to negotiate with such individuals. If Yasir Arafat,

leader of one of the largest terrorist organizations in our history, can be brought to the bargaining table, there is hope for these arguments to succeed even among the extremists.

We now have four rules to guide us when there are morally significant asymmetries between the values or parties involved in a moral conflict. What if, at the end of the bargaining, at the end of reflection, debate, and moral learning, the values remain in conflict and/or the parties face a stalemate? If no compromise solution can be identified that all parties are willing to accept, the logic of the arguments bringing people to the table limit the form that "walking away" can take. Implicit in the arguments given so far for compromise, is an appeal to the instrumental value of tolerance, and something more, a respectful consideration of diverse views. Much has been written in the literature on liberalism about the bare notion of toleration versus the more robust conception of respectful toleration, or simply, respect for others.[8] An attitude of respectful tolerance, as discussed above, is one of the central conditions needed for compromise and moral learning. Its instrumental value lies in its role of warding off an escalation of conflict when the attempts at direct compromise fail. In his classic discussion of toleration, Robert Paul Wolff claimed the following about the conditions of compromise:

> The capacity to accept competing claims as legitimate is the necessary pre-condition of compromise. Insofar as I view my opponent as morally wrong, compromise becomes appeasement; if my own claims are unjust, I can press them only out of unwarranted self-interest. Tolerance in a society of competing interest groups is precisely the ungrudging acknowledgment of the

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[8] The classic discussion is, Robert Paul Wolff, *A Critique of Pure Tolerance* (Boston: Beacon Press, 1965).

right of opposed interests to exist and be pursued.[9]

Of course the last puts us exactly back into the situation of scarcity, with our mutual attempts to exert our influence to realize our beliefs, within the constraints imposed by others. The cycle begins again. Normatively, the same grounds exist for compromise, only now there will be a history of attempted compromise by the parties who find themselves at an impasse at the end of the process, and this may alter the practical picture significantly. Where exhaustion does not lead to concession, it may lead to a loss of hope for peaceful reconciliation. Having a history of failed attempts at compromise and resolution might wear down the parties and eclipse the prospects for ever arriving at an acceptable solution. All out war may seem the only viable option in our moments of severe pessimism. But I do think our post-nuclear history shows this not to be true. Even with moral extremists, the blunt argument remains for seeking compromise and for encouraging the minimum conditions of tolerance as a means to reviving failed compromises or launching new attempts. The cost of doing otherwise is simply too great.

We see this cycle repeat throughout history and in the smaller stories of conflict that pass beneath the public radar, in local politics, among local religious groups, in corporations, in small towns, in academic departments, in families. When the normative arguments offered meet with practical failures, what can we do to bootstrap ourselves out of this costly situation? One possibility is to identify the capacities that would make us more successful

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[9]   Robert Paul Wolff, "Beyond Tolerance," in *A Critique of Pure Tolerance* (Boston: Beacon Press, 1965), p. 21.

in overcoming conflict and try to encourage them through moral education, as I discussed at some length in chapter three. Another is to support the mechanisms that make possible separation between firm believers and compromise. Both types of compromise impose costs on the firm believers and I would like to shift now to a discussion of the normative limits on separation compromises and engaged compromises, specifically, the degree to which agents relying on separation compromises are complicit with the compromise and the degree to which direct compromises as part of moral learning might violate the agent's integrity.

II. Complicity

In chapter two I discussed several forms of indirect compromise. Separation compromises often provide the only way of minimizing the damage done to firm believer's commitments in serious moral conflicts. This kind of compromise is characterized by varying degrees of psychological distance from the compromise outcome, whether it be through reliance on different roles, double-effect arguments, use of an arbiter, procedure, or symbolic gestures. This kind of compromise offers us a crucial means of damage control, but it is not without a price to the agent. As I discussed in chapter two, there are some firm psychological limits on the degree of doubling that an agent can do and remain sane; severe forms of psychological "doubling" between one's roles can lead in extreme case to a form of mental illness, schizophrenia, if not at least very serious cognitive dissonance. I would like now to consider an important normative limit on separation compromises, namely, the degree to which a firm believer who relies on a separation compromise is open to charges of complicity in wrongdoing, if the compromise represents even partially something that the

agent or others believe to be wrong.

Complicity is used in both legal and moral contexts to evaluate certain kinds of relationships between agents and illegal and or immoral acts. Typically the complicit agent is not the primary wrongdoer but rather an accomplice to the wrongdoing, like the person who drives the getaway car in a bank robbery. What distinguishes complicity from direct wrongdoing is that there is some normative distance between the agent and the primary wrongdoing, but still a connection to the act. Just how much and what kind of connection is needed for the secondary agent to be complicit depends on the theory of complicity that one endorses. This is not the place to defend such a theory, so I will instead offer a mapping of possible evaluations of indirect compromisers based on the central distinctions that others have offered in the literature on complicity.

An appeal to complicity can help us evaluate the relationship between the firm believer and the compromise that is assented to. Insofar as that compromise represents some wrongdoing, the indirect compromisers will be complict with that wrong. Establishing varying degrees of complicity will then help determine the degree to which these agents are responsible for their involvement in bad compromises. As I discussed in chapter three, the compromise may be judged as appropriate from the point of view of the parties to compromise, but inappropriate, even evil, from the point of view of firm believers on each side of the argument, not party to the compromise. Many people think the current policy on fetal tissue research is a good compromise between very difficult opposing positions. Absolutists among some of the pro-life groups find the compromise unacceptable, morally wrong. For the pro-life representative who signed off on the policy because he thought it

represented the best means of "damage control", this is a "least worst option," but better than not being involved, better than doing nothing. The strident pro-lifers may very well say of their colleague who sat on the committee, "You sold out. You were party to this deal; you cast a vote, and as such you are complicit with wrongdoing." So, what complicity does in judgments of indirect compromisers is to serve as a normative placeholder that marks the space between agents and indirect compromises. Once that space has been identified, then the nature of the connection between agent and compromise needs to be established.

Establishing a relationship between secondary agents and primary wrongdoing is a way to map responsibility and attribute blame. For a complete account of the connection, we need to answer the following questions: (1) Was the agent causally connected, or merely associated with the compromise? (2) Was his relation to the compromise voluntary or accidental? (3) To what degree was the compromise foreseen or intended? Once the nature of this connection is clarified, and with a theory of blame in hand, we can determine responsibility and assign blame accordingly. The degree of responsibility will depend on the particular account of complicity that one accepts.

