

Adam Smith and Our Irregular Sentiments

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“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. The least reflection, indeed, corrects this sentiment, and we soon become sensible, that what has no feeling is a very improper object of revenge. When the mischief, however, is very great, the object which caused it 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.” (Adam Smith, *The Theory of Moral Sentiments*, II.iii.1.1)

In the section of *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” Adam Smith writes “thus, Fortune, which governs the world, has some influence where we should be least willing to allow her any” (TMS II.iii.3.1).¹ Smith is speaking here of the phenomenon of moral luck. Unfortunately the contemporary moral luck literature has largely ignored Smith’s contributions to the questions and problems that moral luck poses. I say that this is unfortunate because I think Smith offers unique insight into the nature of the phenomenon that has vexed so many. Smith’s account of luck doesn’t merely have much to contribute to our understanding of the place of luck in morality though. Rather, understanding what he says about the influence of fortune on our moral judgments sheds light on a crucial and often overlooked ingredient of his moral theory. It is perhaps even more unfortunate then that the scholarship on Smith’s moral theory has, with a few exceptions, looked past this important role that Smith’s observations about moral luck have in his theory.² In this paper I hope to fill in this gap in

¹ Adam Smith, *The Theory of Moral Sentiments*, 6th ed., D. D. Raphael and A. L. Macfie (eds.), Indianapolis: Liberty Classics, 1982 (originally 1790). References to this text will be abbreviated TMS followed by the book, section, chapter, and paragraph numbers.

² The notable exceptions here are Paul Russell and Chad Flanders each of whom recognizes both the important place Smith’s observations about luck have in his moral theory and the relevance of Smith’s discussion to the contemporary moral luck literature. See (Russell, 1999) and (Flanders, 2006). There are a number of other authors

the literature on Smith's moral theory. In particular I will focus on three things: 1) what Smith says about the place of luck in morality, 2) things that Smith could have said differently or in addition to what he did say about moral luck, and 3) what each of these can show us about the nature of moral luck and morality more generally.

I. Smith and the Problem of Moral Luck

Later in the paragraph quoted from above Smith writes:

Every body agrees to the general maxim, that as the event does not depend on the agent, it ought to have no influence upon our sentiments, with regard to the merit or propriety of his conduct. But when we come to particulars, we find that our sentiments are scarce in any one instance exactly conformable to what this equitable maxim would direct. (TMS II.iii.3.1)

Here Smith, as so many after him have, is pointing out that our actual judgments in certain sorts of cases where luck has had some bearing on the consequences of an action do not in general cohere with the moral principles which we reflectively endorse. We attribute responsibility to people, blaming them or praising them as the case may be (and in many cases punishing or rewarding them as well), even though the moral principles which we think ought to regulate our practices of praising and blaming do not prescribe such responses. The question of course is what to make of this tension that exists between the principles we are committed to and the judgments we actually make. Many have supposed this tension to be a problem and if it is, it presents us with a problem that lies deep in the heart of our moral practices. Assuming for the sake of argument that this problem is real, the truly important question is whether the problem has a solution. My goal in what follows will be to show how a careful reading of Smith points us towards such a solution.

Before beginning however I first want to say something about the sort of argument I will be offering and the conclusion that I hope to draw. My reason for introducing this here is so that the reader might have it in mind throughout the paper which touches on a number of different aspects of Smith's account of moral luck, not all of which are clearly related. Smith of course is a sentimentalist and so it is to a great extent in our sentiments that he finds the sources of normativity. For Smith, to the extent that our sentiments are sensitive to the influence of fortune, so too are our moral judgments and while this might be taken merely as a sad fact about human psychology (indeed many do take it this way) Smith

who briefly discuss Smith's views on luck, but Russell and Flanders are I think alone in recognizing the import of Smith's views on luck. [Insert citations to Griswold Campbell Haakonssen and Hope](#)

seems to be saying something more. What Smith shows us is that our morality is extraordinarily complex. But more importantly Smith shows us that the complexity of our morality need not lead us to believe, as Thomas Nagel has worried, that our morality is paradoxical, or as Bernard Williams has claimed, that we have reason to be skeptical about the place of morality in our lives.³ As Smith clearly recognized our sentiments are both rich and varied and so perhaps it was Smith's sentimentalism that allowed him to appreciate the complexity of our moral practices. Whatever the source of this insight, it is a lesson well worth learning and it is one which I think even Smith failed to fully embrace. Although Smith stops short of embracing this lesson wholeheartedly, in what follows I hope to show how he nevertheless provides us with the resources needed to solve the problem of moral luck.

