

Adam Smith's Intriguing Solution to the Problem of Moral Luck*

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Abstract: In a brief section of *The Theory of Moral Sentiments* that has often been overlooked we find a fascinating discussion of the phenomenon of moral luck. This paper argues that Smith's discussion is important for two reasons. First, for what it tells us about the role our psychology, including some of its more 'irregular' features, plays in allowing us to reap the benefits of social cooperation. Second, for the novel solution it suggests to the problem of moral luck.

"The person himself, who by an accident ... has involuntarily hurt another, seems to have some sense of his own ill desert, with regard to him ... To make no apology, to offer no atonement, is regarded as the highest brutality."

-- Adam Smith, *The Theory of Moral Sentiments*, II.iii.2.10 --

In an important section of Adam Smith's *The Theory of Moral Sentiments* titled "Of the Influence of Fortune upon the Sentiments of Mankind, with regard to the Merit or Demerit of Actions" we find a brief, but fascinating discussion of the phenomenon of moral luck. Revolving around a number of sentiments that he describes as 'irregular,' Smith's discussion is important for two reasons. First, for the example it provides of the role the sentiments play in grounding our moral judgments, expressing our humanity, and making us fit for social life. Second, for what it tells us about the place of luck in morality, including especially the novel solution it suggests to the problem of moral luck.¹

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¹ Adam Smith, *The Theory of Moral Sentiments (6th Edition)*, ed. D.D. Raphael and Leonidas Montes, The Glasgow Edition of the Works and Correspondence of Adam Smith (Indianapolis: Liberty Fund Inc., 1982). References to this text will be abbreviated TMS followed by the book, section, chapter, and paragraph numbers. Smith's discussion of moral luck is found in TMS Book II, section iii.

As was the case with many of the thinkers whose work influenced his own, much of Smith's work, including both *The Theory of Moral Sentiments* and *The Wealth of Nations*, reflects a deep appreciation of the fact that our lives are substantially shaped by circumstances that lie beyond our control. Of particular interest to Smith was the way in which this is reflected in the irregularity of our sentiments, especially our tendency to blame ourselves (and others) in cases where our actions have bad consequences that do not reflect our intentions or the care with which we might have acted. Smith tells us that this tendency is socially useful. However, he also recognized that in many cases the judgments stemming from it are likely to strike us as deeply problematic. This is because malice or negligence on the part of an agent being blamed is typically assumed to be a necessary condition for blameworthiness, and the irregular sentiments reliably lead us astray of this constraint. By showing that the impartial spectator is able to endorse our irregular sentiments, though, and more importantly by explaining why it is able to do so, Smith provides a surprisingly compelling argument for the thesis that causal responsibility can sometimes be a sufficient ground for (a certain sort of) moral blameworthiness. In other words, Smith shows us that there are cases where an agent can be *appropriately* blamed even though her actions do not reflect her ill will or culpable ignorance.

As we will see, Smith's argument for this thesis is rooted in a penetrating analysis of the various roles blame plays in mediating our responses to accidents. In particular, Smith draws attention to the identificatory role blame plays in highlighting the relationships that agents bear to events of moral significance, and the prescriptive role it plays in indicating that an agent should respond to what she has done in certain ways. By showing that blame can play these roles without conveying anything about the quality of an agent's will, he provides a compelling argument for the idea that the irregular sentiments play a crucial role in expressing our humanity, and in doing so he suggests an intriguing solution to the problem of moral luck.

Unfortunately, the significance of Smith's discussion of the irregular sentiments, and especially his argument for the provocative thesis sketched above, has not been fully appreciated. One reason for this is that, although several Smith scholars have commented on his discussion of the irregular sentiments, these commentaries have tended to be too brief to fully capture the nuance of Smith's view.²

² Among the commentaries on Smith that briefly discuss his account of the irregular sentiments are Charles L.

A second reason is that, among the few commentators that have offered extended comment, several have been too quick to embrace the pessimistic view that Smith's discussion of the irregular sentiments has trouble hanging together with other things he says.³ The most glaring oversight, however, has come from commentators in the moral luck literature where, excepting a handful of Smith scholars, Smith's contribution has gone entirely unnoticed.⁴

Proceeding in three parts, this paper seeks to give Smith's discussion of the irregular sentiments the careful attention it deserves. Section I introduces the problem of moral luck, distinguishes between two forms the problem can take, and offers a tentative view of Smith's account of the irregular sentiments according to which he endorses the problem in its weak form. Section II then offers a closer look at Smith's account of the irregular sentiments. There I argue that Smith's account can be read in three increasingly sophisticated ways, and that his settled view is more nuanced and its relevance to the contemporary moral luck literature greater than even Smith's most careful commentators have appreciated. In particular I argue that on Smith's settled view the irregular sentiments are often capable of being endorsed full stop. As a result, his settled view is one on which he embraces the idea that there

Griswold, *Adam Smith and the Virtues of Enlightenment* (Cambridge: Cambridge University Press, 1999), 240–243; Knud Haakonssen, *The Science of a Legislator: The Natural Jurisprudence of David Hume and Adam Smith* (Cambridge: Cambridge University Press, 1981), 65–66; Vincent Hope, *Virtue by Consensus: The Moral Philosophy of Hutcheson, Hume and Adam Smith* (Oxford: Clarendon Press, 1989), 99–100; and Tom Campbell, *Adam Smith's Science of Morals* (Lanham, MD: Rowman and Littlefield, 1971), 192–193. The lone exceptions that provide extended treatments are Paul Russell's "Smith on Moral Sentiment and Moral Luck," *History of Philosophy Quarterly* 16 (1999): 37–58; Chad Flanders's "'This Irregularity of Sentiment': Adam Smith on Moral Luck," ed. Leonidas Montes and Eric Schliesser (New York: Routledge, 2006), 193–218; Aaron Garrett's "Adam Smith on Moral Luck," in *Adam Smith Als Moralphilosoph*, ed. Christel Fricke and Hans-Peter Schütt (Berlin: Walter de Gruyter, 2005), 160–77; and Eric Schliesser's "The Piacular, or on Seeing Oneself as a Moral Cause in Adam Smith," in *Contemporary Perspectives on Early Modern Philosophy* (Netherlands: Springer, 2013), 159–77.

³ I think Russell and Flanders are both guilty of this. On my view only Garrett and Schliesser offer accounts that come close to capturing the full range of things Smith has to say about the irregular sentiments. The former, however, is published in German and so has not received the attention it deserves among English speaking scholars, while the latter is only tangentially concerned with the relevance of Smith's discussion to the problem of moral luck.

⁴ To my knowledge the only reference to Smith in the moral luck literature other than the papers by Russell, Flanders, and Garrett cited in the previous notes is found in Nagel's seminal article which, alongside an article by Bernard Williams, reinvigorated discussion of the place of luck in morality (Thomas Nagel, "Moral Luck," in *Mortal Questions* (New York: Cambridge University Press, 1979), 31–32.). The view Nagel attributes to Smith however is hard to reconcile with lots of what Smith says about the irregular sentiments.

can be moral luck, but denies that it is a problem. Finally, having described Smith's account of the irregular sentiments, section III concludes by turning to the questions of what Smith's discussion illustrates about his moral theory and how his view helps to resolve the problem of moral luck.

I. A Preliminary Look at Smith's Account of Moral Luck

Before looking at what Smith has to say about the influence of fortune on our moral judgments it will be helpful to say something about what the problem of moral luck is and why many have thought it to be so worrisome.

I.i The Problem of Moral Luck

As Thomas Nagel describes it, the problem of moral luck arises because we are pre-theoretically committed to what he calls the *control principle* that establishes as a necessary condition on the appropriateness of our moral judgments that, "people cannot be morally assessed for what is not their fault, or for what is due to factors beyond their control."⁵ What makes this commitment problematic is that our moral assessments typically *are* influenced by factors over which we have no control. Nagel offers the example of a lorry driver who (perhaps negligently) fails to keep up to date with his truck's maintenance and subsequently finds himself unable to stop when a young child darts in front of him. As a result of the driver's minor negligence, the child is injured, and the driver is subject to blame and censure. The driver is morally unlucky to the extent that his negligence is relatively banal. More importantly, he is also morally unlucky insofar as he had no control over whether the child would dart in front of his truck, and it is the driver's moral bad luck that leads us to blame him to a greater degree than we blame the equally negligent (but morally lucky) drivers who avoid such accidents.⁶

⁵ Ibid., 25.

⁶ Ibid., 26., Nagel distinguishes between four ways in which luck bears on our moral assessments. The first, constitutive luck, reflects the fact that the kind of person one is (including the inclinations, capacities and temperament that one has) is not wholly a matter of one's own choosing. The second, circumstantial luck, reflects the fact that the kinds of problems and situations one faces are not up to her. Related to this second sort of luck is a third sort of luck that reflects the fact that circumstances often force one's hand, so that what one does is determined by the circumstances she finds herself in. Finally there is consequential luck which reflects the ways in which the outcomes of our actions depend upon factors outside our (immediate) control. The example sketched above illustrates this last sort of luck, and it is this type of luck that has been most discussed in the moral luck literature. It is worth noting however that Nagel's conception of

On Nagel's view, though, it's not just the conflict between principle and judgment in cases of moral luck that is problematic. More problematic is that there is a sense in which our 'deviant' moral judgments seem correct. Nor does reflecting on these judgments do much to sway us from the firm conviction that it seems correct to extend the control principle to the cases where affirming it proves paradoxical. Moreover, one can feel the force of this problem even if one denies that the control principle is the right way of making sense of the preconditions for moral assessment. It is not just the control principle that gives rise to the problem of moral luck, in other words, but rather a more widely held suspicion that luck or fortune ought not influence the extent to which an agent can be morally responsible (or not) for something.

Put in more general terms, the problem of moral luck takes two forms. The first problem is that in a wide range of cases the moral judgments we actually make conflict with the judgments that, upon reflection, we think we ought to make. The second and more serious problem is that common-sense seems to firmly commit us to two mutually incompatible moral intuitions. One concerns which *principles* are appropriate constraints on our judgments and entails that moral luck is *impossible*, while the other concerns which *particular judgments* it is appropriate to make and entails that *there is such a thing* as moral luck. And, when the problem takes this second form, the trouble we confront is not just that our judgments conflict with the principles we endorse, but that there also seems to be no way of resolving the conflict. What we are left with, in other words, is a paradox – one that some have thought to be so severe as to undermine the possibility of our making coherent moral judgments.⁷

I.ii The 'Equitable Maxim' and Our 'Irregular Sentiments'

the *problem* posed by the influence of luck on our moral assessments is grounded more directly in the worries generated by constitutive and circumstantial forms of luck. Interestingly, the same is not true of Smith whose account forestalls many of the worries that constitutive and circumstantial luck generate.

⁷ Darren Domsky, for instance, writes that the problem of moral luck "jeopardizes the very possibility of making evaluative moral judgments" ("There Is No Door: Finally Solving the Problem of Moral Luck," *Journal of Philosophy* 101 (2004): 445), and Nagel expresses the sentiment particularly clearly when he writes that "the view that moral luck is paradoxical is not a *mistake*, ethical or logical, but a perception of one of the ways in which the intuitively acceptable conditions of moral judgment threaten to undermine it all" ("Moral Luck," 27). In a different, though related vein Williams concludes his essay on moral luck with the observation that skepticism about the freedom of morality from luck leaves us with a concept of morality that is unrecognizable because it is less important than ours is usually taken to be. See his "Moral Luck," in *Moral Luck* (New York: Cambridge University Press, 1981), 39.