On the bare causal views, the agent must at least affect the shape of the compromise outcome; his action or failure to act must make a difference in the moral compromise, in order to be complicit in the moral compromise.[10] If a pro-life scientist on the fetal tissue committee voted in favor of the compromise policy on fetal tissue research, in his role as researcher, insofar as his vote made a difference in the outcome and made the compromise

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[10] See for example, H. L. A. Hart and A. M. Honoré, *Causation and the Law* (New York: Oxford, 1959).

policy possible, he is complicit on the causal view with the compromise and with what is wrong in the compromise from the pro-life advocates' point of view. In the Jehovah's Witness case, involving a parent who allows an arbiter to decide whether or not to transfuse the child, knowing what that arbiter will choose transfusion under current law, that parent is complicit in the child's transfusion. The parent always had the option of not bringing the child into the hospital. Most accounts of complicity require not only a causal connection but a condition of voluntariness as well. If someone threatens the pro-life scientist's life or career, forcing him to vote for the fetal tissue policy, then on some views the degree of coercion will mitigate complicity in wrongful compromise.

There are others who hold that non-causal and even non-voluntary relationships to wrongdoing can make one complicit. On the endorsement view of complicity, direct causal relationships could be absent, but a connection by endorsement or approval still makes the agent complicit in the compromise. Pro-life advocates could argue that the judges who signed in the majority on *Roe versus Wade*, even though they were acting in the capacity of Supreme Court Judges, not private individuals, were complicit in the abortions that were allowed by the new Constitutional protection. In this case it is not necessary that the new legal permissions lead to any particular abortion or even an increase in abortion; what matters is that the Judges endorsed the act through law. A dissenting vote, on the other hand, can disconnect the ties of approval between the judge and the compromise over abortion. Richard Doerflinger has argued that anyone who benefits from evil is complicit in the primary evil and so those who conduct research on fetal tissue, no matter how valuable the

research, are complicit in the abortions that produced the tissue.[11] In fact, the *more* valuable the research, and the more benefit produced, the greater the level of complicity is, on this view. On this view of complicity, the scientists who used the nutritional or hypothermia data from the Nazi experiments are complicit in the horrors that occurred during those experiments in the camps.[12] What the establishment of moral complicity on each of these accounts allows us to do to varying degrees, is to identify the relevant connections to wrongdoing and then to attribute responsibility for wrongful compromises. I do not wish to defend one account of complicity over another at this point, but want only to show through this canvasing of the different positions, how separation compromises, though valuable for firm believers, do not free the agent of responsibility for elements of wrongdoing in the compromise.

There are two issues that I do want to address, specifically. The account of separation compromise that I defended relied on the psychological capacity of "moral doubling" to varying degrees, creating another self or persona or role to handle the difficult matter of compromise, while the primary self maintains belief in the moral commitments conceded in the indirect compromise (whether a law, procedure, policy, or act of a representative or

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[11]   Richard M. Doerflinger, "The Ethics of Funding Embryonic Stem Cell Research: A Catholic Viewpoint,"*Kennedy Institute of Ethics Journal*, vol. 9, no. 2 (1999), pp.137-150, and John Robertson's discussion of the no-benefit view of moral complicity in, "Ethics and Policy in Embryonic Stem Cell Research," *Kennedy Institute of Ethics Journal*, vol. 9, no. 2 (1999), pp. 109-136.

[12] A counter argument to this position is that one can use the tissue for good and thereby bring some good from a terrible wrong that was out of one's control, and already done. On such an argument, you are not doing evil so that good may come, but the evil is done; the question is posed *ex post*, what good can be done?

arbiter). This phenomenon raises a special problem for our common understanding of complicity relationships. Clint Parker, in his work on moral complicity, supports the view held by others who have written on this topic, that the complicity relationship is not reflexive: "A person cannot be complicit simply by being related to himself or by being related to an immoral act of one's own doing even if this act occurred at a different time in the person's life."[13] All of the cases of separation compromises involve moral doubling to some degree. I do think that some of these cases create a peculiar sort of complicity between the primary self and the moral double. In cases of extreme survival doubling, such as the Jewish physicians who complied with the orders of the Nazi physicians and helped carry out euthanasia procedures and other crimes, clearly the prisoner physicians committed these acts and were directly, causally responsible. We might excuse them or show compassion for what they did because of the level of coercion involved, but complicity does not really seem to be a useful or plausible concept in such cases. I suppose we can imagine an ex prisoner saying to himself, "it was not me, the person who committed those acts, but the person I am now feels shame and feels responsible for those acts"; complicity might then explain the fact that no matter what the current person feels, the person he is now is morally connected to that prior self and his actions and is complicit with those past crimes. The case of reflexive complicity that seems more plausible, and less radical, I think, is the case of indirect compromises through a reliance on one's different roles. Going back to Rabin again, one way to explain the anguish that Rabin often expressed in his more private moments about the

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[13] Clint Parker, *Moral Complicity*, Doctoral Dissertation (Rice University, forthcoming), p. 1.

kinds of compromises he agreed to as Prime Minister, would be to explain it in terms of

complicity. Private Rabin felt as though he was complicit with Public Rabin. As Leah Rabin

watched her husband symbolically close the peace deal by shaking hands with Arafat, the

enemy, she, perhaps more than anyone else, appreciated the difficult division in her

husband's personality that made such a gesture uncomfortably possible:

> Did Yitzhak intend to shake Arafat's hand? Surely, he had mixed
> feelings—after all, this was the leader or an organization that had,
> over the years, taken the lives of countless Israeli civilians and
> soldiers. But peace is something you make with your enemies, not
> with your friends. And making peace means moving past bloodshed,
> beyond anguished memories. The look of discomfort on Yitzhak's
> face was unmistakable; he looked as if he's swallowed something
> large and painful. He was shaking the hand of a man he said he would
> never dignify with direct contact. He was breaking a vow. How could
> he forget the victims of terror, even at this historic moment? Had it
> not been before the eyes of the world, he might not have felt so
> deeply conflicted. I imagine he was thinking, The whole world had
> heard me say *never*, and now I *am*....[14]

Public Rabin crafted and assented to various compromises with the Palestinians, and even shook the

hand of Arafat, but Private Rabin felt disgust, anguish, regret, betrayal. These moral feelings often

signal a kind of internal moral judgment of one's primary or ideal self as being betrayed, but

betrayed by whom? Betrayed by one's public self, or physician self, or parent self. In William

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[14] Leah Rabin, *Rabin: Our Life, His Legacy* (New York: GP Putnam's Sons, 1997), p. 254.

Styron's novel *Sophie's Choice*, Sophie as an older woman is plagued by feelings of remorse, guilt, terror, and shame for once, in the prison camps, having to choose which one of her children would be killed, and not choosing meant that both would die.[15] As a mother she made a horrible and tragic choice. I think it grossly understates the horror of the choice to call it a compromise, but her decision to compromise her obligations to one child to save another, was one aspect of the choice. Sophie the recovering adult will forever be complicit with that horrible act, even if she has psychologically distanced herself from it as survivors do. Reflexive complicity might be one way to describe this phenomenon of inner judgment in those cases of long past wrongful compromise or compromise as the duties of one's profession might require.