The paper which follows consists of three parts (themselves composed of smaller sections). In the first part (sections II – V) I offer a critical discussion of what Smith's account of moral luck is, focusing especially on the 'irregular sentiments' which are for Smith the source of the problem of moral luck, if indeed there can be said to be a problem. The second part of the paper (sections VI – VIII) turns to the question of what Smith's discussion of moral luck shows us about our conception of moral agency and moral responsibility in particular. As we will see my argument focuses on three things: 1) how Smith's discussion of moral luck and in particular the 'equitable maxim' which is central to his discussion compares to the more overtly Kantian discussion that has dominated the moral luck literature, 2) what we can learn from Smith's rich and interesting discussion of negligence, and 3) the important role that guilt and a variety of related sentiments (all self-directed) play in Smith's theory. Finally in the last part I conclude by offering a tentative solution to the problem of moral luck and I attempt to defend the claim that Smith could have accepted this solution (section IX).

II. Smith, the 'Equitable Maxim', and Our Irregular Sentiments

I have claimed that Smith's discussion of moral luck is important for two reasons. First and foremost it sheds light on the extraordinary complexity of our morality. Second and more speculatively I have suggested that Smith provides us with the resources needed to solve the moral luck problem. This latter claim is not something that Smith explicitly defended and so defending the claim will require showing how Smith could have said things that he did not. Of course to show that there are things that

³ These are the worries voiced by Nagel and Williams in their pair of seminal articles which ignited the contemporary interest in the moral luck phenomenon. See (Nagel, 1979) and (Williams, 1981) which contain revised versions of their respective articles which first appeared in the *Proceedings of the Aristotelian Society*, supplementary vol. I (1976).

Smith could have said about moral luck that he did not will first require looking closely at the things that Smith did say. It is to that task that I now turn.

Smith begins his discussion of moral luck with the observation that:

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)

He then goes on to tell us that it is 'abundantly evident' that the latter two circumstances (the external action of the body and the consequences of an action) cannot be the foundation of any praise or blame.⁴ Smith explains this in terms of a principle that 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 someway 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)

Having laid out the EM, Smith then clarifies what he means when he says that it is abundantly evident that the consequences of an action cannot be the foundation of any praise or blame. Specifically Smith observes that when the EM is proposed "in abstract and general terms, there is nobody who does not agree to it" (TMS II.iii.intro.4). On Smith's view the justice of the EM is 'self-evident', and there is no doubt that the EM is the principle which ought to govern our judgments pertaining to moral accountability, or so it seems anyway.

Though Smith's view may seem clear at first glance, as we will see things are considerably more complicated. Having stated that the justice of the EM is self-evident Smith goes on to note that although we are all persuaded by the truth of EM when it is presented in the abstract, our judgments in particular cases are not typically guided by the EM (or at least they are not wholly guided by it). So Smith writes:

⁴ "That the two last of these three circumstances cannot be the foundation of any praise or blame, is abundantly evident; nor has the contrary ever been asserted by any body." (TMS II.iii.intro.2)

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)

Here we have the tension I previously alluded to between a principle that we reflectively endorse (in this case the EM) and our judgments in particular cases where these judgments are of course founded on the sentiments that these cases arouse. In particular Smith distinguishes between two sorts of cases in which our sentiments conflict with the EM.⁵ The first involves cases where our sense of merit or demerit aroused by actions which arose from the most laudable or blamable intentions is diminished because the actions that otherwise would have aroused our sentiments failed to produce their proposed effects.⁶ The second type of case involves situations where we find in ourselves or others what Smith calls a ‘shadow of merit or demerit’.⁷ The shadow of demerit appears to be the more common phenomenon and involves our increasing our sense of the demerit of an action beyond what is due to the motive or affection from which it proceeded. Smith refers to the tension between our actual judgments in these cases and the judgments that the EM licenses as our ‘irregularity of sentiment’ – a label which it should be noted is somewhat odd given that strictly speaking there seems to be nothing irregular about our sentiments. Indeed Smith notices this latter fact, pointing out that “scarce, in any one instance . . . will our sentiments be found . . . to be entirely regulated by this rule [the EM], which we all acknowledge ought entirely to regulate them” (TMS II.iii.intro.5).