Having said something about the problem of moral luck we can now turn our attention to the question of whether moral luck presents the problem for Smith that it does for Nagel and so many others. Towards the end of his discussion of luck's influence on our sentiments Smith seems resigned to the conclusion that it does, observing that, "Fortune . . . has some influence where we should be least willing to allow her any" (TMS II.iii.3.1). At first glance this passage, and particularly its location towards the end of his discussion, suggests that Smith's considered view is that luck has a pernicious influence on our ability to make sound moral judgments. Smith, in other words, seems to accept the problem of moral luck in its first, weaker form.

As we will see in section II things are more complicated than this initial characterization suggests. It's clear however that Smith sees a real tension between the particular judgments we make and our considered views about the sort of judgments we ought to make. This is especially true with respect to judgments about the merit or demerit of actions (his main concern throughout the discussion of luck).⁸ The source of the tension lies in the psychology of moral judgment, and, in particular, the fact that our sentiments are aroused too easily in some cases, and not easily enough in others. Smith describes this at the outset of his discussion of luck in the course of making an observation about the foundations of praise and blame:

Whatever praise or blame can be due to any action, must belong either, first, to the intention or affection of the heart, from which it proceeds; or, secondly, to the external action or movement of the body, which this affection gives occasion to; or, lastly, to the good or bad consequences, which actually, and in fact, proceed from it. (TMS II.iii.intro.1)

Here Smith tells us that praise or blame must take one of three things as its object: i) the intentions, or other qualities of will expressed in our actions (what Smith calls the affections of heart), ii) our actions themselves, or iii) the consequences of our actions. Having identified these things, however, Smith goes on to tell us that it is 'abundantly evident' that neither actions nor their consequences taken alone can

⁸ As we will explore at length in sections II.iii and II.iv, though, the apparent tension between the particular judgments we make and the principles we endorse stems in part from the difficulty we sometimes have in distinguishing between judgments of merit and propriety.

be the foundation of any *real* praise or blame.⁹ He explains this in terms of a principle he refers to as the *equitable maxim* (henceforth **EM**):

The only consequences for which [an agent] can be answerable, or by which he can deserve either approbation or disapprobation of any kind, are those which were somehow or other intended, or those which, at least, show some agreeable or disagreeable quality in the intention of the heart, from which he acted. To the intention or affection of the heart, therefore, to the propriety or impropriety, to the beneficence or hurtfulness of the design, all praise or blame, all approbation or disapprobation, of any kind, which can justly be bestowed upon any action, must ultimately belong. (TMS II.iii.intro.3)

When the EM is proposed “in abstract and general terms,” Smith suggests that, “there is nobody who does not agree to it,” and even goes as far as to suggest that the justice of the principle is ‘self-evident’ (TMS II.iii.intro.4). As his subsequent discussion makes clear, however, our sentiments rarely conform to this maxim:

How well soever we may seem to be persuaded of the truth of this equitable maxim, when we consider it after this manner, in abstract, yet when we come to particular cases, the actual consequences which happen to proceed from any action, have a very great effect upon our sentiments concerning its merit or demerit, and almost always either enhance or diminish our sense of both. (TMS II.iii.intro.5)¹⁰

Smith refers to this tendency as ‘our irregularity of sentiment.’¹¹ Arising in cases where the outcome of an action is uncertain or influenced by circumstances beyond an agent’s control, the irregularity is importantly not empirical. As Smith’s comments clearly suggest – and recent work in psychology has confirmed – the irregular sentiments arise reliably in response to a wide variety of circumstances.¹² Of

⁹ TMS II.iii.intro.2

¹⁰ See also his later discussion at TMS II.iii.3.1

¹¹ TMS II.iii.2.1

¹² Fiery Cushman, for instance, finds that consequences influence judgments of blameworthiness and susceptibility to punishment independently of their influence on judgments pertaining to the wrongness of an action. See his “Crime and Punishment: Distinguishing the Roles of Causal and Intentional Analyses in Moral Judgment,” *Cognition* 108, no. 2

these, two cases stand out. The first is where the sense of merit (or demerit) aroused by actions arising from laudable (or blamable) intentions is diminished because the anticipated effects of those actions fail to occur.¹³ The second is where we find in ourselves or others a 'shadow of merit or demerit' – the latter being more common and involving our tendency to judge actions with bad outcomes to be worse than the motives from which they proceed.¹⁴ As we saw in section I.i – recall Nagel's lorry driver – the problem in the latter case is that we tend to treat the person at whom our blame is directed as if they had bad intentions even when this is not true. At a more basic level, though, the problem with both variants of irregular sentiment is that they exhibit the influence of considerations not licensed by the EM.¹⁵

I.iii A First Pass at Smith's View

Having described the tension between the EM and our irregular sentiments we're now in a position to offer a more complete, albeit still preliminary characterization of Smith's view. That view is that the EM provides the true standard of moral worth, and so, when our particular judgments conflict with the EM, they ought not to be endorsed. Approbation or disapprobation, in other words, is deserved only to the extent it reflects an agent's intentions or quality of will. Or, to put things in terms of Smith's distinction between propriety and merit, his view seems to be that the two ought not come apart. In Smith's terminology, propriety concerns the fittingness of a sentiment with respect to its cause (or, alternatively, the acceptability of an action or appropriateness of a judgment), while merit, on the

(August 2008): 353–80. And for related findings see Fiery Cushman et al., "Accidental Outcomes Guide Punishment in a 'Trembling Hand' Game," *PLoS ONE* 4, no. 8 (2009): 1–7; Fiery Cushman and Joshua Greene, "Finding Faults: How Moral Dilemmas Illuminate Cognitive Structure," *Social Neuroscience* 7, no. 3 (2012): 269–79; Liane Young, Shaun Nichols, and Rebecca Saxe, "Investigating the Neural and Cognitive Basis of Moral Luck: It's Not What You Do but What You Know," *Review of Philosophy and Psychology* 1, no. 3 (2010): 333–49; and Shaun Nichols, Mark Timmons, and Theresa Lopez, "Ethical Conservatism and the Psychology of Moral Luck," in *Empirically Informed Ethics: Morality between Facts and Norms*, ed. M. Christen et al. (Switzerland: Springer International Publishing, 2014), 159–76.

¹³ Smith discusses these cases in TMS II.iii.2.2-5

¹⁴ Smith discusses these cases in TMS II.iii.2.6-10

¹⁵ This, of course, raises the question of whether Smith might have more accurately characterized the sentiments in question as 'inequitable.' As our discussion in subsequent sections will make clear, though, the irregular sentiments really are irregular insofar as there are no general principles that can cleanly distinguish the cases in which they are and are not liable to arise. I thank an anonymous referee for pressing me to say something about this.

other hand, concerns the extent to which an agent ought to be praised (or, in the case of demerit, blamed). When Smith suggests that merit and propriety ought not come apart, then, what he is suggesting is that an agent can deserve to be praised or blamed for an action only if approbation or disapprobation for what they have done would be fitting. And, if we accept the EM, approbation or disapprobation will be fitting only to the extent that it reflects the quality of an individual's will.¹⁶

Counting in favor of this characterization of Smith's view is his formulation of the EM where he suggests that all praise or blame 'belong to' the propriety or impropriety of an agent's intentions. Also relevant is his tendency to distinguish our 'real demerit' from the sort that is founded on our irregular sentiments, and to sometimes characterize the latter as our 'unjust resentment.'¹⁷ Indeed, the view just described is more or less the view that both Paul Russell and Chad Flanders attribute to Smith.¹⁸ On this view moral worth reflects our character which in turn manifests itself in the intentions we form or are likely to form, and, as Flanders points out, on this reading Smith seems to simply deny the existence of moral luck (and the problem it poses) if by this we mean that "our moral worth can be contingent on the things we cause but do not intend to cause."¹⁹ Of course, luck may still have some influence on our moral judgments to the extent that it can lead us to withhold praise or blame in cases

¹⁶ As Geoff Sayre-McCord points out, for Smith, judgments of propriety typically reflect our ability to sympathize with the sentiment, judgment, or motive of the agent being evaluated, while merit typically reflects our ability to sympathize with those affected by the individual's action. See his "Sentiments and Spectators: Adam Smith's Theory of Moral Judgment," in *The Philosophy of Adam Smith*, ed. Vivienne Brown and Samuel Fleischacker, vol. 5, The Adam Smith Review (New York: Routledge, 2010), 125–127. Another way of making sense of Smith's claim that merit and propriety ought not come apart, then, is to say that praise is ultimately deserved *only if* we can *also* sympathize with the meritorious agent's intentions or motives (and, similarly, blame is deserved only if we cannot). Thanks to the referees and editors for pressing me to clarify this distinction.

¹⁷ TMS II.iii.2.4

¹⁸ Flander's writes: "I believe, that the true standard of moral worth for Smith is ultimately what he calls the 'equitable maxim', which is that we should not be judged based on 'those events that did not depend upon our conduct'" ("This Irregularity of Sentiment," 216). Similarly Russell argues that: "Smith's naturalistic account of the influence of fortune on our moral sentiments suggests that we are so constituted that we naturally and inevitably punish and approve of punishments that are nevertheless, on Smith's own admission, inconsistent with the demands of justice" ("Smith on Moral Sentiment and Moral Luck," 43).

¹⁹ Flanders, "This Irregularity of Sentiment," 216.

where an agent's actions fail to produce their intended result.²⁰ In these cases, though, luck does not influence our judgments of propriety, and it remains the case that we cannot deserve praise or blame for things that we do not intend to do. To put Flanders's point in terms of the distinction made in section I.i, what Smith denies is not that luck has a pervasive and frequently problematic influence on our moral judgments, but rather that this influence threatens to undermine the coherence of our judgments.

This preliminary reading of Smith has advantages. Contra Nagel, Smith is suggesting that the intuitive conditions for moral judgment *don't* threaten to leave us trapped in paradox. One reason for this, as Russell in particular emphasizes, is that by identifying agency with our intentions, rather than something more primitive like control, Smith is able to stave off the skeptical worry that plagues those who adopt the more restrictive view embodied by the control principle. More specifically, Smith sidesteps the worry that in the end we might not have control over anything and so might not be morally accountable for very much at all. Of course, that a view like his is able to avoid the paradox of moral luck in this way is unlikely to do much to sway anyone that remains unconvinced that our intentions are the locus of agency and responsibility. Nevertheless, it is an advantage, and it becomes more attractive the more weight one gives to our psychological disposition to identify one's agency with one's intentions.

And yet, if for Smith the problem of moral luck does not take on its second and more serious form, accepting the problem in its first form is troubling enough. As Russell points out, Smith remains saddled with the conclusion that we are "incapable of keeping our retributive attitudes and practices within the bounds of the requirements of justice," and although this need not threaten the coherence of our concept of morality, it clearly threatens our practices.²¹ Furthermore, as Flanders points out, "to regard the problem of moral luck as raising a problem only if luck affects our moral credit and demerit

²⁰ *Pace* Sayre-McCord, because merit typically reflects our sympathy for the individuals affected by an agent's actions, we often withhold judgments of merit or demerit in cases where an agent's actions don't produce their intended results. Doing so is also justified, however, by the fact that the vast majority of the actions with which we are capable of sympathizing are relatively banal, and so warrant neither praise nor blame.