The second special problem that separation compromise raises for standard accounts of complicity is that many of the relationships are relationships of association, not causality. If the voluntary, causal view of complicity is the correct view, then many people who rely on separation compromises will not be complicit in wrongful compromises. Opting for separation compromises over direct compromise will in fact provide a way of escaping complicity (and so responsibility) in many cases. If the endorsement or benefit views of complicity are correct, then these same agents *are* complicit in the compromises, despite attempts at separation. With the lower thresholds for complicity (endorsement and benefit), mere association with the opposition can expose someone to responsibility and blame. Defending complicity in cases of mere association will require us to assume something like the "dirty hands" or involuntary sin doctrines, that being in the proximity of

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[15] William Styron, *Sophie's Choice* (New York: Modern Library, 1976).

evil or associated with it can rub off on us and dirty our souls.[16]

Let me summarize these positions by looking at an example of a procedural separation compromise. One of the functions of an Animal Use Committee in a research institution is to oversee the treatment of animals in research protocols. Membership on an AUC is supposed to include at least one outside member, someone not affiliated with the institution. Suppose that the AUC of a medical school decides that it would be a good political move to fill that spot with someone from one of the animal right's groups. They send a letter of invitation to an active member of PETA (People for the Ethical Treatment of Animals). From the point of view of the PETA representative, becoming involved on such a review board might represent an important separation compromise, if they think that one way forward on animal rights is to try to negotiate with members of the scientific community who are, in this person's understanding, violating animal rights. No one on the AUC is directly responsible for the handling of animals, but the group as a whole is responsible for overseeing the protocols that involve the scientists' handling of animals. They can reject protocols that impose too much harm on animals with insufficient benefit to humans. As with any separation compromise, the PETA member can opt for varying degrees of involvement, ranging from mere presence in the meetings, to active voting or other gestures of support or dissent. Here are the main possibilities:

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[16] H. Tristram Engelhardt, "Sins, Voluntary and Involuntary: Recognizing the Limits of Double Effect," *Christian Bioethics*, vol.3, no. 2 (2000), pp.173-180.

(1) PETA member comes to meetings, but chooses passive resistance, does not participate, and so has minimal impact on decisions. At most, her mere presence might put other members on "best behavior", but probably not. She might also learn something about the opposition which may help craft later strategies for the PETA organization.
[She is complicit only on the association, "dirty hands" view.]

(2) PETA member is vociferous and challenges AUC any chance she gets, gives lots of speeches, but her negative vote has no impact.
[Again, she is complicit only on the association view.]

(3) PETA member accepts the offer and comes to one meeting. She uses this as an opportunity to access the labs, and opens as many cages as she can before security carts her off. Maybe she makes off with one genetically altered mouse in her pocket.
[She is not complicit on any standard view.]

(4) PETA member turns down the AUC, does not join the committee.
[She is not complicit on any view.]

(5) PETA member votes in favor of a policy to use larger cages for the canines.
[She is probably complicit on the association, causal, and endorsement views.]

(6) PETA member joins the AUC and abstains from all votes, but is paid for her participation.
[She is complicit on the benefit and association views.]

We can see how the lower threshold requirements for complicity (the association or benefit positions) will increase the degree to which firm believers are blameworthy for separation compromises, whereas the more lenient causal view only holds those agents blameworthy

who are directly linked to compromise outcomes. On that view, most separation compromises will not result in complicity. The endorsement view may cut both ways, increasing the firm believer's exposure to blame or offering a chance to mitigate it through counter-endorsements, like making speeches or opening the cages.

What we need to notice about complicity as it relates to moral compromise is that the substance of the moral judgment is contingent on the moral perspective of the person judging the compromise. If a pro-research scientist were to view the scenarios above, the first question would be: Complicit with *what*? It is assumed in judgments of complicity that we agree on the primary wrongdoing or evil. Murders are wrong and so aiding and abetting murder makes one complicit in this wrong. Only those who view the activities that the AUC oversees (research on animals) to be morally wrong will find judgements of complicity relevant. In fact, no issue of compromise arises for those who have no qualms about research on animals. Compromise requires that there be something to concede, some moral belief that is contrary to the beliefs of others or the beliefs represented in a social or institutional choice. What complicity helps us capture is the sense of loss that is inherent in any separation compromise from the point of view of the firm believer. To varying degrees, depending on one's particular understanding of complicity, such people have associated themselves with something they believe to be wrong, and that is a difficult decision to undo, if it can be undone at all.

I suggested in chapter two that there might be ways that complicit relationships can be mitigated through symbolic acts of reparation after the fact. The PETA representative who opts for (5) above, and votes along with the committee to improve the animals living

conditions is, on at least one view, complicit in the whole institution of research on animals. Assuming PETA will keep her in their ranks (not likely) she might still continue to march in PETA parades, or she might join another animal rights organization, or spend time volunteering in an animal shelter. If causal and symbolic acts can enjoin us to bad compromises, why not consider that some counter-acts can mitigate our prior compromise? This is, after all, a longstanding view of prayer, penance, and spiritual reparation; we also have a secular understanding of making amends, making reparations. Even if such gestures cannot restore oneself and others to the pre-compromise position, most of us accept the idea that some restoration can occur, if only symbolic. When our moral beliefs are partly defeated through compromise, the beliefs themselves in separation compromises have not ceased to exist, but they may be damaged through the compromise and need propping-up afterwards, some reinforcement, a reminder to ourselves and others that these beliefs remain true to us. Williams describes this logic in terms of Ross' *prima facie* duties as follows,

> the considerations that supported the defeated prima facie obligation can come to support some other, actual, obligation. If I have for good and compelling reasons broken a promise, I may acquire an actual obligation to do something else because of that, such as compensate the person who has been let down.[17]

In a very recent example, the singer Elton John chose to perform a duet at this year's Grammy Awards Ceremony with rap artist Eminem, who has become notorious for his

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[17] Bernard Williams, *Ethics and the Limits of Philosophy* (Cambridge: Harvard University Press, 1985).

violent lyrics and references to gay bashing and hate crimes. Elton John is openly gay and has been very active in groups like Act Up, and recently received a lifetime achievement award from this group. A spokesperson from Act Up publically denounced Elton John's performance as an unacceptable compromise of the Gay cause. Elton John described his choice to perform the duet as an endorsement of freedom of expression, not a compromise of gay rights. Eminem is also notorious for his violent lyrics which contain numerous references to violence against women. Feminist groups also accused Elton John of compromising with evil, of being morally complicit with a person who seems to endorse violence against women through his music. Both Act Up and the feminist groups are implicitly arguing from the association and benefit views of complicity, although there is a longstanding position among those critical of violent messages in music and art (going back to Plato, not Tipper Gore) that there may be a causal link between the violence portrayed in the lyrics and an increase in violent acts among those who listen to the music. So some have held musicians like Eminem responsible for, if not causing, at least reinforcing immoral and dangerous behavior. Elton John defended his choice as a chance to endorse the freedom of artistic self-expression, and the fact that the lyrics of this artist are especially horrible make it a good test case for the value of expression. He also seems to appreciate the price of his symbolic and very public gesture. He has since been defending his position, and may be able to make amends in the eyes of his fellow Gay Rights activists, by continuing his previous work for these groups and his open support of the gay cause. Whether or not they forgive him is, of course, not within his control.