Whether or not Smith’s chosen label is in the end appropriate, it is clear why Smith refers to our sentiments as irregular. Smith is worried by the fact that these sentiments do not cohere with the EM and so on their face seem unjust. Driven by this worry Smith distinguishes our ‘real demerit’ from the sort that is founded on our irregular sentiments.⁸ Similarly Smith makes reference to our ‘unjust

⁵ TMS II.iii.2.1

⁶ Smith discusses these cases in TMS II.iii.2.2-5

⁷ Smith discusses these cases in TMS II.iii.2.6-10

⁸ So for instance Smith writes: “Our resentment against the person who only attempted to do a mischief, is seldom so strong as to bear us out in inflicting the same punishment upon him, which we should have thought due if he had actually done it. In the one case, the joy of our deliverance alleviates our sense of the atrocity of his conduct; in the other, the grief of our misfortune increases it. *His real demerit*, however, is undoubtedly the same in both cases, since his intentions were equally criminal.” (TMS II.iii.2.4, emphasis added).

resentment', this despite the fact that our irregular sentiments are felt even by the impartial spectator from which our account of right and wrong is built up.⁹

III. A Closer Look at the Tension Between the Equitable Maxim and Our Irregular Sentiments

Drawing on some of the passages discussed in section II and others like them, both Paul Russell and Chad Flanders have argued that for Smith the true standard of moral worth just is the EM,¹⁰ and as each is careful to point out this has important implications for Smith's view. First, as Flanders argues, in committing himself to the idea that the EM provides the true standard of moral worth Smith seems simply to deny the problem of moral luck, or at least he does if by this we mean "that our moral worth can be contingent on the things we cause but do not intend to cause" and as Flanders points out this is because "Smith seems simply to deny that moral worth can be contingent in this way."¹¹ Although Flanders argues that there is a sense in which Smith seems simply to deny that there is a problem of moral luck, he (Flanders) goes on to argue that "to regard the problem of moral luck as raising a problem only if luck affects our moral credit and demerit *directly* seems to take an unhelpfully narrow view of what that problem can involve."¹² 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 still may be a problem in the myriad other ways in which luck bears on our lives. Most notable here are the ways in which our irregular sentiments bear on our attitudes towards ourselves and others which are to be sure morally salient (or so Flanders argues).¹³

⁹ So Smith writes: "Nor is this irregularity of sentiment felt only by those who are immediately affected by the consequences of any action. It is felt, in some measure, even by the impartial spectator." (TMS II.iii.2.2).

¹⁰ 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'" (Flanders, 2006, p. 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" (Russell, 1999, p. 7).

¹¹ (Flanders, 2006, p. 216), to this Flanders adds "in fact, I think he does deny it."

¹² (Flanders, 2006, p. 216)

¹³ Flanders writes: "There still may be a problem about the fact that we often cannot tell another person's true intentions (and therefore what he truly deserves) and a problem about how to deal with the harms which we have accidentally caused. We may be unlucky or lucky in what people find out about our moral worth, and we may be unlucky or lucky in what things we cause without meaning to. Both of these things will affect how our lives will go, and even how our lives will go morally speaking." (Flanders, 2006, p. 216). Flanders's observation here concerning the scope of the moral luck problem is very much like the view defended by Brian Rosebury. Rosebury argues that the problem of moral luck is not that we can be responsible for things which we had no control over, but that others hold us responsible for things which we are not actually responsible for. In other words the real problem as