²¹ Russell, "Smith on Moral Sentiment and Moral Luck," 43–44.

directly seems to take an unhelpfully narrow view of what that problem can involve."²² Flanders's point is that even if our moral worth is not contingent in the particular way that Smith denies that it can be, there may still be a problem in the way our irregular sentiments bear on our attitudes towards ourselves and others. In other words, the irregular sentiments might be worrisome not just because they conflict with the EM, but because they encourage us to think about ourselves in ways that don't reflect our true moral worth.

II. A Closer Look at Smith's Account of Moral Luck

Although many of the problems that Russell and Flanders pose for the view they attribute to Smith are indeed pressing, on closer inspection it's not clear that Smith means to defend that view. On one hand Smith's endorsement of the EM is more nuanced than either Russell or Flanders allows. On the other hand Smith seems to endorse our irregular sentiments, suggesting that there are circumstances in which the judgments rooted in them may be appropriate even though they don't cohere with the EM. This section develops these claims by distinguishing between three ways of reading Smith's discussion of the irregular sentiments. Each of these readings revolves around two main claims – one concerning the scope of the EM, the other the status of our irregular sentiments – and, as we will see, by advancing different views of the scope of the EM and the status of the irregular sentiments each reading suggests a different take on the problem of moral luck.

The first and least nuanced reading of Smith is the view sketched in section I on which he seems to accept the problem of moral luck in its first form. As we've seen, on that reading: (a) the EM is the principle which ought to govern all attributions of responsibility, and (b) our irregular sentiments are a problem to the extent that they conflict with the EM. The second reading, maintains the first's view of the scope of the EM, but offers a slightly more complicated take on the status of the irregular sentiments. On this view: (a) the EM is still the principle which ought to govern attributions of responsibility, but (b) a broadly consequentialist justification of our irregular sentiments is available. As we will see, this reading suggests that we need not despair at the influence the irregular sentiments have on our moral judgments, but this comes at a cost. More specifically, it suggests that Smith accepts

²² Flanders, "This Irregularity of Sentiment," 216.

the problem of moral luck in something like its second, paradoxical form. Finally, on the third reading of Smith that I will eventually argue best captures Smith's settled view: (a) the EM is not the only principle which ought to govern attributions of responsibility, and (b) our irregular sentiments can be endorsed (i.e. they are often appropriate). And, as we will see, on this view, Smith provides us the resources for denying that there is a problem of moral luck.

II.i Smith's Qualified Endorsement of the Equitable Maxim

The first reason to think that Smith's view is not the one sketched in section I is that there are several places where Smith's affirmation of the EM is hedged. Smith's first hedge comes in the paragraph where he first points out that many of our judgments conflict with the EM. There Smith prefaces his comments with the observation that we all "*seem* to be persuaded of the truth of this equitable maxim ..." (TMS II.iii.intro.5, emphasis added). One can only give so much weight to a single word, but Smith's comment clearly allows for the possibility that we are not all actually persuaded by the truth of the EM. Indeed, Smith makes similar hedges throughout the TMS, often invoking the language of seemings to indicate that the impressions which arouse our sentiments are merely apparent, and such hedges are significant in light of Smith's fascination with the role that illusions and deception play in our lives.²³

More significant than his hedges, however, is the fact that Smith never says that the EM ought to govern our particular judgments. Although other commentators have taken this claim to follow implicitly from Smith's concern for the ways in which our irregular sentiments lead us astray of the

²³ For examples of similar hedges see: TMS II.i.3.4, where he suggests that our sympathy for the distress of someone injured by another seems to serve only to animate our resentment for the offender despite the fact that Smith elsewhere suggests that this sympathy also drives us to help alleviate the suffering of the victim; TMS I.i.2.4 where he suggests that our sympathy with the sorrow of others seems to us to alleviate their sorrow, but actually tends to compound their grief; TMS I.iii.3.8 where he suggests that glory seems to surround our heroes, when in fact the heroes themselves are plagued by shame and remorse; and TMS II.ii.3.5 where he invokes the language of seemings in the context of discussing why reductive explanations of the efficient causes of natural phenomena are attractive, but sometimes misleading. And for discussion of Smith's fascination with illusions and deception see Eric Schliesser, "Adam Smith's Theoretical Endorsement of Deception," *The Adam Smith Review* 2 (2006): 209–14; Ryan Patrick Hanley, *Adam Smith and the Character of Virtue* (Cambridge: Cambridge University Press, 2009), especially 102–103; and N. Ashraf, C. Camerer, and G. Loewenstein, "Adam Smith Behavioral Economist," *The Journal of Economic Perspectives* 19, no. 3 (2005): especially 138–140.

EM, all Smith clearly commits himself to is the much weaker claim that we all accept the EM *when it is presented in abstract and general terms*.²⁴ This of course is consistent with the view that the EM is *not* supposed to govern all of our particular judgments, and given the skepticism of reason and philosophy that Smith expresses at various points throughout the TMS it would not be surprising if this were his view.²⁵ Moreover, if this is in fact a feature of Smith's view, it serves to further distinguish his view from philosophers who, like Nagel, clearly think that the abstract principles we accept ought to constrain our particular judgments.²⁶

II.ii An Intermediate View: The Utility of Our Irregular Sentiments

Acknowledging that the textual evidence cited above is by no means conclusive, I want to turn to two more substantive arguments that show why the reading sketched in section I is inadequate. The first, which I develop in this section, concerns Smith's discussion of the utility of the irregular sentiments, and motivates the move from the first to the second reading we sketched.

Smith's arguments for the utility of the irregular sentiments are offered at the end of a discussion of the way we respond to accidents which are interesting in large part because they provide particularly clear examples of cases where fortune influences our judgments of merit or demerit. These cases are also interesting, though, for what they tell us about the relationship between our sentiments and the social norms that structure our practices, which in turn helps to explain why luck has the influence on our judgments that it does. Before turning to Smith's arguments for the utility of the irregular sentiments, then, it will be helpful to say something about this relationship.

²⁴ TMS II.iii.intro.5 and II.iii.3.1. Geoff Sayre-McCord is an exception here. See his "Sentiments and Spectators," 140, where he calls attention to this fact.

²⁵ Smith's skepticism of philosophy has been much discussed. See e.g. the observations he makes at TMS I.iii.2.3, and for discussion of this Griswold, *Adam Smith and the Virtues of Enlightenment*, especially chap. 4 sec. 2, and also pp. 23–25.

²⁶ Note that the reading I am defending here does leave us with an interesting puzzle, namely how a principle (like the EM) can be so 'abundantly evident' when presented in abstract and general terms that no one would deny it, and yet not be appropriate as a constraint on the judgments we make in particular cases. There is however persuasive experimental evidence that individuals are prone to make (and approve of) particular judgments that conflict with the general principles they accept in precisely this sort of way. See Chris Freiman and Shaun Nichols, "Is Desert in the Details?," *Philosophy and Phenomenological Research* 82, no. 1 (2011): 121–33, which focuses on desert judgments that are in many cases related to judgments of blame/praise-worthiness.

On Smith's view our sentiments are related to norms in two ways, each of which can be explained by the role sympathy plays in driving us to converge on norms. On one hand, our sentiments are sensitive to social norms insofar as norms help determine the content of our reactive attitudes, as well as the sorts of situations that are liable to arouse our sentiments. On the other hand, our sentiments themselves play an important role in shaping the content of our norms. In the first case, the sympathetic pleasure we enjoy when our sentiments or judgments concord with those of others (and the displeasure we get when this is not the case) conditions our sentiments to be aroused only in cases likely to arouse the sentiments of others.²⁷ In the second case, the content of our norms is constrained by the fact that we are only likely to converge on norms that reliably arouse our sentiments.²⁸

Both aspects of the relationship between our sentiments and norms are nicely depicted in Smith's discussion of negligence. With respect to the first, consider Smith's account of the reasons we blame and punish those who are guilty of gross negligence:

The person who has been guilty of [gross negligence], shows an insolent contempt of the happiness and safety of others. There is real injustice in his conduct. He wantonly exposes his neighbour to what no man in his senses would chuse to expose himself, and evidently wants that sense of what is due to his fellow-creatures which is the basis of

²⁷ For Smith, like Hume, sympathy is the capacity that allows us to share the sentiments of others. The distinctive aspect of Smith's account of sympathy, though, is that the empathic aspect of sympathy is accompanied by an innate desire that one's sentiments be in accord with the sentiments of others, where this desire is explained in terms of the 'sympathetic pleasure' we get when our sentiments concord with those of our fellows. For more on the role that sympathy plays in driving us to converge on norms and judgments of other sorts see Schliesser's discussion in "Reading Adam Smith after Darwin: On the Evolution of Propensities, Institutions, and Sentiments," *Journal of Economic Behavior and Organization* 77, no. 1 (January 2009): 14–22, and Otteson's in *Adam Smith's Marketplace of Life* (Cambridge: Cambridge University Press, 2002), chap. 1. And for more general discussion of Smith's account of sympathy see Bence Nanay's "Adam Smith's Concept of Sympathy and Its Contemporary Interpretations," in *The Philosophy of Adam Smith*, ed. Vivienne Brown and Samuel Fleischacker, vol. 5, *The Adam Smith Review* (New York: Routledge, 2010), 85–104, and Remy Debes's "Which Empathy? Limitations in the Mirrored 'Understanding' of Emotion," *Synthese* 175, no. 2 (2010): 219–39.

²⁸ This dynamic is characterized in evolutionary game theory as co-evolution. For an example of how something like this likely contributed to the evolution of cooperation see Robert Boyd and Peter Richerson, *Not by Genes Alone: How Culture Transformed Human Evolution* (Chicago: University Of Chicago Press, 2005), and for an account of how a wide range of norms and practices are able to co-opt our evolved psychology see Fiery Cushman, "Punishment in Humans: From Intuitions to Institutions," *Philosophy Compass* 10, no. 2 (2015): 117–33.

justice and of society. (TMS II.iii.2.8)

Of note here is Smith's observation that what makes gross negligence blameworthy – in his words, "what chiefly enrages us" – is not so much the ill effects of negligence, as it is the sense that negligence betrays an agent's lack of concern for what is owed to others. In such cases Smith suggests that, when we express our resentment, what we principally desire is to bring the offender "back to a more just sense of what is due to other people" (TMS II.iii.1.5). For Smith, though, our resentment doesn't merely express this desire. Rather, it provides us with a mechanism for bringing it about. Indeed, so important is this latter fact that Stephen Darwall has suggested that we read Smith as defending a view on which the distinctive characteristic of sentiments like resentment and indignation is the interpersonal demands they embody.²⁹ More specifically, on Darwall's reading of Smith, the demand that reactive attitudes like resentment embody is that individuals afford each other the respect that they warrant in virtue of their human dignity, and in making this demand the reactive attitudes presuppose that those at whom they are directed are responsible moral agents.³⁰ We will return to this point in subsequent sections. What is important for the moment, though, is simply that, on Smith's view, our norms play a role in determining when our sentiments are aroused, while the sentiments themselves provide the principal mechanism for holding one another to account when these norms are violated.