One final note on complicity and compromise. Moral evaluations of agents based on

complicity might actually support rather than limit some special cases of compromises. As I mentioned briefly in the last chapter, many historians of World War II have suggested that, if the Communists had only compromised with the Socialists, Hitler would not have come to power. Had the Communists and Socialists compromised, the agents to the compromise would have been responsible for the resulting compromise policies and laws; the socialists would have been responsible for the communist elements in the deal, and vice versa. But complicity might enter into this example in another way. I would also like to raise the possibility that the German communists and socialists may have been complicit in the rise of Hitler for their failure to compromise with one another, insofar as this was a foreseeable event. In order to fully defend this claim we would need a full account of complicity that includes failures to act and conditions of reasonable foresight. Complicity would then be useful not only as a limit on indirect compromises among firm believers but also as a way of blaming firm believers for costly failures to compromise. I cannot offer a full defense of passive complicity here, but I do think this line of argument holds promise as a fourth positive argument for compromise (or at least a variation on the "Avoiding future or protracted conflict" argument). In addition to consequentialist appeals to the cost of protracted conflict, an appeal to self-defeating behavior, and appeals to fallibility and underdetermination, we could also add that failures to prevent predictable future evils through compromise make the uncompromising agents complicit with the resulting evil. Whatever one's moral beliefs, for most people these beliefs will include not only prohibitions against seriously wrong acts but also prohibitions against failures to prevent seriously wrong acts, insofar as the agent has some reasonable opportunity to prevent the act. The case of the

Good Samaritan is the classic case. If I am walking down the sidewalk and I see a young boy

beating a dog with a stick, I would be complicit in this beating if I was in a position to stop

him and I did not intervene. Similarly, we could argue, if Arafat tomorrow decides that he

is fed-up with the Peace Process and refuses to join in further negotiations to end the

currently escalating violence in the Middle East, he will have blood on his hands for refusing

to compromise with the Israelis (and of course the same complicity argument can be run

against the Israelis). In the famous *Tarasoff* case in California a Berkeley psychologist chose

not to compromise patient confidentiality and did not warn his patient's ex-girlfriend of his

patient's threats to kill her. When she was murdered, the therapist was judged to be indirectly

responsible for her death, based on his failure to warn. The decision delivered in that case

and the confidentiality statutes that have followed it, can be defended on the grounds that

certain failures to compromise the duty of confidentiality, in order to prevent a serious harm

or wrongdoing, make the agent complicit in the harm or wrongdoing.[18] More recently, many

democrats have claimed that Ralph Nader of the Green Party is responsible for George Bush

winning the Presidency. Had Nader compromised his extreme platform and backed

democratic candidate Al Gore, the liberal vote would not have been split between the

Democrats and the Green Party. The fact that democrats "saw the writing on the wall" early

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[18] These judgements have generated (or reinforced) the fairly widely shared view that there
is a duty to warn in such situations, and that this duty should outweigh the competing duty
to protect confidentiality. Debate over the relative weight of the two duties and the values
they are intended to protect represented an example of moral learning and compromise; the
resulting compromise of confidentiality has now been institutionalized, become part of law
and professional ethics. Recent cases continue to challenge the appropriate boundaries of this
compromise and reveal remaining ambiguity and lack of clarity in concepts such as
"privacy", "foreseeable danger", "clear threat", and "identifiable victim".

in the campaign, after looking at the early opinion polls, and urged Nader to consider this likely outcome, makes it look like conditions for reasonable foresight were met in this case.[19] When it comes to evaluation of compromises, complicity may cut both ways.

The more direct types of compromise, the engaged compromises discussed in chapters one and three do not open an agent up to accusations of complicity; complicity claims about such compromises are normatively superfluous. Since Maximizing Compromisers and Engaged Compromisers directly choose compromise, the agents are directly responsible for whatever wrongdoing the compromise represents and can be blamed as the primary actors. As I discussed in chapter three, outside observers, especially those who hold the belief that has been given up for a new belief can certainly judge even compromises through moral learning to be mistakes, to be wrongful compromises. But because direct compromisers are the primary actors and choosers, if the compromise is judged to a bad compromise by others, then the direct compromiser has acted wrongfully. What is often

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[19] In Israeli politics Shimon Peres and others realized that the inability to strike a compromise between the Likud and Labor parties would likely compromise the peace process with the Arabs. With the two parties unable to form a more homogeneous coalition, Peres backed the decision to go into a government of national unity with the Likud in 1984 and again in 1988. When trying to defend this decision to other leaders of the Socialist International, Peres shared the consoling words of wisdom given to him by Rabbi Ovadia Yosef:

> "Don't be sad," Yosef consoled me. "There's historical precedent."
> "Where?" I asked.
> "In the Garden of Eden," he replied, smiling.
> "How's that? I asked.
> "Simple," the rabbi said. "When Adam realized that there was no woman available other than Eve, and Eve understood that she had no alternative to Adam, they decided to set up house together and called it Paradise."

Shimon Peres, *Battling for Peace: A Memoir* (New York: Random House, 1995), p. 173.

thought to be sacrificed in direct compromises is the agent's integrity.

III. APPEALS TO MORAL INTEGRITY

Agents who rely on separation compromises do not thereby escape responsibility for their

relationship to wrongful compromises, as determined by most judgments about complicity.

Those who are moved by the arguments in chapter three and engage in direct compromises

risk something else in compromise. The most common charge against someone who has

compromised is that they have compromised their integrity. One philosopher defends the

following view:

> although compromise may be an appropriate form of behavior with respect
> to dilemmas involving personal, economic, religious, or political
> commitments, it is illegitimate with respect to moral commitments or, more
> specifically, the moral commitments of any person of integrity.[20]

What exactly is lost or never attained in moral compromise, when we say that someone has

lost, or has no integrity?

Owen Flanagan captures our commonsense understanding of moral integrity well

when he says, "Integrity is the trait of standing by, and acting on, one's most important

beliefs and commitments."[21] Philosophers, though, have struggled to give substance to this

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[20] Mark Halfron, *Integrity: A Philosophical Inquiry*, (Philadelphia: Temple University Press, 1989), p. 61.