Pointing to something very much like the wide scope that the problem of moral luck takes on which Flanders has identified, Russell identifies a deep tension in Smith's view. As Russell notes, on Smith's view we are "incapable of keeping our retributive attitudes and practices within the bounds of the requirements of justice."¹⁴ However, as Russell sees it the problem is not merely that our actual judgments and retributive practices conflict with the principle that we think ought to guide them (the EM), but rather that this conflict reveals a deeper tension among Smith's commitments. The source of that tension is Smith's claim that resentment has "been given [to] us by nature for defence, and for defence only. It is the safeguard of justice and the security of innocence" (TMS II.ii.1.4). Pointing to this claim Russell argues that:

Obviously this claim cannot be correct when our resentment is subject to the irregularities that [Smith] goes on to describe. The difficulty is, therefore, that in its actual operation, resentment is not "the safeguard of justice and the security of innocence". Whatever the social benefits of such an irregularity may be, suffice it to say that, if true, this is a disturbing conclusion to reach.¹⁵

The conclusion Russell draws is disturbing first and foremost because it shows how fragile the relationship between justice and our sentiments is, and this is (I think rightly) supposed to be especially troubling for a sentimentalist like Smith who looks to the sentiments we actually have as the foundation of morality.

Although Russell and Flanders each argue that Smith fails to calm all of the worries founded on our irregular sentiments both suggest that Smith's discussion is nevertheless significant. For Flanders the significance of Smith's view is that it directs our attention to the scope of the problem of moral luck, but more importantly (and more positively) Flanders suggests that Smith helps us to see how many of the ways in which luck influences our lives are benign. Indeed as Flanders points out in many cases it seems that fortune counts among the most important forces that serve to give life meaning.¹⁶ Though not as sanguine as Flanders, Russell also sees Smith as having a positive contribution to make. Russell draws attention to the importance that Smith places upon the intentions of agents and, having done this, draws a distinction between the EM and the more overtly Kantian 'control principle' which has (instead

Rosebury sees it is that others blame us for things that we do not deserve blame for and moreover it is appropriate for them to do so. See (Rosebury, 1995).

¹⁴ (Russell, 1999, pp. 7-8)

¹⁵ (Russell, 1999, p. 8)

¹⁶ Flanders citation

of the EM) garnered the attention of much of the contemporary moral luck literature.¹⁷ Where the EM ties moral responsibility to our intentions the control principle goes a step further, tying responsibility to just those things over which our will has control. As Russell argues however, by drawing the line of moral accountability short of where the control principle does Smith's EM has the virtue of resisting the skeptical worry that plagued Nagel (and to a lesser extent Williams): that in the end we might not have control over anything and so might not be morally accountable for (or deserving of) very much at all.¹⁸

The arguments offered by both Russell and Flanders as partial defenses of Smith's account of moral luck are important in their own right and I will examine them in more detail in what follows.¹⁹ Before I do that however I first want to look more closely at the tension that purportedly exists between the EM and the particular judgments which conflict with it due to their origin in our irregular sentiments. There is I think a worry that Smith commentators have heretofore taken Smith's discussion of our irregular sentiments at face value and in doing so they have failed to appreciate the nuance of Smith's view. This nuance begins to emerge when we turn our attention first to two smaller (though still important) points concerning the language that Smith uses and then to a third larger point concerning the content of the EM.

The first point to consider concerns the way in which Smith qualifies his affirmation of the EM. In the first paragraph where Smith points out that the EM conflicts with our judgments in particular cases (TMS II.iii.intro.5) Smith prefaces his comments with the observation that: "how well soever we may *seem* to be persuaded of the truth of this equitable maxim . . ." (emphasis added). The point here is simply to show that even Smith's claim that we are all persuaded by the EM in the abstract is hedged.

The second point to consider concerns an apparent inconsistency in Smith's view. As we have seen Smith often refers to our irregular sentiments as 'unjust'. The problem is that justice is for Smith a negative virtue and so claims of injustice must necessarily involve harms.²⁰ It is hard to see though how many of the instances in which our irregular sentiments lead us to praise or blame others in ways that

¹⁷ Although it is Williams who first (re)-introduces the problem of moral luck into the literature it is Nagel who offers what many take to be the first formulation of the control principle (in his article responding to Williams). On Nagel's account the control principle is the moral principle that establishes as a necessary condition on the appropriateness of our agent-directed moral judgments that "people cannot be morally assessed for what is not their fault, or for what is due to factors beyond their control" (Nagel, 1979, p. 25). Nagel's formulation of the principle clearly draws on Kant whom he quotes in the paragraph prior to the one in which he introduces.