Turning to the role the sentiments play in constraining the content and application of our norms, we see Smith point to this in the sentences that immediately follow the passage quoted above. There Smith notes that, although we are apt to treat agents whose negligence leads to real harm "as if [they] had really intended those consequences," in cases where harm doesn't arise we don't do this (TMS II.iii.2.8). Indeed, Smith suggests that nothing could "appear more shocking to our natural sense of equity" than for a man to be punished as if he brought about harm when, in fact, he did not (TMS II.iii.2.8). Of course, this isn't to say that those who avoid causing harm despite their negligence are immune from criticism, but rather that the degree of punishment they warrant is less (and perhaps also

²⁹ See Darwall's discussion in *The Second-Person Standpoint: Morality, Respect, and Accountability* (Cambridge, MA: Harvard University Press, 2006) at pgs. 84 and 178-180, where he draws on the very passage quoted above.

³⁰ See also Stephen Darwall, "Sympathetic Liberalism: Recent Work on Adam Smith," *Philosophy and Public Affairs* 28, no. 2 (April 1999): 139–64. Here Darwall echoes a view defended by Charles Griswold in *Adam Smith and the Virtues of Enlightenment*, especially 235–239, which has been defended more recently, and at greater length, by Remy Debes in his "Adam Smith on Dignity and Equality," *British Journal for the History of Philosophy* 20, no. 1 (2012): 109–40.

of a different sort) than it would be had they caused real harm. In other words, our desire to bring the negligent actor back to a more just sense of what is due to others is mitigated in such cases by our general aversion to entering into the unsocial or malevolent sentiments.³¹ When an agent's actions do produce suffering or damages, however, our sympathy with the victims allows us to overcome this aversion, and, as Smith's discussion of the minor species of negligence makes especially clear, because this sympathy tends to overwhelm our sense of the propriety (or impropriety) of the agent's actions, our judgments in cases with bad outcomes tend to reflect the token consequences of the agent's actions (rather than the agent's intentions as the EM would prescribe).³²

Having said something about the source of our sentiments' irregularity, we're now in a position to sketch Smith's arguments for their utility. Indeed, so substantial are the benefits of the irregular sentiments that Smith attributes their final cause to a divine and benevolent 'Author of nature.'³³ And,

³¹ See TMS II.iii.2.7. As we will soon see, our hesitancy to blame in such cases is also explained by the problems that would accompany the 'inquisition of the heart' that would be likely to arise if we focused only on intentions, the most significant of which is the disrespect that a general suspicion of the motives of others is likely to manifest itself as.

³² Smith identifies four distinct species of negligence. The first and most serious is *gross negligence* which encompasses those actions that result in harm to another and reveal the negligent actor's contempt for the safety and happiness of his fellows. For Smith this contempt for the interests of others is found in the fact that the negligent agent treats others as he would not treat himself (we see this in the quotation above from TMS II.iii.2.8). A second and slightly weaker species of gross negligence is found in cases where an agent's actions do not result in harm to another, but because his actions expose his fellows to such great risks the agent's actions are still said to reveal his contempt for the interest of his fellows. Smith also discusses this in TMS II.iii.2.8, where he discusses the case of someone blindly throwing heavy rocks over a wall and into a crowded street. The third species of negligence Smith identifies involves cases where the negligent agent treats others as he treats himself, but where he is nevertheless not "so careful and circumspect in his conduct as he ought to be" (TMS II.iii.2.9). Smith identifies this species of negligence with the latin term *culpa levis* which translates roughly to 'negligence of a smaller degree'. In the Roman civil law (which Smith is drawing on here) the person guilty of *culpa levis* was responsible for compensating those he harmed. Interestingly, Smith argues that because this degree of negligence involves no injustice the person guilty of it deserves no punishment (apart from compensating his victim), although he does still deserve "some degree of blame and censure." The fourth and last species of negligence Smith identifies however doesn't involve violating any duties of care at all. Smith identifies this with the latin *culpa levissima* (which translates to 'the least negligence') and as we will see in section II.iv his discussion of this species of negligence is especially interesting. See also his discussion in the *Lectures on Jurisprudence*, ed. R. L. Meek, D. D. Raphael, and P. G. Stein, Glasgow Edition of the Works and Correspondence of Adam Smith (Indianapolis: Liberty Fund Inc., 1982), especially volume ii, p. 89 of the Report of 1762-3 and p. 182 of the Report dated 1766.

³³ See TMS II.iii.3, aptly titled "Of the final cause of this Irregularity of Sentiments," especially paragraph 2, and also TMS II.iii.intro.6. For more extensive discussion of the place of the author of nature in Smith's theory see Richard Kleer, "Final Causes in Adam Smith's Theory of Moral Sentiments," *Journal of the History of Philosophy* 33, no. 2 (1995): 275-300,

regardless of whether one gives much weight to the language of final causes, or not, it's clear that Smith thinks that the irregular sentiments provide us with certain useful impulses and help to constrain other less useful tendencies, and goes as far as to sketch four distinct utilitarian justifications for them.³⁴

Smith's first attempt to justify our irregular sentiments concerns cases where our sensitivity to outcomes leads agents with similar intentions to be treated differently depending upon the consequences of their actions. In these cases, Smith argues that our eye towards consequences insulates our thoughts from the 'tyranny' of public inspection.³⁵ This is valuable for at least two reasons. First, insulating our thoughts from public scrutiny is valuable in its own right if we attach considerable importance to freedom of conscience, as Smith suggests we do. Second, even if we did not attach intrinsic value to freedom of conscience, insulating our thoughts from the scrutiny of others would still be valuable in light of the human tendency to attribute bad motives to even the most innocent conduct.³⁶ Here, in other words, Smith's concern is with the social costs associated with a general suspicion of others, including the affront to our dignity that is likely to accompany such distrust.³⁷

Smith's second and third justifications also concern the sensitivity of our sentiments to outcomes. On one hand, Smith suggests that it is the emphasis we place on consequences that

and Campbell's discussion in *Adam Smith's Science of Morals*. However, for an argument that cautions against taking the language of final causes too seriously see Spencer J. Pack and Eric Schliesser, "Smith's Humean Criticism of Hume's Account of the Origin of Justice," *Journal of the History of Philosophy* 44, no. 1 (2006): 47–63.

³⁴ Note that the notion of 'utility' that Smith invokes is more capacious than the notion typically invoked in the philosophy literature post-Bentham, and also less closely associated with the particular consequences of an action.

³⁵ See TMS II.iii.3.2-3

³⁶ Smith's rhetoric here is striking: "If the hurtfulness of the design, if the malevolence of the affection, were alone the causes which excited our resentment, we should feel all the furies of that passion against any person in whose breast we suspected or believed such designs or affections were harboured, though they had never broke out into any action. Sentiments, thoughts, intentions, would become the objects of punishment; and if the indignation of mankind run as high against them as against actions; if the baseness of the thought which had given birth to no action, seemed in the eyes of the world as much to call aloud for vengeance as the baseness of the action, every court of judicature would become a real inquisition. There would be no safety for the most innocent and circumspect conduct. Bad wishes, bad views, bad designs, might still be suspected; and while these excited the same indignation with bad conduct, while bad intentions were as much resented as bad actions, they would equally expose the person to punishment and resentment." TMS II.iii.3.2

³⁷ Debes has also drawn on these passages in highlighting Smith's tendency to caution against overvaluing the authority of reason in matters of morality. See his "Adam Smith on Dignity and Equality," 128.

encourages men to act rather than to be satisfied with mere possession of good will.³⁸ On the other hand, he argues that by attaching blame and punishment to the consequences of our actions “man is thereby taught to reverence the happiness of his brethren” (TMS II.iii.3.4). Here Smith notices that although our attention to consequences sometimes leads us to blame agents who bring about harm accidentally this blame, however undeserved, also encourages us to take precautions in order to avoid causing harm to others. It is our irregular sentiments, in other words, that encourage us to act, but also to be careful and to take account of the risks and costs that we impose on others when we do act.

Finally, Smith realized that the reverence for the happiness of others pointed to above also imbues man with the motivation needed to solve one of the most significant problems of social life, viz. how to deal with the myriad externalities associated with our actions, including especially the costs imposed on victims of accidents. As Smith observes towards the end of his discussion of negligence:

Nothing, we think, can be more just than that one man should not suffer by the carelessness of another; and that the damage occasioned by blamable negligence, should be made up by the person who was guilty of it. (TMS II.iii.2.9)

I will eventually argue that the principle expressed here plays at least as important a role as the EM in filling out Smith’s account of moral responsibility. For now, though, what’s important is that it’s our irregular sentiments that help to make the principle efficacious. In particular, it is our concern for the token consequences of actions that makes us sensitive to the needs of victims, and it is our sentiments that encourage us to actually take responsibility for the harm we cause.

Having sketched Smith’s arguments for the utility of the irregular sentiments we are finally in a position to sketch the intermediate view that captures the second step in Smith’s attempt to grapple with the problem of moral luck. On this view the EM is still the principle against which our praise and blame of others ought to be assessed, but Smith can now be seen to be an apologist for our irregular sentiments. In other words, Smith remains committed to the idea that it’s a mistake to blame (or praise) others on account of the token consequences of their actions. However, as an apologist for the irregular sentiments he is simultaneously committed to the view that, because we benefit from holding others accountable in this way, it is in some sense a good thing that our irregular sentiments lead us to blame

³⁸ TMS II.iii.3.3

those who do not deserve to be blamed.³⁹

Taking stock, of where this reading leaves things, on one hand it has the obvious advantage of making sense of Smith's extensive discussion of the utility of the irregular sentiments. On the other hand, though, Smith now seems committed to embracing the problem of moral luck in something closer to its second, more serious form. More specifically, he seems committed to accepting that there is real (and perhaps even irresolvable) tension between the particular judgments we countenance and the more general principles we endorse. This is not an easy view to embrace. As Russell and Flanders both argue, this reading makes Smith's view look schizophrenic, and, indeed, the worry is serious enough that it leads both to deny that we should follow Smith in apologizing for our irregular sentiments.⁴⁰ As we will see in the next section, though, Smith says several things that suggest that his endorsement of the irregular sentiments is more thoroughgoing than this intermediate view suggests.

II.iii Smith's Settled View: The Impartial Spectator's Approval of the Irregular Sentiments

The previous section concluded with the observation that the utility of the irregular sentiments provides some reason to endorse the irregular sentiments, but cannot fully justify the judgments rooted in them as long as we remain committed to the EM. As we saw in section II.i, though, there is some reason to think that Smith qualifies his commitment to the EM. This section builds on that argument by

³⁹ Note that this view is compatible with the idea that one of the good consequences that the irregular sentiments promote is that they make us more likely to treat one another in ways that are synonymous with the respect we warrant in virtue of our dignity.