[21] Owen Flanagan, *Varieties of Moral Personality: Ethics and Psychological Realism*

commonsense idea. Integrity has taken on an almost aesthetic aura in the philosophical literature ("Well, I know it when I see it." We think there is something there, but we are hard pressed to say exactly what that something is.).[22] The difficulty, now well known, is that appeals to integrity tend to be formal appeals about the structure of one's values, not substantive appeals about the specific content and quality of one's values. It is then unclear how much of a limit integrity can impose on the claims of morality, or in this case, the claims of compromise. As Halfron has put the problem, "One consequence of embracing the view that consistency is ordinarily expected of persons who have integrity is that it may preclude a willingness to compromise commitments as a legitimate course of behavior."[23]

(Cambridge: Harvard University Press, 1991), p. 81.

[22] See especially Lynn McFall's now classic article on integrity in *Ethics*. She offers a very interesting series of arguments that lead to a meta-dilemma for moral philosophers between appeals to moral integrity and appeals to an impartial point of view (or "the moral point of view"). She does not resolve the dilemma for us, but suggests that giving up integrity would be a mistake. She tries to illustrate the mistake with Theodore Sturgeon's story "The Dark Room" about an alien who feeds off of human humiliation. This alien has made a deal with a human, Beck, to hold parties at which the guests are humiliated in various ways. The alien waits in the wings and somehow devours the humiliation in the air. Beck's friend, Conway, gets suspicious and sneaks into Beck's apartment while he's away and discovers the alien. When confronted, the alien spills the plot and explains the purpose of the humiliation parties. Conway is satisfied, but for one puzzle. He himself has attended all of Beck's parties but has never been humiliated. The alien explains that Conway is an "immune", a creature "who cannot be humiliated because there is nothing he would not do." This is a clever story, but it still doesn't elucidate integrity per se. It does point to *something* that we think is wrong with people like Conway, but we are left with the same vague wonders about what that something is, exactly. We have a strong aesthetic impression that something is wrong with this picture, but we cannot seem to say any more than that. See Lynne McFall, "Integrity," *Ethics*, vol. 98, no. 1 (October 1987), p. 94.

[23] Mark Halfon, *Integrity: A Philosophical Inquiry* (Philadelphia: Temple University Press, 1989), chapter 6.

To better illustrate the integrity claim in the context of compromise, let me say something about the different accounts of integrity that have been offered as limits on wrongful, unjust, or unvirtuous behavior in general, and compromise in particular.

One way to understand integrity is as a requirement of moral consistency and reliability over time. This account is captured in Flanagan's definition given above—integrity is to stand by one's commitments. We sometimes say that a person has integrity if she shows a certain consistency in the overall pattern of moral choices in her lifetime. Contemporary virtue theorists put forward this view, and it fits our contemporary understanding of a person's "character".[24] In his work on compromise and integrity, Martin Benjamin argues that compromise need not violate this kind of integrity. As long as one compromises for good reason and comes to adopt compromise positions with others in a way that can be explained and defended, one can still preserve one's integrity in the sense of an overall pattern of wise and good choices.[25] It is an all-things-considered perspective on particular compromises that places compromise in the context of the whole pattern of a

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[24] It is not clear to me that Aristotle would have endorsed this pattern-of-a-lifetime view of integrity. Aristotle is, after all, critical of the idea that we could somehow only judge a man happy at his death. The virtuous person in Aristotle's ethics seems rather to attain a certain ordering of the soul and that ordering is fostered and reinforced by each choice made. There is an enormous role for education and for learning, for aiming at the Golden Mean and sometimes missing the target, and for learning from those who already exemplify such wisdom in their choices and actions. (*Nicomachean Ethics*: 1106b36-1107a2; 1140a25-31; 1144b21-25). In his discussion of friendship, Aristotle does insist that the virtuous character is persistent and stable (*NE*, 1100b11-17, 1105a32-33, 1152a30-33), in the sense that he does not suffer inner conflict (*NE*, 1166a13-14) and he contrasts this with the vicious person who "is at variance with himself, and has an appetite for one thing and a wish for another, as incontinent people do" (*NE*, 1166b7-8).

[25] Martin Benjamin, *Splitting the Difference*, Chapter Three.

person's moral choices. One way of understanding the violation done through compromise is as a damage to one's character, in this sense of integrity as a consistent pattern of moral decision-making. The difficulty with the appeal to character, however, is that it does not necessarily describe individuals who we think are good, nor does it exclude individuals who are not virtuous or good. Hemingway had tremendous character, a strong sense of honor and loyalty, but he was also a notorious scoundrel. Similar things have been said of New York mafioso, John Gotti, and Chicago mob boss Al Capone. These were men of character, men whom friends and family could really count on. On the other side, Bill Clinton is surely the modern poster boy for lack of character in this sense of reliability and trustworthiness, but despite his lack of character in this sense, he managed to do some good things, among them, trying to breathe life into the Middle East peace process. We being to see here the difficulties with the formal limitations of the integrity. In order for integrity as character to offer any substantive limits on compromise, more has to be said about the particular make-up of the person's moral beliefs, and even then, it is not clear that the strong reasons offered for compromising in some conflicts might not help the agent absorb some inconsistencies in the agent's choices over time.

In an attempt to move away from the more formal account of integrity as consistency, wholeness, character, or a given pattern over time, some philosophers have defended a view of integrity as authenticity, a way of identifying certain beliefs and commitments with one's true self. Charles Taylor has defended this view and he follows in a long line of moralists, since Augustine, who urged a turn inward as a way of identifying an inner moral touchstone, a sense of one's authentic moral self (or relationship to God) as a reminder of what one's

moral limits are when faced with pressures to change and adapt to the world and to others.[26]

What is important is preserving and fostering growth in the authentic self. This innermost self is what should be kept intact, together, inviolable, not compromised. The turn toward the inner self has taken a radically subjective turn with Modern thought. Where for Plato and Augustine to turn inward was to turn to the Idea of the Good or God, the modern turn inward is a turn toward the deepest part of being human.[27] For Augustine, we should turn inward toward the voice of God: "Do not go outward; return within yourself. In the inward man dwells truth."[28] For Rousseau and much later, Walt Whitman, we should turn toward the voice of nature within oneself. As Taylor interprets Rousseau:

> The original impulse of nature is right, but the effect of a depraved culture is that we lose contact with it. We suffer this loss because we no longer depend on ourselves and this inner impulse, but rather on others and on what they think of us, expect from us, admire or despise in us, reward or punish in us. We are separated from nature by the dense web of opinion which is woven between us in society and can no longer recover contact with it.[29]

This idea of finding the voice of morality within oneself is found also among the British

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[26] Charles Taylor, *The Ethics of Authenticity* (Cambridge: Harvard University Press, 1991), pp. 26-27.

[27] See for example, Plato's Doctrine of Reminiscence in the *Meno*.

[28] From *De vera Religione*, XXXIX.72, cited by Charles Taylor, *Sources of the Self: The Making of the Modern Identity* (Cambridge: Harvard University Press, 1989), chapter 10, "In Interiore Homine".

