World, we have a problem: moral failure between domestic and global politics

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Introduction

The movie *The Imitation Game* tells the story of Allen Turing, the gifted mathematician who played a key role in the British effort, during World War II, to decipher the *Enigma* machine codes used by the German military. In one of the movie’s early scenes, Turing is interviewed by a senior officer. After noting Turing’s remarkable academic achievements, the officer is eager to confirm Turing’s commitment to use his academic skills in service of the battle against the Nazis. Turing, however, infuriates the officer by making clear that he is interested in intellectual puzzles rather than political problems. Asked whether he is not concerned about “this nasty chap named Hitler who’s looking to engulf Europe in tyranny,” Turing retorts, “politics is not my area of expertise,” almost leading to a premature end to the interview.¹

The historical record differs from this scene in multiple ways.² But a key reason why it nonetheless has a real-life air, is that the preference for intellectual puzzles over practical problems is a very familiar feature of academia. Importantly for the purposes of this book, this preference is prevalent in academic political philosophy. While few political philosophers think of their subject matter as akin to math, many political philosophers share the preference of many mathematicians for intellectual conundrums over practical challenges.

This preference, in turn, is especially evident – and understandable – in political circumstances featuring what I shall call paradigmatic moral failures (or simply moral failures for short). Throughout this book, I will use this term to refer to government policies whose wrongness is obvious, and whose moral status accordingly lies beyond the scope of reasonable disagreement. The relevant policies may involve laws that are morally appalling because of what they officially call for – for example, laws that require all citizens to participate in a

predatory war, or laws that officially call for racial segregation in a society. But many paradigimatic moral failures can arise due to a conspicuous silence of the law. A legal system that effectively does nothing to curb informal racial discrimination rampant throughout a society is guilty of paradigmatic moral failure even if it does not officially call for such discrimination. The same is true for a legal system that does nothing to curb blatant economic exploitation of impoverished societies and individuals; or to tackle ongoing destruction of the environment; or to combat wilful collective forgetting of massive-scale historical injustices suffered by people of color, by religious minorities, and by women.

These examples, of course, are not purely hypothetical. They recur in societies around the world, including in many western societies, whose self-conception has often involved a notion of “moral leadership” of the world. Yet when confronted with such paradigmatic moral failures, many political philosophers are bound to say that, notwithstanding their tremendous practical weight, these failures are of little philosophical interest.

There is a straightforward reason why paradigmatic moral failures are often treated in this way. After all, these failures do not seem to involve any kind of normative puzzle. It is tempting to simply say that such failures ought to be corrected or avoided from the outset.

Thus for example, governments clearly ought to avoid the pursuit of unjust wars; governments clearly ought to combat climate change; governments clearly ought to avoid racist policies, and to promote awareness of manifest injustices suffered by various minority groups. But one does

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3 Thus even the realist, sombre Nixon proclaimed as President “We do have a destiny, not to…conquer…or exploit the world, but…to give to other nations of the world an example of spiritual leadership and idealism which no material strength or military power can provide.” (Quoted in “Remarks at Presidential Prayer Breakfast,” February 5, 1970. In *Public Papers of the Presidents of the United States: Richard Nixon, 1970 Vol. Washington D.C: U.S Government Printing Office, 1972, 83). Some of what I will in this book will bear on the gap between Nixon’s own presidency and such lofty statements.

not need professional political philosophers to know any of this. Hence it seems intuitive to think that paradigmatic moral failures trigger a need for political *activism*, rather than political theory.\(^5\)

Now, this intuitive thought may not be very troubling in a world where paradigmatic moral failures are rare and isolated. Yet ours is not such a fortunate world. We live in political circumstances rife with paradigmatic moral failures. Therefore, if political philosophers in our world were always to turn their gaze away from paradigmatic moral failures, that would mean turning their gaze away from too much of actual public life.

This observation leads to the guiding question of this book. In its most general form, the question is this: what *distinctive* contributions can political philosophers make to grappling with paradigmatic moral failures, that are not simply reducible to the contributions all citizens may seek to make through political activism?