⁴⁰ Russell suggests that Smith's utilitarian justifications of our irregular sentiments don't stand up to scrutiny and argues that he overlooks important distinctions between various sorts of mental states that potentially bear on our moral culpability. Particularly important on Russell's view is the distinction between intentions and desires which engage the will and those which are merely entertained in passing. While it makes sense to insulate the latter from public scrutiny, Russell suggests that the former ought not to be (see "Smith on Moral Sentiment and Moral Luck," 41–43). On the other hand, Flanders suggests that while Smith's arguments do serve to justify our irregular sentiments, they do so *indirectly*, by illustrating a number of constraints on moral agency. Whether Smith's arguments for the utility of the irregular sentiments go through then is of little consequence. Instead, Flanders suggests, that we read Smith's arguments as "showing us a truth about our nature as finite and imperfect agents" (see "This Irregularity of Sentiment," 198–203). Note, however, that Smith clearly anticipates some of Russell's criticisms. And, contra Flanders, rather than drawing our attention away from Smith's consequentialist arguments, it seems more appropriate to read Smith as offering a conception of moral agency that is built up from considerations regarding the sorts of practices that serve our ends given the relatively fixed motivational constraints that individual agents face as actors, and the epistemic constraints they face as moral judges.

drawing attention to a number of places where Smith seems to endorse the judgments rooted in our irregular sentiments despite their apparent conflict with the EM. When combined with Smith's arguments for the utility of the irregular sentiments, these passages suggest that Smith is not merely apologizing for the irregular sentiments, but is instead suggesting that the judgments rooted in them are appropriate. As we will see, Smith's endorsement is rooted in two things. First, the fact that many of the judgments (and the sentiments they are rooted in) are endorsed by the impartial spectator. Second, the fact that the impartial spectator's sympathy for the irregular sentiments is widespread.

In a fascinating passage towards the beginning of his discussion of moral fortune Smith observes that we often feel gratitude and resentment oriented towards inanimate objects.⁴¹ This is significant because such objects are pretty clearly inappropriate objects of moral assessment. Smith, for instance, lays out three conditions that must be met for something to count as a proper object of gratitude or resentment. First, the object must be the cause of pleasure or pain, and, second, it must be capable of feeling pleasure or pain itself. Something can only be the 'complete and perfect' object of our gratitude or resentment, though, if it is conscious that its reward or punishment is (a) due to its past conduct, and (b) deserved.⁴² Clearly things which are incapable of forming intentions, like inanimate objects, fall short along many of these dimensions, and, as Smith notes, in most cases the deviant sentiments directed towards these objects are easily correctable.⁴³ In cases involving great harms, however, Smith observes that this is not always the case:

The object which caused [great harm] becomes disagreeable to us ever after, and we take pleasure to burn or destroy it. We should treat, in this manner, the instrument which had accidentally been the cause of the death of a friend, and *we should often think ourselves guilty of a sort of inhumanity, if we neglected to vent this absurd sort of vengeance upon it.*

⁴¹ "The causes of pain and pleasure, whatever they are, or however they operate, seem to be the objects, which, in all animals, immediately excite those two passions of gratitude and resentment. They are excited by inanimated, as well as by animated objects. We are angry, for a moment, even at the stone that hurts us. A child beats it, a dog barks at it, a choleric man is apt to curse it." (TMS II.iii.1.1)

⁴² See TMS II.iii.1.4

⁴³ TMS II.iii.1.1

(TMS II.iii.1.1, emphasis added)⁴⁴

Smith's language here is telling. Although he refers to our resentment as 'absurd,' the claim that we should think of ourselves as other than human if we didn't feel it suggests that the reactive attitude in question is, at the very least, to be expected, and perhaps even appropriate. Of course, there are important differences between these two views that Freud and Nietzsche among others were especially attuned to. When the passage is read alongside analogous claims Smith makes, however, there is good reason to think that he is staking out the normative position that the judgments rooted in our irregular sentiments are *in fact* appropriate.

Among the passages that lend support to the claim that Smith endorses the irregular sentiments are his observations about the independent weight that achievements merit in both our moral and aesthetic judgments. Here, Smith observes that "the superiority of virtues and talents has not, even upon those who acknowledge that superiority, the same effect with the superiority of achievements" (TMS II.iii.2.3), and of the person who intends to benefit us but fails to do so that, while we may "esteem him," he is "owed nothing" (TMS II.iii.3.3). Nor are these judgments merely the provenience of unreflective judges. As Smith notes, they are made by "even the most intelligent" observers, and endorsed too by the impartial spectator.⁴⁵ What makes the observations especially significant, though, is what they tell us about the role utility plays in eliciting our sympathy. Although Smith spends considerable time arguing that utility cannot be the sole source of our sympathy, he clearly thinks that it has some influence on our sense of approbation or disapprobation.⁴⁶ The special praise bestowed

⁴⁴ In the next paragraph Smith describes a parallel case involving gratitude as opposed to resentment: "We conceive, in the same manner, a sort of gratitude for those inanimated objects, which have been the causes of great, or frequent pleasure to us. *The sailor, who, as soon as he got ashore, should mend his fire with the plank upon which he had just escaped from a shipwreck, would seem to be guilty of an unnatural action.* We should expect that he would rather preserve it with care and affection, as a monument that was, in some measure, dear to him." (TMS II.iii.1.2, emphasis added).

⁴⁵ For the former see TMS II.iii.2.3, and the latter TMS II.iii.2.2.

⁴⁶ The whole of Part IV of the TMS is devoted to exploring the effect of utility on approbation, and while Smith's emphasis there is on aesthetic judgment, it is clear from his discussion elsewhere that he also thinks that utility is an important elicitor of the sentiments which ground moral judgment. See especially TMS I.i.4.4 where he argues that, while the utility of a quality is not the original source of our approbation, recognition of a quality's utility gives it a new value which enhances our approbation. And also his later discussion at TMS VII.iii.3.17 where in considering the role that might be played by "a moral sense" he suggests that the sentiments associated with our approval of actions are derived from four sources: 1) the motives of an agent, 2) the gratitude of those who benefit from an action, 3) whether

upon achievements is an example of this. Indeed, the praise bestowed on achievements suggests that the utility of an action sometimes contributes to our assessment of its merit independently of our judgments of its propriety. This is important. Among other things it suggests that approbation or disapprobation need not imply anything about propriety, and pausing to reflect on this fact allows us to paint the irregular sentiments in a light that makes their conflict with the EM less serious.

As we saw in his discussion of negligence, Smith diagnoses the irregularity of our sentiments by pointing to the tendency of our sympathy for those affected by an agent's actions to overwhelm our sense of the propriety (or impropriety) of the agent's actions. In cases where this diagnosis is correct we tend to blame agents to a degree that is not deserved. Smith also identifies a second and more benign source of irregularity, though. That source lies in the fact that we are prone to mistake our sympathy for the utility of an action with our sympathy (or lack of sympathy) for the motives of the actor. As Smith points out, we make this mistake because in typical cases our sentiments are initially aroused by a sense of propriety, but this is not what happens in cases where the sentiments display their irregularity. In these cases, it tends to be the consequences of actions and their immediate utility or disutility that is first apparent to us. As a result, our approbation or disapprobation in such cases mainly conveys our sympathy with those who stand to benefit (or bear some cost) as result of the action in question.

Notice that both of Smith's diagnoses of our irregular sentiments leave us with judgments that conflict with the EM. The conflict is less threatening in the second case though. This is because in the second case our approbation (or disapprobation) does not conflict with the EM by conveying mistaken judgments about the propriety of the an agent's actions. Instead the conflict lies in the fact that the irregular sources of praise and blame include considerations besides an agent's propriety. Accordingly, if Smith's endorsement of the EM is qualified along the lines I suggested in section II.i, the irregularity of the sentiments need not present any real threat to the appropriateness of our moral judgments.

The considerations sketched above suggest that the conflict between the irregular sentiments and the EM may not be as serious as it initially seemed. It is in Smith's discussion of the self-directed sentiments, though – things like guilt, regret, and our tendency to blame ourselves for the things we do

the conduct being considered conformed to the general rules that govern our sentiments, and 4) whether the actions contribute to a system of behavior which promotes the happiness of either the individual or society.

– where we most clearly see Smith endorse the judgments rooted in the irregularity of our sentiments. Especially illuminating is a passage near the end of Smith's discussion of negligence where he introduces a species of negligence that is interesting in part because it is arguably not an example of negligence at all. The discussion is nuanced enough that it is worth quoting in its entirety:

There is another species of negligence, which consists merely in a want of the most anxious timidity and circumspection, with regard to all the possible consequences of our actions. The want of this painful attention, when no bad consequences follow from it, is so far from being regarded as blamable, that the contrary quality is rather considered as such. That timid circumspection which is afraid of every thing, is never regarded as a virtue, but as a quality which more than any other incapacitates for action and business. Yet when, from a want of this excessive care, a person happens to occasion some damage to another, he is often by the law obliged to compensate it. Thus, by the Aquilian law, the man, who not being able to manage a horse that had accidentally taken fright, should happen to ride down his neighbour's slave, is obliged to compensate the damage. When an accident of this kind happens, we are apt to think that he ought not to have rode such a horse, and to regard his attempting it as an unpardonable levity; though without this accident we should not only have made no such reflection, but should have regarded his refusing it as the effect of timid weakness, and of an anxiety about merely possible events, which it is to no purpose to be aware of. *The person himself, who by an accident even of this kind has involuntarily hurt another, seems to have some sense of his own ill desert, with regard to him. He naturally runs up to the sufferer to express his concern for what has happened, and to make every acknowledgment in his power. If he has any sensibility, he necessarily desires to compensate the damage, and to do every thing he can to appease that animal resentment, which he is sensible will be apt to arise in the breast of the sufferer.* (TMS II.iii.2.10, emphasis added)⁴⁷

We will explore the significance of the first half of this passage shortly. First, however, we must attend to the latter half of the passage. Echoing Smith's third and fourth utilitarian justifications for the irregular sentiments, this part of the passage highlights the role that the self-directed sentiments play in

⁴⁷ The Aquilian law Smith references was a Roman legal code introduced in the third century BC dealing primarily with tort law, and which eventually formed the foundation of much of Roman civil law and, later, the English common law.

motivating us to act cautiously, show concern for others, and ensure that, when accidents happen, victims are responded to appropriately. This role is rooted in our desire to avoid or quell the negative feelings associated with guilt and sentiments like it. Compensating those we harm, or at least apologizing for what we have done, is one way of doing this. More importantly, though, it is one's sense of her own ill desert that makes doing so seem appropriate.