[29] Charles Taylor, *The Ethics of Authenticity*, pp 27-29.

moralists, Hutcheson and Shaftesbury, who in turn influenced Hume on this question. This appeal often takes the form of appeals to conscience, as when Socrates says "it is better to suffer wrong than to do wrong". Hannah Arendt interprets Socrates' rules of conscience as "like those Thoreau announced in his essay, entirely negative. They do not say what to do; they say what not to do. They do not spell out certain principles for taking action; they lay down boundaries no act should transgress. They say: Don't do wrong, for then you will have to live together with a wrongdoer."[30]

The central difficulty with the authenticity account of moral integrity is that it too remains an empty limit until something more is said about the inner voice or self one is supposed to protect.[31] Again we have the voice of Hamlet ringing in our ears, "To thine own self be true", but what does this require of us? Those who have made philosophical, not pop-psychology, appeals to authenticity, I think mean something more than "be true to yourself, no matter what that self may be." Williams, for example, while he does not speak in terms of authenticity, does offer an account of moral integrity that attempts to capture the importance of the connection between a person and her moral actions and choices. These are

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[30] Hannah Arendt, *Crisis of the Republic*, (New York: Harcourt Brace Jovanovich, 1972), p. 63, cited in James Childress, "Appeals to Conscience," in *Ethics and Personality: Essays in Moral Psychology*, ed., John Deigh (Chicago: University of Chicago Press, 1992).

[31] Peter Landesman quoting the former European drawings curator of the J. Paul Getty Museum, Nicholas Turner, "A drawing, like a person, takes a long time to get to know. If the work is authentic, it all hangs together as a statement—there are no oddities about it, and it is organic and coherent. If something on closer inspection lets you down, it will continue to let you down. The more you go back to it, the more it reveals its weaknesses." Peter Landesman, "A Crisis of Fakes," *New York Times Magazine*, (March, 18, 2001), section 6, p. 37.

not just actions out in the world, states of affairs, but *my* actions, stemming from my sense of moral responsibility and integrity. The central claim in Williams is that "each of us is specially responsible for what *he* does, rather than for what other people do."[32] That this connection is a particularly moral connection, a connection related to right and wrong choices, gives some content to the idea of integrity as a person's own core set of beliefs and commitments. Notice though, in William's own most famous cases, there may be situations where integrity is compromised by not compromising one's integrity. In the case of Jim, if he refuses to shoot one innocent Indian to save nineteen innocent others from being shot by the Captain, he may preserve some sense of moral integrity vis-a-vis the commitment to not killing, but his refusal results in a larger loss of life. Gabriel Taylor suggests that it is not clear that Jim could have kept his integrity intact with either choice, and I think this illustrates the degree to which appeals to integrity do not really drive such cases; our evaluations of the rightness or wrongness of the actions drive the case.[33] In the case of George as well, if the anti-war scientist takes a post doing research on nuclear weapons in order to support his family, he violates his integrity. If he refuses to take the job, and assuming his obligations to his family are central to who he is as an authentic moral person, then he has violated his integrity. Yes, it matters that we are connected or not connected to our moral choices in various ways and to varying degrees, that we own them in some cases

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[32] Bernard Williams, "Consequentialism and Integrity" from *Utilitarianism For and Against*, ed., Smart and Williams, reprinted in *Consequentialism and Its Critics*, ed., Samuel Scheffler (New York: Oxford University Press, 1988), pp. 20-50.

[33] Gabriel Taylor, "Integrity," p. 155.

and not in others, that we can put distance between ourselves and wrongdoing; this is a crucial insight. But is it really an insight about the role of integrity in moral agency, in moral choice, or is it just a reminder that intention and voluntariness, engagement and disengagement matter in moral choice because moral choice is about the people who make choices? There may be instances, like the Jim case and like the woman who takes Kant at face value and with great honesty tells the SS officer where the Jews are hidden upstairs, where integrity is compromised by not compromising. Again we see that integrity, even understood as authenticity, must be mapped on to some other more substantive moral view to give any body to the idea. Just in the philosophical sampling I began with, we have the following candidates: the Idea of the Good, God, Reason, Nature, and Conscience. The Taliban and Mother Theresa might appeal to any one or all of these, and so there remains this problem of integrity as an empty concept.[34]

There is still a third view of integrity, and this one also attempts to give some substance to the formal understanding of integrity as something more than moral consistency over one's moral commitments. Some have held that integrity represents a person's moral center, a core of moral beliefs and commitments that the person cannot alter without becoming someone else; to give them up, on this account, is as good as death. Kant and many neo-Kantians have put forward this view. Christine Korsgaard captures it well:

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[34] As psychiatrist Arnold Ludwig puts the objection, "Authenticity offers no assurance of humaneness. And insincerity and hypocrisy needn't keep people from being kind, moral, or responsible." *How Do We Know Who We Are? A Biography of the Self* (New York: Oxford University Press, 1997), p. 240.

If moral claims are ever worth dying for, then violating them must be, in a similar way, worse than death. And this means that they must issue in a deep way from our sense of who we are.[35]

This is to understand integrity as a kind of moral purity. There are some moral ideals that should be held true and pure in form and should never be tainted with transgression. The moral center imposes a threshold beyond which a moral agent cannot concede or compromise and survive as a moral person. For Kant this idea of integrity can only be attained in purity of good will. Just as for Kierkegaard attaining "purity of heart" is to will one thing, that one thing being goodness and Godliness. Those beliefs and commitments that issue from our moral center, are the very beliefs that make moral agency possible, on the Kantian view. To give them up would be a concession worse than death, because to give them up is to give away one's humanness.[36] The idea is not that if a person identifies so deeply with his personal commitments, such as being a good father or being a good baseball player, that the loss would be worse than death. It is rather a purity of moral commitments that imposes the limits on compromise. On this view moral purity can only be achieved by orienting oneself properly to the good. Moral goodness is thought to be built-in, and so "purity" becomes more of a qualitative attribute. Giving up the Categorical Imperative and supporting Apartheid, for example, might have been seen as a deep violation of the kind of

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[35] Christine Korsgaard, "The Normative Question," in *The Sources of Normativity* (Cambridge: Cambridge University Press, 1996), p.18.

[36] From the closet neo-Kantian, Janis Joplin, we have the following wisdom: "Don't compromise yourself. You are all you've got."

moral purity put forward here.