I develop two such contributions in the following pages – two main ways in which political philosophers can enhance societal reflection on paradigmatic moral failures. First, I argue that political philosophers can deepen our understanding of existing moral failures. Second, I show how, in the face of existing moral predicaments, political philosophers can craft distinctive arguments meant to facilitate reforms of morally failed policies. The two parts of this book are structured around these contributions. In order to make these contributions concrete, I want to start by laying out – in condensed form - the specific moral failures taken up in each part.

In the book’s opening part, I argue that political philosophers can make a distinctive contribution to grappling with paradigmatic moral failures by studying the *complexity* of such failures. In particular, political philosophers can show that existing moral failures have broader,

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5 Although one may argue that obvious moral failures should push more political theorists to *become* political activists. See, for example, David Enoch, *The masses and the elites: Political philosophy for the age of Brexit, Trump, and Netanyahu* (unpublished manuscript).
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and less obvious, ramifications that is often assumed. I illustrate this contribution by delving into moral failures revolving around the value of equality. In chapter 1, I take up an influential view which links political authority to the equality embodied in democratic political procedures. I explore how proponents of this influential view should address a fundamental but overlooked puzzle concerning profound moral failures of the legal system. The puzzle begins from the firm judgement that even a government that keeps democratic procedures intact loses its general authority, if it enacts abhorrent major laws. This judgement means that the moral failure of some laws can dissolve the moral authority of other laws – even ones that are quite distinct in their content. But how can we explain these systemic effects of specific laws? I confront this challenge by introducing a global perspective into the discussion of political authority. I suggest that we should only adopt an account of systemic effects that can explain how the worst global conduct dissolves a democratic government’s general authority. And after developing such an account, I use it to reflect on thornier global cases.

In chapter 2, I delve further into the complexity of moral failures that lie at the intersection of democracies’ foreign and domestic conduct. Here, however, I explore the complexity of such moral failures from the opposite direction, looking at the normative implications that domestic moral failures yield for global affairs. Seeking to draw attention to moral failures that are self-reinforcing, I focus on the example of corporations’ political clout in the United States and its anti-egalitarian effects. While undue corporate influence over U.S. politics is often recognized (by academics as well as in public discourse), political theorists, at least, have not paid sufficient attention to the full range of ways in which this influence is self-reinforcing, nor to the full moral severity of its effects, domestically and globally. I seek to correct this neglect here.

After these pessimistic opening chapters, I turn to a more hopeful contribution that political theorists might be able to offer in the face of paradigmatic moral failures: a sustained
basis for moral hope. The need for such hope, I assume, follows directly from an in-depth study of moral failure. Close attention to the complexity of moral failure might very well trigger resignation and pessimism. Such attitudes might arise partly due to a sharper understanding of how deeply rooted certain moral failures might be, and how difficult are the political processes needed to remedy them (as is the case for example with corporate capture of politics). Such attitudes might also arise due to an understanding of just how broad are the normative repercussions of paradigmatic moral failures (as is the case with moral failures that undermine the entire legal system’s claim to authority).

My aim in the book’s second part is to show how political theorists can help counteract such attitudes. More specifically, I suggest that political philosophers can contribute to the realization of certain moral hopes in the midst of failure, by developing distinctive arguments for political reform. Such arguments focus on the normative and empirical assumptions associated with powerful political actors who are supportive of morally failed policies. In line with the claims of chapter 2, I focus in particular on normative and empirical assumptions associated with powerful corporations. I seek to show that even when we adopt such assumptions for the sake of discussion – or at least, when we refine these assumptions to cast them in minimally plausible form – these assumptions can still generate support for reforms combating significant moral failures.