Also significant here is that we again see Smith pulling apart judgments of merit and propriety. As Smith's discussion of the desire to apologize makes clear, one need not think she has done something wrong in order to feel a sense of ill desert. Rather, she simply needs to recognize that her actions call out for a response of some sort in virtue of their relationship to an untoward event, and that others would be within their rights to demand or at least expect this of her. This brings us to the first half of the passage quoted above. As Smith points out, when a person is unable to control a horse that takes fright we are apt to think that she ought not to have been riding the horse at all. More important, however, is his observation that to refuse to ride a horse because one is worried about the possibility that she might not be able to control it in every circumstance betrays an excessive timidity that renders one unfit for social life. Smith's concern here is with the costs of being paralyzed by anxiety about 'merely possible events.' What he recognizes is that life is inherently risky, and although we are often able to limit the risks we face (and impose on others), we cannot eliminate risk entirely. As a result, getting along in the world requires us to embrace the fact that our actions will sometimes have unintended consequences, and to accept that others can rightly expect us to take responsibility for these things. The irregular sentiments are important, then, not just because they encourage us to be cautious, but because they help to ensure that we aren't too cautious by preparing us to accept responsibility for the unintended consequences of our actions in a way that doesn't leave us afraid to be held to account for what we do.⁴⁸

Although the motivational role of the self-directed sentiments is important, more important for our purposes is what Smith has to say about the impartial spectator's indulgence of the irregularity of

⁴⁸ Note that if treating oneself as an accountable moral agent involves acknowledging the relationship one bears to various events, then this observation fits nicely with the Darwall/Griswold/Debes reading of Smith on which the reactive attitudes reflect a deontic commitment to respecting others holding one another to account when they fail to accord others the respect they warrant. We will develop this point in greater detail in sections II.iv and III.ii.

guilt, regret, and the like. This is important for two reasons. The first is related to the non-motivational role that the self-directed sentiments play in making our practices possible. We see this in the sentences that conclude the paragraph quoted above:

To make no apology, to offer no atonement, is regarded as the highest brutality. Yet why should he make an apology more than any other person? Why should he, since he was equally innocent with any other bystander, be thus singled out from among all mankind, to make up for the bad fortune of another? This task would surely never be imposed upon him, did not even the impartial spectator feel some indulgence for what may be regarded as the unjust resentment of that other. (TMS II.iii.2.10)

Having surveyed the utility of our tendency to let bad consequences drive our practice of blaming those who cause harm, here Smith tells us that the self-directed sentiments are what allow us to sustain this practice. They do so by generating psychological uptake within the agents being blamed. It's not just the immediate psychological uptake by the agent being held responsible that plays this role, though. What really matters is that the uptake is stable upon reflection. This happens when the impartial spectator is capable of endorsing the resentment of others, and, as Smith argues at length, it is not our sympathy with the blame of others that provides this endorsement, but rather a sense of our own blameworthiness.⁴⁹ The self-directed sentiments are important, then, to the extent that they imbue agents with the sense of blameworthiness that allows the impartial spectator to sympathize with the resentment or disapprobation of others. Moreover, the irregular expressions of these sentiments are particularly important to the extent that blaming individuals for harms they do not intend to bring about is likely to be especially divisive in the absence of guilt or something else like it.⁵⁰

Of course, that one feels a particular sentiment does not entail that she ought to (even if doing so would be socially useful). This, then, brings us to the second lesson to draw from the impartial spectator's indulgence of our irregular sentiments. That lesson is that, to the extent that the impartial

⁴⁹ See TMS III.i.2

⁵⁰ While it is easy enough to sustain blame in particular cases where the blamed party lacks any sense of remorse or otherwise fails to acknowledge that the blame is deserved, it is hard to take up this stance with respect to whole classes of individuals who fail to recognize that they are appropriately subject to censure. Recall Smith's observation that to be a perfect object of blame (or praise) one must appreciate that the blame (or praise) is deserved.

spectator is able to sympathize with the irregular sentiments, we have good reason to think that they (and the judgments founded on them) are appropriate. The appropriateness of these judgments stems from the fact that, for Smith, the impartial spectator provides the principal mechanism for assessing our moral judgments. I will defend the idea that the impartial spectator plays this role in section III.i. For now though one characteristic of the impartial spectator's endorsement of the irregular sentiments is particularly significant. That characteristic is that the sympathy of the impartial spectator is general. Although Smith points out that we all seem to accept the EM when it is presented in abstract and general terms he never identifies any instances in which we fail to sympathize with judgments rooted in the irregular sentiments *because* they conflict with the EM.

At last then we are in a position to sketch the view of the relationship between the EM and our irregular sentiments that best captures the subtleties of Smith's position. This view is characterized by two features. First, the utility of the irregular sentiments when combined with the fact that these sentiments are endorsed by the impartial spectator serves to fully justify them. Second, and as a consequence of the first feature, we must accept the fact that the influence of luck on our lives is so pervasive that, in some cases, causal responsibility by itself can be enough to make us blameworthy.

One question remains however. That question is whether the apparent conflict between the irregular sentiments and the EM should still bother us? This question is important because its answer determines whether Smith is committed to thinking that the existence of moral luck is a problem. More specifically, if Smith accepts the idea that we should worry about this conflict, then he is left with a view like Nagel's or Williams's on which the influence of luck on our lives embeds us in a set of moral practices that are paradoxical. As will see in the next section, though, Smith clearly thinks that the conflict between the irregular sentiments and the EM shouldn't bother us.

II.iv Rounding Out Smith's View: Particular Guilt and the Limited Scope of the EM

To see why the conflict between the EM and the irregular sentiments need not bother us we must return to Smith's distinction between merit and propriety and his suggestion that all 'real' praise and blame ought to conform to the EM. The latter claim in particular is important as it leaves open two possibilities. On one hand, is a view on which the EM ought to govern all forms of approbation and disapprobation. As I suggested above, on this view Smith's endorsement of the irregular sentiments

suggests that he accepts the problem of moral luck in its 'hard,' paradoxical form. On the other hand, though, is a view on which the EM ought to govern some, *but not all* forms of approbation and disapprobation. On this view – which I think is Smith's – paradigmatic instances of praise and blame will conform to the EM, but certain attributions of praise and blame can be appropriate even though they don't conform to the EM.

This is where Smith's distinction between merit and propriety is helpful. We might say that 'real' praise or blame reflects the propriety or impropriety of an action, and this is why the EM is appropriate principle for evaluating judgments of merit and demerit. To the extent that approbation (or disapprobation) convey our sympathy (or lack of sympathy) for an agent's decision to act, it ought to reflect the consequences of the action only to the extent that these were intended (or could have been anticipated). In cases where our approbation is meant to convey other things though – e.g., our sympathy with the suffering of those affected by an accident, or the expectation that one acknowledge her relationship to an event in some way – it is perfectly appropriate for our judgments to reflect the unintended consequences of an agent's actions. Insofar as the irregular sentiments fall into this latter category, then, they do not actually conflict with this more nuanced understanding of the EM. However, because the irregular sentiments are sufficiently like their regular counterparts, the two are easily mistaken for one another. Indeed, the irregular sentiments aren't really distinct sentiments at all. Rather they are simply instances of things like guilt or resentment directed at things other than the propriety of an action. Smith thus offers an attractive diagnosis of why the problem of moral luck appears to take its paradoxical form, while also providing us the resources for resisting the claim that it is, in the end, paradoxical.⁵¹

Unfortunately, though, while this understanding of the scope of the EM allows us to avoid the schizophrenia that plagued the intermediate view sketched in II.ii, it may face a difficulty of a different sort. That difficulty is that it appears to conflate the general concept of responsibility (and

⁵¹ Although I have argued that we can make sense of the appropriateness of the irregular sentiments by leaning on the distinction between merit and propriety, it's worth noting that Smith also says some things that suggest that circumstances beyond our control can leave us blameworthy in a sense that reflects the propriety of our actions. We see this, for example, in his discussion of the ideal of perfect propriety which no person could ever realize, but which we are all in some sense blameworthy for falling short of (TMS I.i.5.9).

blameworthiness) with the concept of *moral* responsibility. On this view, Smith's discussion of our irregular sentiments, although insightful, does not necessarily speak to the questions of most interest to philosophers concerned with the nature of moral responsibility and the problem that moral luck poses.

The objection just described is motivated in part by the observation that the irregular sentiments can often become pathological. Consider the unlucky bystander who fails to control the horse that takes fright. Although his sense of ill desert may allow us to efficiently distribute the costs associated with his accident, if he were to be racked by guilt, unable to get on with his life, we would tend to agree that something had gone terribly wrong. At the very least, we would be hesitant to take his guilt as a clear indication of his moral culpability. One thing this example illustrates is why it is important to distinguish between the various self-directed sentiments. The unlucky bystander may (appropriately) accept that he is blameworthy for what he has done, but it may be wholly inappropriate for him to feel guilty (particularly if he was not especially negligent). In fact, Smith anticipates this thought, and in doing so draws our attention to the proposed reading of the EM. The primary passage of interest is where Smith extends his analysis to purely accidental harms:

A man of humanity, who accidentally, and without the smallest degree of blamable negligence, has been the cause of the death of another man, feels himself pious, though not guilty . . . and during his whole life he considers this accident as one of the greatest misfortunes that could have befallen him. (TMS II.iii.3.4)

The importance of this passage and of the discussion which follows for fleshing out Smith's settled view is suggested by the fact that it was among the additions that Smith made to the sixth (and final) edition of TMS. Here, as in the other cases we have considered, Smith goes on to note that our self-directed sentiments play an important role in encouraging us to ensure that the accident is responded to in an appropriate manner.⁵² This case differs from those previously considered in two ways though.

First, as Smith is careful to point out, there is a sense in which the man who accidentally causes

⁵² Smith makes this clear in the latter half of the paragraph: "If the family of the slain is poor, and he himself in tolerable circumstances, he immediately takes them under his protection, and, without any other merit, thinks them entitled to every degree of favour and kindness. If they are in better circumstances, he endeavours by every submission, by every expression of sorrow, by rendering them every good office which he can devise or they accept of, to atone for what has happened, and to propitiate, as much as possible, their, perhaps natural, though no doubt most unjust resentment, for the great, though involuntary, offence which he has given them." (TMS II.iii.3.4)

the death of another is not blameworthy if he acts without any degree of negligence. Accordingly, we do not (or at least should not) hold him responsible for compensating those that he harms. That said, a certain sort of response is still expected from the person who causes harm. The appropriate sentiment is not guilt or even a sense of ill desert, but rather to feel *piacular*, a sentiment akin to what Bernard Williams has called *agent's regret*.⁵³ The contrast between these sentiments is important. As A. L. Macfie and D. D. Raphael point out in their commentary on the TMS, the word '*piacular*' is derived from the Latin '*piaculum*' which referred to both the act of trespass on sacred ground prohibited by religious law in Ancient Rome and the act of expiation required to atone for such trespass.⁵⁴

Smith's idea is that although an agent who causes harm or misfortune to someone else may not be blameworthy, he ought to feel a sense of remorse or regret for what he has done, and an attendant desire to apologize or atone in some way. Furthermore, because this regret is not simply associated with observing harm or distress, but with having played a part in bringing it about, this sort of regret has important parallels to blame and should carry a special significance. Consider, for instance, that when one is responsible for bringing about harm to another it's typically not enough to express one's condolences for the harm having occurred. Rather, one must apologize for having been the one who brought about the harm. It makes sense, in other words, to characterize instances of *piacular* guilt or *agent's regret*, as examples of individuals *blaming* themselves for what they have done, even if this sort of blame doesn't involve the doubt about the propriety of one's actions that characterizes paradigmatic instances of blame and guilt.⁵⁵ And, further counting in favor of this way of characterizing things, is that, although this sort of blame might not involve the degree of doubt about the propriety of one's actions that characterizes paradigmatic instances of blame, a mature moral agent will almost always

⁵³ Williams's richest discussion of *agent's regret* is found in his *Shame and Necessity* (Berkeley: University of California Press, 1993), 69–74.

⁵⁴ See their commentary in footnote 1 at Smith, *The Theory of Moral Sentiments* (6th Edition), 1982, 107.