The moral purity view on integrity runs so deep that it would seem that compromise over certain matters could never be defended. Indeed, this whole project has been an attempt to offer arguments that might still appeal to a person who holds such a view. If integrity as moral purity is a limit of compromise, then the agent faces the dilemma of chapter two: bearing the costs of conflict and deep self-defeat of the very values one holds as inviolable, on one hand, or alienating oneself from one's pure standards by assenting to compromises from a moral distance, on the other. The alternative of isolation and retreat remains a live option, but the costs and deep contradiction in retreat, I hope, have been made clearer. To retreat is to leave institutions like Apartheid intact, without challenge. To negotiate and consider compromises is to make a more peaceful way toward what one believes to be true. There are many avenues of revolt, not all violent. And passivity, as I suggested in the last section may leave one open to charges of complicity with an eventually more severe outcome, such as war. The defense of compromise I have offered attempts to navigate the region between moral acquiescence and selling one's soul. The limits imposed by "purity of the soul" views do not undermine the account, because there is a built-in escape clause for the pure believer who cannot live with the taint of compromise. What I have argued is that some escape routes may lessen the damage done to the person's commitments more than other escape routes, and that opting for uncompromising escape routes may expose the firm believer to accusations of indirect responsibility for the moral costs of not compromising.

The Kantian purity-of-good-will position does not escape the objections lodged against integrity as a pattern of choice, integrity as character, or integrity as authenticity. The

Taliban claim that they have ordered the new Afghani society after a pure understanding of the requirements of the Koran. In cases like this we then find ourselves asking, purity vis-a-vis what understanding of the good? What distinguishes the purity of will shown by Mother Theresa and a dedicated Muslim suicide bomber? One dies a fanatic and one dies a saint—are they so very different in the ordering of their moral wills? If so, what moral feature or features separate them? Rawls, himself working well within the Kantian tradition, shares this concern about the formal nature of appeals to integrity:

> In times of social doubt and loss of faith in long established values, there is a tendency to fall back on the virtues of integrity: truthfulness and sincerity, lucidity and commitment, or, as some say, authenticity . . . Of course, the virtues of integrity are virtues, and among the excellences of free persons. Yet while necessary, they are not sufficient; for their definition allows for most any content: a tyrant might display these attributes to a high degree, and by so doing exhibit a certain charm, not deceiving himself by political pretenses and excuses of fortune. It is impossible to construct a moral view from these virtues alone; being *virtues of form* they are in a sense secondary.[37]

The point is not that we are unable to draw important moral distinctions between a Ghandi and a Hitler, but that we cannot draw those distinctions on the basis of "purity of will" or integrity alone. It requires additional inquiry into the content of the beliefs and the nature of the good toward which the believer orients himself, against the backdrop of the moral understandings of the place and time. A hero of the French Revolution may be viewed as an

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[37] John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971), p. 519.

unruly and anti-social fanatic, if suddenly plunked down from a time machine in now peaceful Paris (where the most heated moral conflict is seen in the food fights between haute cuisine chefs and patrons of McDonalds). Kant reminds us of the relative nature of fanaticism:

> Originality of the imagination is called genius when it harmonizes with notions. If originality does not harmonize with notions, then it is called fanaticism.[38]

Something happens to those who compromise, especially in the eyes of others. In chapter two I talked about the element of tragedy in compromises that are chosen only to ward off much greater harm. There is something lost when we opt for damage control over dying for our ideals. What is that something, if not our integrity? It is the loss of the ideals themselves, the loss of something important and true to the people who continue to believe in them. One can uphold these ideals and not have integrity in any of the above three senses. One can sacrifice these ideals and yet be said to have good character, lived a life of integrity, had purity of heart. Regardless of the account of integrity offered, each suffers from a fundamental limitation. Integrity is a formal requirement. There is no way to escape the objection of a Pol Pot with integrity, the consistent demon and the coherent tyrant.

We think there is a moral difference between a Saint and a consistently principled Despot, but integrity can never capture the difference that matters. It is the substance of the person's actions, whether they are good or evil, that matters. And whether they are good or

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[38] Kant, *Anthropology from a Pragmatic Point of View*, p. 62.

evil may hinge on one defining moment or countless insignificant actions, a trustworthy character or a fairly inconsistent character, a mostly good life, or an abysmal life with a crowning moment of redemption at the end. Integrity is not what drives these evaluations; our substantive moral appeals drive these evaluations and they have little to do with purity, wholeness, or consistency. The formal requirements remain empty until we fill them with substance of our moral beliefs. No one has found a satisfactory answer to this fundamental objection, and rather than try to talk around it, we should look elsewhere for a way of evaluating the appropriateness of compromises as they affect our judgements of the agents who accept or endorse them. Integrity may indeed be the most common casualty of compromise. If the above criticisms are correct, this fact alone should not bother us too much, since the appeal to integrity is a formal appeal, a formal condition without moral content. What should concern us is the moral substance lost in compromise, the damage done to a person's commitments and beliefs in terms of what those commitments and beliefs represent, not the form or coherence of those beliefs per se. What will place a limit on direct compromises are the reasons we can give for choosing compromise over firm belief, our ability to tell a coherent and plausible story about our shifts in belief, and the degree to which those explanations and reasons hold up under the scrutiny of others.

IV. CONCLUSION: LIVING WITH COMPROMISE

Regardless of our particular and sometimes pure moral beliefs about what is right and good, the reality of moral life among others is complicated, fraught with conflict, tensions, and too

often bloodshed. Even within the more homogeneous groupings of churches, families, and friends, our understanding about what our beliefs require are anything but homogenous. Even within such groups the fluidity, flexibility, and creativity of the moral personality reveals itself, but no where more so than when under duress, or when responding to the views of friendly others. While the limits of authenticity and integrity and moral purity point to something valuable in human beings, it turns out that this something is the values themselves. And no matter how firm these beliefs are, there is always room for expanding on the inherently vague meaning of the specific moral choices these beliefs imply for us. No matter how certain, there can usually be some area of doubt, some possibility that one is mistaken about what these beliefs require. Given this need for flexibility and moral learning, formal limits that foist requirements of wholeness and consistency on even the firm believer seem misplaced. What matters is the truth of one's beliefs, and seeing them realized as much as possible in a world where they must compete with the firm beliefs of others. In this context, only a minimal formal condition need apply, a requirement of relatedness between one's positions, the ability to offer reasons for one's shifts in belief, if such shifts occur through compromise. These reasons should not violate the basic psychological requirements for continuity and relatedness, as discussed in chapter two. To violate them is to succumb to a deep moral schizophrenia, or what Kierkegaard called "double-mindedness".[39] It will be

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[39] Psychiatrist and philosopher Ernest Becker offers an insightful account of extreme uses of the imagination involved in schizophrenia: "The creativity of people on the schizophrenic end of the human continuum is a creativity that springs from the inability to accept the standardized cultural denials of the real nature of experience. And the price of this kind of almost "extra human" creativity is to live on the brink of madness, as men have long known. The schizophrenic is supremely creative in an almost extra-human sense because he is

crucial in separation compromises that the agent be able to justify the distancing in terms of

the meta-dilemma he faces: assenting to some loss of one's values in the world while

maintaining enough distance from the choice to protect one's original and unchanged belief.