¹⁸ Russell citation

¹⁹ As we will see in sections V and VI perhaps the most important lesson to be drawn from Flanders and Russell concerns the central role played by our conception of the agent in Smith's moral theory.

²⁰ See TMS II.ii.1 and for discussion (Haakonssen, 1981, especially p. 86)

are inconsistent with what the EM councils can count as harms. Nor does Smith restrict his claims that our sentiments are unjust to the cases where our irregular sentiments really do cause harm. Indeed Smith first makes this claim in the course of discussing a case where we reduce our praise of others in cases where they cannot alone bring us benefit, something which can hardly be classified as a ‘harm’ in the typical sense.²¹ Given the centrality of Smith’s account of justice in his work it is hard to imagine him making such an obvious mistake. In thinking about Smith’s view then it is important not to exclude the possibility that Smith’s claims concerning the injustice of our sentiments might be best read as mere rhetorical embellishment.

If the textual points made above are important, the nuance of Smith’s account is perhaps most easily seen when one looks closely at his formulation of the EM. It is important here to identify two ways in which the EM is often misread (both of which I think Russell and Flanders are arguably guilty of).²² Consider the following two claims:

“Intentions Only”: On Smith’s formulation of the EM we can deserve praise or blame *only for* those things which we intend

“Regulating Principle”: Smith’s view is that the EM ought to regulate *all* of our sentiments. As we shall see a closer reading of the relevant passages casts doubt on each of these two claims and as I have been suggesting reveals Smith’s view to be considerably more nuanced than has been so far appreciated.

Taking the “Intentions Only” claim first we see that it depends on looking past a crucial phrase which appears in each of Smith’s formulations of the EM. In the first paragraph of the section on moral luck Smith writes “whatever praise or blame can be due to any action, must belong . . . to the intention *or affection of the heart, from which it proceeds*” (TMS II.iii.intro.1, emphasis added) and again in the third paragraph we see Smith saying:

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 *someway or other intended, or those which, at least, show some agreeable or disagreeable quality in the intention of the heart, from which he acted.* (TMS II.iii.intro.3, emphasis added).

²¹ See TMS II.iii.2.2, there Smith writes: “Nay, *so unjust are mankind in this respect*, that though the intended benefit should be procured, yet if it is not procured by the means of a particular benefactor, they are apt to think that less gratitude is due to the man, who with the best intentions in the world could do no more than help it a little forward.” (emphasis added).

²² **Include relevant citations**

Here we see Smith identifying not just our intentions but also our affections of heart (whatever they might be) as sources of moral accountability. Of course this only takes us so far, for two questions remain: first, what does Smith mean by our affections of heart and second, how does this additional source of moral accountability bear on Smith's claim that those of our sentiments which are shaped by fortune are not just irregular but unjust (or if not unjust morally inappropriate in some other way)?

With respect to the first question just raised it seems that Smith is suggesting that we can deserve praise or blame not just for our intentions and desires but also for something like the quality of our character – something which manifests itself not just in the quality of the intentions we actually form, but in the sorts of intentions we are likely to form (or not) and in the quality of the considerations which play a role in shaping the intentions that we come to have. Among other things, these considerations reflect our sensitivity to what is due to other people, something which for Smith plays a crucial role in explaining the content of our reactive attitudes.²³

More importantly though, Smith's appeal to our affections of heart is needed in order to explain why it is appropriate (as it is on his account) for us to respond to negligence in the way that we do.²⁴ If Smith accepted the "Intentions Only" claim then he would not be able to explain why we act appropriately in blaming the man who negligently harms another, and the reason for this should be clear for the very charge of negligence entails that whatever the fault of the agent, the harm was not intended. So it is that we see Smith clearly appealing to our quality of character rather than to our intentions (as the "Intentions Only" claim would have it) in justifying our treatment of negligence. Smith writes:

²³ In discussing gratitude and resentment Smith argues that with respect to the former "what gratitude chiefly desires, is not only to make the benefactor feel pleasure in his turn, but to make him conscious that he meets with this reward on account of his past conduct, to make him pleased with that conduct, and *to satisfy him that the person upon whom he bestowed his good offices was not unworthy of them*" (TMS II.iii.1.4, emphasis added) and with respect to the latter Smith notes that "the object, on the contrary, which resentment is chiefly intent upon, is not so much to make our enemy feel pain in his turn, as to make him conscious that he feels it upon account of his past conduct, to make him repent of that conduct, and *to make him sensible, that the person whom he injured did not deserve to be treated in that manner*" (TMS II.iii.1.5, emphasis added). Smith goes on to write: "What chiefly enrages us against the man who injures or insults us, is the little account which he seems to make of us, the unreasonable preference which he gives to himself above us, and that absurd self-love, by which he seems to imagine, that other people may be sacrificed at any time, to his conveniency or his humour. The glaring impropriety of this conduct, the gross insolence and injustice which it seems to involve in it, often shock and exasperate us more than all the mischief which we have suffered. *To bring him back to a more just sense of what is due to other people, to make him sensible of what he owes us, and of the wrong that he has done to us, is frequently the principal end proposed in our revenge, which is always imperfect when it cannot accomplish this.*" (TMS II.iii.1.5, emphasis added).

²⁴ See TMS II.iii.2.7-10

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

As I will discuss in greater detail in section VII Smith's discussion of negligence is important for what it shows us about the central role played by our conception (and expectations) of the agent in his moral theory.²⁵ For now though the important thing to note is that the EM clearly holds us accountable for more than just our intentions.

I have tried to show why I think the "Intentions Only" claim fails to capture the nuance of Smith's EM. The bulk of the tension generated by the EM however stems from its ostensibly regulative role and so it is to the "Regulating Principle" claim that I will now turn. But first some table setting. Smith commentators are surely right when they point out that a substantial tension exists between the EM and our judgments in particular cases. What I want to suggest is that this tension is not as significant as others have supposed and the reason is that, despite the conviction with which he first presents it, Smith is not so clearly committed to endorsing the EM full stop. We have already seen that there is some reason to doubt the significance of Smith's claims that our sentiments are unjust where they conflict with the prescriptions of the EM. More important than that however are the great number of places where Smith makes claims that seem to straightforwardly conflict with his earlier endorsement of the EM as the principle which ought to regulate *all* of our sentiments.

In a fascinating passage at the beginning of Chapter 1 of the section on moral luck Smith observes that we very often feel gratitude and resentment that is directed towards inanimate objects (which very clearly could not have intended us any harm or benefit). Of such attitudes Smith notes that although in most cases "the least reflection . . . corrects this sentiment, and we soon become sensible, that what has no feeling is a very improper object of revenge" (TMS II.iii.1.1) this is not true in every case. In cases where the harm caused by such objects is very great Smith writes:

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*

²⁵ That we can be responsible for aspects of our character that do not manifest themselves in intentions also provides Smith the resources needed to explain a number of other morally significant practices. I focus on the case of negligence here (and later in section VII) simply because it is a particularly central part of our moral and legal practices

think ourselves guilty of a sort of inhumanity, if we neglected to vent this absurd sort of vengeance upon it. (TMS II.iii.1.1, emphasis added)

The last sentence of the above quoted passage is especially insightful. Although Smith refers to such resentment as ‘absurd’ the claim that we should think of ourselves as less than (or at least other than) human if we do not feel it suggests that there is a sense in which we really ought to have such an attitude (and the ought does not seem misplaced because Smith’s language suggests that the claim is not meant merely to be reporting a descriptive fact).