⁵⁵ For an interesting discussion of the *piacular* and its relation to Smith's account of how we see ourselves as causes see Schliesser, "The *Piacular*." Schliesser's account of the *piacular* differs from my own, however, in that he likens it to shame, where I draw the analogy to *agent's regret*. Schliesser's account is incisive, and he is certainly right that there are parallels between the *piacular* and shame. Where Schliesser's account runs into trouble, however, is that shame typically leads individuals to withdraw from social situations in order to insulate themselves from criticism, whereas *piacular* guilt, like *agent's regret*, typically leads individuals to approach others in order to atone or make amends.

have some doubts as to whether she did everything she could have or should have done, even in cases where her actions are entirely innocent.

Smith's discussion of the *piacular* is important because it highlights the significance of expressing the appropriate sort of sensitivity to the things that we have done, even when the quality of our will isn't suspect. When we accidentally cause harm, we often incur a responsibility to respond to this fact in some way. The moral luck skeptic maintains that this sort of responsibility does not constitute a distinctly *moral* brand of responsibility.⁵⁶ Taking this position, however, ignores the magnitude of the obligations that the responsible party bears. To be responsible for having caused harm in this putatively non-moral sense opens one up to the demands of others. For instance, as we saw above, it often creates an expectation that she apologize or express the appropriate degree of regret in some other way. Furthermore, if an individual fails to meet these expectations she is often left vulnerable to social sanction, and, given the extent to which these sorts of sanctions have the ability to shape our lives, it is hard to deny that the associated demands are part of our moral discourse.

Of course, one might ask whether we really do place demands on morally unlucky agents in this way. Susan Wolf for instance has argued that there is a nameless virtue which drives individuals to apologize and to make amends for what they have done 'as if they were guilty,' even if, strictly speaking, they aren't guilty.⁵⁷ Wolf's view suggests that *piacular* responses to causing harm are not in fact required of us, and this in turn puts pressure on the idea that this sort of responsibility is paradigmatically *moral*. The worry with Wolf's view, however, is that it understates the extent to which

⁵⁶ Judith Thomson, Norvin Richards, Susan Wolf, Brian Rosebury, David Enoch, and Andrei Marmor all defend views of responsibility like this. On each of their views luck influences the extent to which we are appropriately subject to blame, but we must distinguish between moral and non-moral senses of blameworthiness. As Rosebury argues, on this sort of view the problem of moral luck is that we do not *deserve* to be held accountable for many of the things that we are appropriately held accountable for by others. See: Judith Jarvis Thomson, "Morality and Bad Luck," *Metaphilosophy* 20 (1989): 203–21; Norvin Richards, "Luck and Desert," *Mind* 95 (1986): 198–209; Susan Wolf, "The Moral of Moral Luck," *Philosophic Exchange* 31 (2001): 4–19; Brian Rosebury, "Moral Responsibility and 'Moral Luck,'" *Philosophical Review* 104, no. 4 (1995): 499–524; and David Enoch and Andrei Marmor, "The Case Against Moral Luck," *Law and Philosophy* 26 (2007): 405–36.

⁵⁷ See "The Moral of Moral Luck," 13–16.

we do in fact expect others to respond to accidents in this way.⁵⁸

And yet, this only gets us so far. If our tendency to feel pious in response to causing harm provides the foundation for a set of practices that look distinctly moral, the question remains whether we ought to embrace these practices. As Chad Flanders suggests, one reason to think so is that if someone didn't feel pious in the sorts of cases Smith discusses "we would suspect that something was missing that ought to be there."⁵⁹ The more difficult question, though, is why we think such an agent is missing something that *she ought to have*? Here the broadly consequentialist justification of the irregular sentiments sketched in previous sections provides one such reason. However, Smith also suggests that our self-directed sentiments – including their irregular expressions – are important because they allow us to be sensitive to things of great value in the world and help to ensure that we relate to one another in the right sort of way. It is "by the wisdom of Nature," he writes, that:

The happiness of every innocent man is, in the same manner, rendered holy, consecrated, and hedged round against the approach of every other man; not to be wantonly trod upon, not even to be, in any respect, ignorantly and involuntarily violated, without requiring some expiation, some atonement in proportion to the greatness of such undesigned violation. (TMS II.iii.3.4)

In other words, Smith seems to think that what imbues persons with the special moral status they have are two things. First, our propensity to treat harms to them as significant, i.e. as the sort of thing that require atonement when we bring them about, and, second, our willingness to hold ourselves and

⁵⁸ An alternative approach to solving the problem of moral luck tries to explain the ubiquity of such expectations by appealing to various cognitive biases, the upshot being that this explanation of our moral luck judgments (and the expectations they found) should undermine our confidence in them. Darren Domsky, on one hand, and Rahul Kumar and Ed Royzman, on the other, both defend views like this. See Domsky, "There Is No Door," and Edward Royzman and Rahul Kumar, "Is Consequential Luck Morally Inconsequential? Empirical Psychology and the Reassessment of Moral Luck," *Ratio* 17, no. 3 (2004): 329–44. As David Enoch and Ehud Guttel have convincingly argued, however, the debunking approach to solving the problem of moral luck cannot explain all of our ostensibly problematic judgments. See their "Cognitive Biases and Moral Luck," *Journal of Moral Philosophy* 7, no. 3 (2010): 372–86.

⁵⁹ Flanders, "This Irregularity of Sentiment," 212. Also pointing to the importance of apologies in these sorts of cases is recent work in social psychology that has found that an individual's willingness to apologize for accidents is strongly correlated with others' perceptions of their honesty and trustworthiness. See Patrick Dunlop et al., "Please Accept My Sincere and Humble Apologies: The HEXACO Model of Personality and the Proclivity to Apologize," *Personality and Individual Differences* 79 (2015): 140–45.

others accountable for actually doing so.⁶⁰ And, as the passage above suggests, the irregular sentiments play an important role in operationalizing both of these things.⁶¹

Mirroring the two sources of moral status identified above, there are two reasons, then, that apologies are important in cases where we accidentally cause harm. First, they remedy a problem caused by the opacity of our intentions. When we apologize, one thing we are often doing is clarifying that we did not in fact bear ill will towards the person to whom we are apologizing. Second, even when the quality of our will is not in doubt, apologies serve as a way of acknowledging the distinctive relationship we bear to actions that affect others, and of expressing concern for those with whom we share the world.

Furthermore, notice that while it is easy to imagine someone being wracked by an excessive sense of guilt, and her life suffering as a result, this is less easy to imagine in the case of pious guilt or agent's regret. As Smith observes, it seems appropriate that someone who accidentally causes great harm to another should thereafter consider her role in bringing about the harm to be one of the great misfortunes in her life. This isn't to say that such regret can't pathologically develop into something worse, but there doesn't seem to be anything deeply troubling about agent's regret as such. By drawing a distinction between the pious and full-blown guilt, then, Smith leaves us with a view on which luck's influence on our lives can leave us vulnerable to something very much like blame even when we

⁶⁰ As Darwall points out, this view is nicely expressed by Smith in a passage that appears in the first five editions of TMS, but which was omitted from the sixth edition: "A moral being is an accountable being. An accountable being ... is a being that must give an account of its actions to some other, and that must regulate them according to their good-liking." See Darwall, *The Second-Person Standpoint*, 101. As Knud Haakonssen explains in his editorial comments on the Cambridge edition of *The Theory of Moral Sentiments*, the passage appears in the first edition of TMS at part III, chapter 1, paragraph 4, and at various other points in subsequent editions before eventually being omitted from the sixth and final edition. There is some question as to how significant this omission is. Arguably, however, the omission doesn't reflect Smith's desire to back away from the importance of accountability, but rather the idea that accountability ought to be understood primarily in relation to God which is what we see in the rest of the paragraph in question. See Adam Smith, *The Theory of Moral Sentiments (6th Edition)*, ed. Knud Haakonssen (Cambridge: Cambridge University Press, 2002), 130.

⁶¹ Note, too, that by appealing to more than just consequences in explaining the importance of the irregular sentiments Smith's view differs from a view like Michael Slote's that justifies our sentiments merely on the grounds of their utility. For Slote's view see e.g. his *From Morality to Virtue* (New York: Oxford University Press, 1995), especially chaps. 7 and 11–13.

haven't done anything wrong. However, this vulnerability is neither problematic, nor paradoxical – even if it sometimes appears to be.

III. Moral Luck, Moral Sentiments, and the Moral Community

Having surveyed Smith's account of the irregular sentiments I want to conclude by turning our attention to where his discussion leaves us vis-à-vis the problem of moral luck, while also saying something about how the discussion of luck and the irregular sentiments ties together some of the enduring themes of his work. To do so I'll begin by offering a few thoughts about what Smith's discussion suggests about how we ought to approach theorizing about moral responsibility. I'll then turn to what it suggests about the concepts of moral responsibility and moral agency. Finally, I'll conclude with some thoughts on how we ought to interpret Smith's discussion of virtue.

III.i Three Ways of Theorizing About Moral Responsibility

We can distinguish between three different approaches to theorizing about moral responsibility:

- i) those that begin with the *idea of being responsible* and then develop out of that an account of when it's appropriate to hold someone responsible,
- ii) those that begin with the *idea of holding responsible* and then develop out of that an understanding of what it is to be responsible, and
- iii) those views that begin with our *practice of holding responsible* and then build up an account of what it is to be responsible and when it's appropriate to hold responsible (by getting critical leverage on our practices).

Although the second and third approaches are importantly different they are not often distinguished from one another. Perhaps this is because the third is seldom defended. Smith pretty clearly adopted something like the third approach, though, and one thing that makes his discussion of the irregular sentiments important is that it illustrates the difference between the second and third approaches.⁶²

⁶² The important point here is that for Smith our psychology does not just constrain the moral concepts we have. Rather, our moral concepts are to some extent built up from our psychology. Samuel Fleischacker has also emphasized this in his treatment of Smith. See e.g. his discussion in "Adam Smith's Moral and Political Philosophy," ed. Edward N. Zalta, *The Stanford Encyclopedia of Philosophy*, 2013, <http://plato.stanford.edu/archives/spr2013/entries/smith-moral-political/>.

Smith was attracted to this third approach largely because he was skeptical of the idea that there is an objective, impersonal conception of morality against which we can assess our moral practices. Instead, for Smith, it is the impartial spectator that provides us with the principal mechanism for checking the appropriateness (and especially the partiality) of our moral judgments. This is why the impartial spectator's endorsement of the irregular sentiments is so significant. Importantly, however, Smith's impartial spectator is not an ideal observer. Rather, it is an internal mechanism for checking the partiality of our judgments, and it is Smith's discussion of the self-directed sentiments, especially their irregular expressions, that helps us see this.⁶³ As Smith's discussion makes clear, the self-directed sentiments do not merely track the other-directed sentiments of our neighbors, nor do they simply reflect the evaluative judgments of the impartial spectator regarding the propriety of the approbation and disapprobation directed at us. Instead, they provide an independent contribution to the deliberation of the impartial spectator so that the sense of praise- or blame-worthiness that the 'man within our breast' arrives at reflects our own sentiments as well as those of our fellows.⁶⁴ Our moral judgments, then, are undergoing a process of continuous evolution as our judgments (and the judgments of those around us) change, while our psychology combined with facts about the norms that allow us to live well in community with others provide fixed points that constrain this process.

Pausing to reflect on the status of the irregular sentiments, what Smith leaves us with is a view on which these sentiments help to constrain the abstract principles that we are often inclined to endorse, and in doing so prevent us from extending these principles too far.