The reasons given will likely be that the cost of not assenting to some compromise is too

great, but the cost of engaging in direct compromise greater, and the cost of walking away

from all compromise greater still. These reasons will often not resonate with other firm

believers, and often these reasons will not sit well with the agent herself; this is the tragedy

of this type of compromise. Once in that position, there is some loss or alienation from one's

true beliefs no matter which way the person turns. Separation compromises at least offer

some means of surviving these difficult choices. Counter-endorsements and acts of

reparation can help mitigate the very real complicity that the agent must bear, relative to

what is wrong in the compromise she does not fully endorse. For both separation

compromises and the more imaginative and creative direct compromises among others, we

will need to answer to ourselves and to others: Did we act rightly, for the right reasons; if

not, how can we make amends, if at all? Compromises should withstand both internal and

external scrutiny, and they may often not withstand the scrutiny of those who hold purer

versions of the values compromised. At bottom, only the agents involved can ask: Is it a

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furthest from the animal: he lacks the secure instinctive programming of lower organisms; and he lacks the secure cultural programming of average men. No wonder he appears to average men as "crazy": he is not in anything's world." Ernest Becker, *The Denial of Death* (New York: Simon and Schuster, 1973), pp. 63-64. And for Kierkegaard, the schizophrenic hits the threshold of disease when he can no longer make it back to himself,"Instead of summoning back possibility into necessity, the man pursues the possibility—and at last cannot find his way back to himself." Soren Kierkegaard, *The Sickness Unto Death*, 1849 (Anchor Edition, 1954), 169-170.

good faith change? This is where an appeal to authenticity may be more substantive. The question we should ask is not, is this my authentic self, but is this change of belief authentic, made in good faith, made for good reasons? Is the change something I can live with, and is it something I can live with, among the scrutiny of others? Of course in asking this they will also be subject to others who may judge good faith reasons as hypocritical, insidious, and just *wrong*. That is what moral disagreement is; judgments about compromises will be no different than the other moral judgements we make from particular moral perspectives.

I have defended three different accounts of compromise as legitimate and serious alternatives to protracted and often costly moral disagreement among others. Complicity to varying degrees is the unavoidable price of compromise when one's beliefs have not changed, or should not have changed. Among those compromises chosen directly, whether as attempts to maximize or attempts to fill out the meaning of one's moral principles, certain constraints of fairness will govern in cases where there are substantive moral asymmetries between the views at stake. Those who engage in direct compromises will also risk a loss of integrity, but if the compromise represents an advancement and learning among others about what one's moral commitments require and parties to the compromise can give good reasons for the change in belief, the price of lost integrity may seem insignificant when compared to the insights gained.

Not everyone will be persuaded by the reasons offered for cultivating moral imagination or for pursuing more direct compromise. The option always remains for the firm believer to retreat in isolation. As for moral revolution through force or violence, the arguments for fairness and tolerance restrict the normative boundaries of the firm believer

and do not condone the foisting of one's own firm commitments on to others, and by the same logic they do not support the foisting of compromise on others. These arguments do not undermine appeals to passive resistance or even revolutions in self-defense, as the only means of survival or escaping oppressive circumstances. The question for choosing separation compromises over aggression or subversion of one's opponents has to be "Would I rather risk death than live like this?" The arguments for compromise are arguments for compromise among firm believers in a range of situations, including peaceful disagreements and potentially harmful situations. I have even suggested that some of the arguments give us reason to try to appeal to groups as radical as the Taliban. The arguments I have offered create a filter through which very little justified violence passes. And in relatively peaceful situations, once one has chosen to enter the moral fray, to put oneself in a position among others, the appeals to tolerance and fairness support separation compromise, direct compromise as moral learning, or peaceful retreat. As I have already mentioned, this may have important implications for those who seek professional roles that place them in a social or public setting where moral values diverge. The greater burden for direct, engaged compromise and the use of the moral imagination will fall on the judge, arbiter, counselor, consultant, teacher, politician, and diplomat. By the very nature of the profession they choose, such individuals also take on the role of being moral entrepreneurs, of being good compromisers in the imaginative sense. Our education of such individuals should take the nature of these roles into account and attempt to cultivate the capacities needed for reasoned and creative solutions to the moral conflicts they will face.

Separation from these public roles can offer some haven for the private morals of

such individuals. Those who seek such public roles should perhaps also cultivate areas of moral privacy in their lives. Insofar as moral commitments bring meaning and direction to our lives, it will be important for public figures to protect themselves and to allow areas where they are freed from pressures to compromise. Privacy can offer space for reflection, reconstruction, and repair.

> People need privacy from others so that they can rest from the strain of being what others desire—responsive, civil, engaged, conventional....To think and create, people often need solitude because its privacy allows not only mental continuity, quiet, and relief from feeling noticed, but latitude to experiment with half-formed ideas and ridiculous solutions.[40]

Privacy, then, plays a dual role in compromise: it serves to protect and sort out what commitments we have and it gives us the reflective space to imagine our way out of difficult moral conflicts when social compromise has failed or stalled. Just how much moral privacy we choose to cultivate will depend on our different conceptions of the good life. It may be also that our conception of moral privacy is not one of solitude but one involving close others, friends, family, spiritual advisors. We can seek quiet and reprieve in these social settings as well. Especially for those people who put themselves in conflict's way, it will be important to protect this private moral space.

Even failed compromise may have significant value for us. The very process of negotiation, reflection, and debate can shake our moral prejudices, challenge ill-considered

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[40] Janna Malamud Smith, *Private Matters*, (New York: Addison-Wesley Publishing Company, Inc., 1997), p. 38.

views as the compromise process pressures us into giving the best defense of the values we hold. Even if no compromise is struck, just examining and reflecting on the nature of the values in conflict, merely considering compromise, can foster an attitude of moral growth and maturity. Similarly, when it comes to the construction of particular compromise solutions, once the debate and reflection period has ended, the new or hybrid solutions will often represent a way of seeing a moral problem or issue that we had never considered before. Insofar as such a solution captures and preserves the different moral positions, it may also offer a more complex understanding of the situation; a compromise is necessarily a step away from a one-dimensional view of a moral conflict. As argued in chapter two, for the firm believer there is often an appropriate sense of loss in moving from a pure moral vision to one that is complicated, divided, mitigated by the hard reality of being fallible creatures. Individuals who are already inclined toward a pluralistic sense of moral value when they enter into compromise will more likely feel a sense of freedom, even exhilaration, with the move toward more complex understandings of and solutions to moral conflict. For the persuaded pluralist the process of compromise can mean obtaining a richer more complete view of the moral landscape. For the moral purist and firm believer, the arguments for compromise place normative boundaries on the right to pursue those firm beliefs at all costs and give strong reasons for considering creative alternatives to moral conflict.

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