I defend the significance of this “strategic” method of political theorizing in the beginning of chapter 3. I then start to illustrate this method, by examining the American legal system’s lenience with regard to severe wrongdoing by major banks. In recent years, legal authorities in the United States have been extremely reluctant to pursue criminal charges against either major banks themselves or their senior executives, even with regard to extremely severe transnational crimes, such as laundering billions of dollars for drug cartels across international borders. I construct the most plausible justification that corporate defenders might
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offer for this reluctance. This justification appeals to fears of drastic negative consequences following criminal prosecution of major banks, while also appealing to the constraints of criminal law and the complexity of large corporations to shield individual executives from criminal sanctions, despite the positive consequences likely to follow from such sanctions. I show why these two appeals are difficult to combine. I then argue that the corporate defender’s best hope of combining them is to invoke a public/private distinction: to argue that it is much worse for public authorities themselves to infringe upon the constraints of criminal law when prosecuting individual executives, than it is for public authorities to allow major banks as private actors to seriously wrong other private actors in their pursuit of profits. However, I argue that the myriad forms of significant public support currently accorded to the major banks blur this private/public distinction. Accordingly, the largest banks have to relinquish such support – from bailouts and huge government loans to multiple tax subsidies – as a necessary condition for justifying the legal system’s current lenience towards them and their executives.

Chapter 4 provides another illustration of strategic political theorizing, once again focused on the United States. Here I seek to construct an argument for the development of green energy that can appeal to Americans moderately skeptical of climate change and swayed by various forms of corporate rhetoric about environmental issues. Accepting – arguendo and in a qualified way - key empirical and normative assumptions of American environmental skeptics, I make two main moves. First, while environmentalists often justify the development of green energy through references to future generations, I try to show that they need a present-oriented argument focused on negative duties to respect rights, in order to justify prioritizing the development of green energy to environmental skeptics in the United States. Second, I construct such an argument, calling on affluent democracies to develop green energy in order to be able to stop their complicity, through oil trade, in petrocrats’ violation of their peoples’ property rights. I anticipate multiple objections, including the objection that stopping trade with
petrocrats will not lead to green energy as a replacement.

Having spent chapter 4 developing a strategic argument justifying the development of green energy to moderate environmental skeptics, I turn in the final chapter 5 to zoom in on a key part of that argument – the demand to reform customary oil trade with dictatorships. This demand is clearly important enough to merit attention on its own right, independently of environmental policies. But calls to reform customary oil trade are bound to face corporate opposition that is just as entrenched. My aim in this chapter is accordingly to consider how a corporate defender might resist reform to customary oil trade with dictatorships. Pursuing strategic political theorizing once more, I again grant several premises to the corporate defender, arguendo. I try to show how, even within these confines, it is possible to undermine the corporate defender’s position.

The position in which I am interested focuses on what I call the challenge from soft authoritarianism: that moderate dictatorships distribute the bulk of the natural-resource revenue they control to their peoples, and that, as long as there is no proof that distributive dictatorships are systematically using this revenue for purposes that are completely alien to their people, the fact that they do not allow for democratic control of natural resources is not sufficiently disturbing to warrant the drastic step of boycotting their natural resource exports. I demonstrate a creative strategy to prove alien spending, by examining the systematic purchases of foreign soccer teams and sponsorships by resource-rich dictators. Most prominently in the United Arab Emirates, Qatar, and Russia, formal government bodies, entities or agents that are either heavily associated with or integral to the regime pour billions out of their peoples’ natural resource wealth into purchasing foreign soccer teams and players, and into securing soccer-related sponsorship, in ways that are entirely alien to popular interests. Thus the globalization of soccer helps proponents of reform to customary oil trade provide the kind of proof of alien spending that the challenge from soft authoritarianism requires – allowing us once again to defeat the
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corporate defender on his own turf.

Equipped with this initial picture of the specific moral failures taken up in each chapter, I want to offer a few remarks about the motivation for discussing these particular failures, and to indicate briefly what I take to be their key connections. My basic motivation for discussing each of the particular failures taken up in this book is unsurprising: I believe that each of these failures is normatively significant in its own right, and that all of them, as I will go on to show in the course of the book, have hitherto been (at best) under-theorized.