III.ii Smith's Rich Accounts of Moral Agency and Moral Responsibility

Turning our attention away from what Smith's discussion suggests about the way we ought to

⁶³ See especially his initial account of the impartial spectator sketched in TMS I.i.3-4, and the subsequent discussion of self-approbation and disapprobation in TMS III.i.1, the influence of praise and blame as compared to praiseworthiness and blameworthiness in TMS III.i.2, and the authority of conscience in TMS III.i.3.

⁶⁴ Note that Smith's account of the impartial spectator also distinguishes his view from those that locate the importance of the sentiments in their ability to 'track' the moral truth. Arguably some of Smith's fellow moral sense theorists, Hutcheson and Reid chief among them, held views like this. David Norton, for instance, attributes a view like this to Hutcheson in "Hutcheson's Moral Sense Theory Reconsidered," *Dialogue* 13, no. 1 (1974): 3–23, and "Hutcheson's Moral Realism," *Journal of the History of Philosophy* 23, no. 3 (1985): 397–418, and on Reid see Terence Cuneo, "Reid's Ethics," ed. Edward N. Zalta, *The Stanford Encyclopedia of Philosophy*, 2011, <http://plato.stanford.edu/entries/reid-ethics/>.

theorize about moral responsibility and towards the particular account of responsibility he develops, two features of Smith's account are noteworthy. First, it reflects more than just considerations about the ways in which we exercise our agency. Second, his account of the utility of our irregular sentiments, along with his extensive discussion of negligence, suggests that his view is driven primarily by problems of social morality (i.e. problems concerning the formal and informal norms that we direct at one another and which are required to facilitate social cooperation and other aspects of social life).

For Smith moral responsibility is rooted in an account of moral personality, and while the concept of moral agency is an important part of this account, it is only one part. We see this, among other places, in his account of the conditions that make something an appropriate object of gratitude or resentment. Although the conditions he lays out make reference to a person's actions, this concern isn't limited to the aspects of one's conduct that express her will. So too, as his discussion of the irregular sentiments makes clear, we're often willing to accept responsibility for the consequences of our actions in cases where these consequences aren't closely tied to our intentions. Most important, however, is that even Smith's account of what makes someone a 'complete and perfect' object of gratitude or resentment focuses less on the particular aspects of an agent's actions and her relationship to them that make her deserving, and more on the agent's capacity to know and appreciate why she is the object of the reactive attitudes of others. In other words, on Smith's view the thing that makes us responsible agents, above all else, is the fact that we see ourselves as responsible agents.

Similarly, by distinguishing between merit and propriety, and by also drawing a distinction between 'real' blame and other forms that may nevertheless be appropriate, Smith allows us to see that holding an agent responsible need not be thought of as an indictment of her character or the quality of her will. Instead, sometimes responsibility simply reflects facts about our history and in doing so tells us about the obligations that circumstances have foisted upon us. Perhaps the main lesson to be learned from Smith's discussion of moral luck, then, is that morality is about more than moral worth. While this idea would have been familiar to Smith's contemporaries, it is something that we have arguably lost sight of as the influence of Kant (among others) has turned our attention to questions related to individuals' moral assessments of themselves and of the quality of their wills. Indeed, we see this even in the work of scholars like Darwall and Debes who, I think rightly, emphasize the tight connection

between respect and dignity in explaining Smith's account of the role the sentiments play in expressing our commitment to treating one another as responsible moral agents, but who unfortunately ignore the ways in which, for Smith, such a commitment requires us to look beyond the quality of the will.

In fact, to return to the text, the emphasis on the ways in which responsibility reflects more than just considerations about moral worth is precisely what we see in the paragraph with which Smith concludes his discussion of luck. Again Smith's discussion is interesting enough to quote at length:

Notwithstanding, however, all these seeming irregularities of sentiment, if man should unfortunately either give occasion to those evils which he did not intend, or fail in producing that good which he intended, Nature has not left his innocence altogether without consolation, nor his virtue altogether without reward. He then calls to his assistance that just and equitable maxim, that those events which did not depend upon our conduct, ought not to diminish the esteem that is due to us. He summons up his whole magnanimity and firmness of soul, and strives to regard himself, not in the light in which he at present appears, but in that in which he ought to appear, in which he would have appeared had his generous designs been crowned with success, and in which he would still appear, notwithstanding their miscarriage, if the sentiments of mankind were either altogether candid and equitable, or even perfectly consistent with themselves. The more candid and humane part of mankind entirely go along with the effort which he thus makes to support himself in his own opinion. They exert their whole generosity and greatness of mind, to correct in themselves this irregularity of human nature, and endeavour to regard his unfortunate magnanimity in the same light in which, had it been successful, they would, without any such generous exertion, have naturally been disposed to consider it. (TMS II.iii.3.6)

Interestingly, Russell and Flanders both take this paragraph to be evidence that Smith ultimately did not want to endorse our irregular sentiments.⁶⁵ A more careful reading of the paragraph, however, only

⁶⁵ Pointing to this paragraph, Russell writes: "In the final analysis, it seems fair to conclude, that Smith is never entirely convinced by his own effort to rationalize the irregularities in moral sentiment in the way that he describes" ("Smith on Moral Sentiment and Moral Luck," 43). Similarly Flanders concludes that this shows, "that the true standard of moral worth for Smith is ultimately what he calls the 'equitable maxim'" ("This Irregularity of Sentiment," 216).

commits Smith to the view that the EM ought to regulate our assessments of moral worth, or, as I suggested in II.iv, that the EM may be appropriate in matters of propriety, but not merit. Smith's conclusion, in other words, is that we can look to the EM as a corrective when our practices of holding one another responsible for certain things lead us to mistakenly think we are also impugning one another's characters. Aaron Garrett, for instance, suggests that the EM is important in part because it prevents guilt over the unintended consequences of our actions from becoming neurotic.⁶⁶ That we look to the EM as a corrective in this way, though, in no way undermines the appropriateness of our practices of holding one another responsible for the things that we do, but do not intend to do.

III.iii Social Virtues: Towards a Solution to the Problem of Moral Luck

Having said that Smith appreciated the many ways in which morality is about more than moral worth, two questions remain. The first concerns what we're to make of Smith's extensive discussion of character and virtue. The answer to this is I think clear, and has recently received much attention. For Smith the virtues are not inward-looking but outward-looking. They are about making us fit for social life so that we might reap the tremendous benefits that commercial society offers. As I suggested above this reading of Smith is not new – it is the view that Charles Griswold, James Otteson, Ryan Hanley, and Dennis Rasmussen, among others, have all defended.⁶⁷ The point I am making here is simply that Smith's discussion of our irregular sentiments may reflect this more clearly than anything else he says. Moreover, given how prevalent unintended consequences are in Smith's work, a compelling account of how our sentiments shape our responses to cases where our actions have unintended effects is absolutely critical if the various elements of his work are to hang together, and, if I am right, Smith's discussion of the irregular sentiments provides this as well.

⁶⁶ See Garrett, "Adam Smith on Moral Luck," 174–176.

⁶⁷ See Griswold's *Adam Smith and the Virtues of Enlightenment*, Otteson's *Adam Smith's Marketplace of Life*, Hanley's *Adam Smith and the Character of Virtue*, and Rasmussen's *The Problems and Promise of Commercial Society: Adam Smith's Response to Rousseau* (State College, PA: Pennsylvania State University Press, 2008). This reading of Smith is also important for the answer it suggests to the infamous 'Das Adam Smith Problem' viz. how we are to reconcile the apparently very different projects Smith sets himself in *The Theory of Moral Sentiments* which emphasizes the importance of sympathy and concern for others and *The Wealth of Nations* which famously defends the social utility of something like selfishness. The answer to that problem suggested by the reading I have proposed is that the *Wealth of Nations* provides us with an account of the benefits of commercial society, while *The Theory of Moral Sentiments* provides us with an account of how commercial society is possible.

Finally, the question remains where all of this leaves us vis-à-vis the problem of moral luck? Here, I think, the answer is that the problem is not as severe as others have supposed. If, following Smith, we embrace a concept of moral responsibility that is concerned with more than just the quality of an agent's will, the existence of moral luck need not threaten the coherence of our concept, nor does it impugn our practices. In other words, Smith offers us a framework for denying the problem of moral luck in both of its forms.

Of course, this isn't to say that our irregular sentiments will never lead us astray, or that the influence of luck on our moral judgments is never a problem. They almost surely do, and it may well be. What Smith shows us, though, is that the problem of moral luck, if there is one, lies not in luck's influence on our moral judgments, but rather in our imperfect ability to distinguish between the ways in which it influences our assessments of ourselves and others. And, while this diagnosis of the problem may seem familiar, it isn't. As I pointed out in section II.iv, several moral luck commentators have tried to diagnose the problem of moral luck by pointing to our tendency to confuse various aspects of our responsibility practices with one another, while others have argued that the imperfect epistemic circumstances in which moral choice and moral judgment take place lead individuals to be appropriately blamed for a great many things that they do not deserve to be blamed for. Each of these commentators, though, ultimately denies that there is moral luck. Thomson and Richards, for instance, distinguish between moral and non-moral senses of blame and associate the aspect of our responsibility practices that are influenced by luck with the latter.⁶⁸ While, on the other hand, Rosebury and those like him suggest that the fact that individuals are appropriately blamed for things that they do not deserve to be blamed for does not present a problem of *moral* luck because a fully informed observer would not blame individuals for these things.⁶⁹ And, as I argued in section II.iv, because they deny that there can be moral luck, both of these approaches fail to capture the extent to which our lives are shaped by the practices that *are*, in the end, influenced by luck.

⁶⁸ See Thomson, "Morality and Bad Luck," and Richards, "Luck and Desert." And, as I suggested in section II.iv Wolf's view in "The Moral of Moral Luck," can arguably be understood along these lines.

⁶⁹ See Rosebury, "Moral Responsibility and 'Moral Luck,'" 521, and for a similar view Enoch and Marmor, "The Case Against Moral Luck." Where Rosebury argues that the influence of luck on our practices is just a problem for "our happiness," though, Enoch and Marmor suggest that the problem is a matter of distributive justice. In neither case, however, is luck assumed to influence what we truly are and are not responsible for.

What makes Smith's solution to the problem of moral luck so compelling, then, is that it offers an attractive diagnosis of why moral luck appears problematic, while also providing us with the resources for explaining why luck's influence on our practices is not a problem. And, unlike Nagel or Williams, Smith saw that doing this did not require us to take up an external perspective on ourselves, as Nagel suggested, or to accept that morality is less important than we might have thought, as Williams suggested.⁷⁰ Instead, what Smith saw was that the key to solving the problem of moral luck lies in recognizing that one of the things that makes morality so important, or at least what makes the parts of it associated with praising and blaming so important, is that it provides us with a way of dealing with the facts that our lives are shaped by fortune and our hearts and minds are not always transparent to others.

⁷⁰ See Nagel, "Moral Luck," 38, and Williams, "Moral Luck," 39. Note, however, that Williams later backed away from this view, in favor of the view that there cannot be moral luck and that the key to reconciling ourselves to the influence of luck on our lives lies in distinguishing between a narrow domain a morality and a broader domain of ethics. See his "Postscript," in *Moral Luck*, ed. Daniel Statman (Albany, NY: SUNY Press, 1993), 251–58.