There is also, however, a more fundamental commonality across the specific moral failures I discuss in this book: the fact that they all link domestic and global politics. This commonality is important partly because many of our world’s key political processes, and therefore key moral failures, have both domestic and global elements. This means that a sufficiently holistic understanding of these failures must be attentive to both domestic and global dynamics. Moreover, it is easy to underestimate the complexity of certain moral failures when we examine them solely through a domestic lens (as we may be tempted to do, for instance, when a government is guilty of manifest wrongs in its domestic conduct), or solely through a global lens (for example, when a government blatantly mistreats outsiders). This is a trap that I will try to avoid by analyzing paradigmatic domestic wrongs from a global perspective, while also looking at paradigmatic global wrongs from a domestic perspective.

Yet another reason for focusing on moral failures that link domestic and global politics has to do with how political philosophy has typically discussed this link. For the last twenty years, much of mainstream political philosophy – at least in its analytical variants - has been asking the same question about the relationship between domestic and global political theory: must the visions of perfect justice used to assess a society’s internal arrangements apply, in
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parallel fashion, to the world at large?\(^6\)

Although I have previously participated in this debate,\(^7\) one of my goals in this book is to argue that we need new debates. We need to think about the relationship between domestic and global political theory in ways that go beyond the narrow question of whether specific ideal visions of perfect justice should be replicated globally. The inquiries introduced above should help this effort, by putting new, manifestly non-ideal problems center stage.

The aim of expanding the gaze of global political theory beyond a focus on visions of perfect justice will be central throughout this inquiry.\(^8\) But while this aim will be in the foreground, three further unifying themes will be in the background. First, as should already be clear from my initial presentation, the idea of equality will play a pivotal role throughout this work. I will try to demonstrate throughout that despite the enormous attention that political philosophy has given to this idea, its full implications – especially in the non-ideal realm - remain heavily under-explored.

Second, as should also be apparent by now, the theme of corporations’ political clout – and its anti-egalitarian repercussions - will also be central to much of what I will say here. Many of the pages that follow will be dedicated to how political philosophers can and should come to terms with corporations’ political ascent – recognizing its scope, and developing practical reform arguments that adopt corporate terms, if only strategically.

Third, over the course of the book, I will try to illustrate how sustained analysis of certain moral failures can help recast some of political theory’s traditional concerns and limits.

\(^6\) For the fundamental assumptions of this debate, and various doubts about their validity, see my “Between domestic and global justice,” *Journal of Moral Philosophy* 12 (2015): 55-81.


\(^8\) This aim is going to be shared by various scholars who believe that a focus on visions of perfect justice is virtually always counter-productive. See for example Amartya Sen, *The Idea of Justice* (Cambridge, MA: Harvard University Press, 2009), particularly chap. 4; David Wiens, “Prescribing Institutions Without Ideal Theory,” *Journal of Political Philosophy* 20 (2012): 45–70; Wiens, “Against ideal guidance,” *Journal of Politics* 77 (2015): 433-446. I am obviously sympathetic towards these scholars’ focus on concrete failures of public worry. Though I worry that their wholesale critiques of visions of perfect justice are (sometimes, at least) overstated, and that they too risk losing sight of the distinctive contributions of normative political theory, by *reducing* it to social science (see my “Partially ideal theory” [unpublished manuscript]). But I will not try to show this here.
Thus in chapter 2, for example, I will suggest that scrutiny of corporations’ political clout can cast in a new light political theorists’ long-standing concern with the relationship between democracy and hypocrisy in public life. Similarly, discussing moral arguments supporting environmental reforms in chapter 4, I will try to show that political theorists can and should construct public policy arguments that engage social-scientific data on public opinion regarding policy issues – and that political theorists can do so without thereby forsaking their distinctive normative vantage point.

I have presented here a fairly long list of goals regarding philosophical engagement with moral failures. Yet how exactly these goals are to be met, and combined, can ultimately become clear only through the substance of my specific arguments regarding particular failures. It is to these arguments that I therefore turn.