In a similar passage in Chapter 2 Smith writes:

It mortifies an architect when his plans are either not executed at all, or when they are so far altered as to spoil the effect of the building. The plan, however, is all that depends upon the architect. *The whole of his genius is, to good judges, as completely discovered in that as in the actual execution. But a plan does not, even to the most intelligent, give the same pleasure as a noble and magnificent building.* They may discover as much both of taste and genius in the one as in the other. But their effects are still vastly different, and the amusement derived from the first, never approaches to the wonder and admiration which are sometimes excited by the second. (TMS II.iii.2.3, emphasis added)

Here again we see Smith juxtaposing two apparently conflicting claims. He tells us that the ‘good judge’ is able to see the whole of the architect’s genius in his plan, but then goes on to claim that ‘even the most intelligent’ derive more pleasure from the execution of the plan. While this claim perhaps does not carry the normative weight that the previous claim did, what it clearly does not do is suggest that we are making some sort of mistake in being more attendant to the pleasures we receive from seeing plans come to fruition. Further, Smith concludes the paragraph that the quotation above is drawn from with the observation 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). It is illustrative here that Smith, though he acknowledges the ‘superiority of the virtues’ seems to allow that achievements have an independent weight of their own and indeed he goes so far as to point out that the latter often outweigh the former.²⁶

²⁶ There are numerous other passages where Smith makes similar sorts of claims. I have included two of the most telling passages here, though for the sake of brevity I do so without offering further comment. In a passage discussing the liability under Aquilian law of those who cause harms or damage to the property of others Smith writes: “*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. *To make no apology, to offer no atonement, is regarded as*

We have now seen that Smith's endorsement of the EM is not as straightforward as some of his language suggests. Although he claims that the EM ought to regulate all of our sentiments there are many places where Smith not only recognizes that our judgments conflict with the EM, but where he seems to endorse these judgments (and so a fortiori the sentiments that motivate them). My reason for pointing to these passages is not to say that there is not a tension in Smith's view, or even to say that this is not a problem, rather I want to suggest that these passages give us good reason to consider whether Smith's account of responsibility is more nuanced than it first appears.

IV. Cataloging the Utility of Our Irregular Sentiments

Although Smith argues that our irregular sentiments are unjust we have seen that (at least in some cases) it is not entirely clear what Smith means by this criticism, or rather if it is clear what he means (viz. that our sentiments conflict with the EM) it is unclear what the normative importance of this charge is. Further complicating matters Smith goes to great lengths to show that our irregular sentiments actually serve human ends. Whatever the injustice of our sentiments may be Smith clearly thinks that all things considered it is a good thing that we have them.

Smith lays out most of his case for the utility of our irregular sentiments in a chapter titled "Of the final cause of this Irregularity of Sentiments."²⁷ As the title of the chapter suggests Smith argues that the general utility of our sentiments is their final cause and so we see him hypothesizing that "Nature ... when she implanted the seeds of this irregularity in the human breast, seems, as upon all other occasions, to have intended the happiness and perfection of the species" (TMS II.iii.3.2).²⁸ As we saw in section II Smith identifies two ways in which luck influences our sentiments – the first involves us diminishing our sense of merit or demerit for those actions which failed to produce their intended

the highest brutality." (TMS II.iii.2.10, emphasis added). And in the passage that I think speaks most clearly to the way in which consequences bear on our desert Smith writes: "The man who has performed no single action of importance, but whose whole conversation and deportment express the justest, the noblest, and most generous sentiments, can be entitled to demand no very high reward, even though his inutility should be owing to nothing but the want of an opportunity to serve. *We can still refuse him without blame.* We can still ask him, What have you done? What actual service can you produce, to entitle you to so great a recompense? *We esteem you, and love you; but we owe you nothing.*" (TMS II.iii.3.3, emphasis added).

²⁷ TMS II.iii.3, this is the last chapter of the section on moral luck.

²⁸ It is notable that Smith attributes this final cause to a divine and benevolent 'Author of nature' (See TMS II.iii.intro.6). For more extensive discussion of the place of the author of nature in Smith's theory see (Kleer, 1995) and for an alternative view that recognizes the place of final cause explanations in Smith's theory but which emphasizes his explanations in terms of efficient causes and which also tries to offer alternatives to the theological understanding of the final cause that Smith most clearly suggests see (Campbell, 1971). As we will see the account of the origin of our sentiments will play not just an important explanatory role in Smith's theory but a justificatory role as well.

consequences and the second involves us greatly increasing our sense of merit or demerit beyond what is due (upon reflection) to the intentions or affections from which an action proceeds. Smith's task is to show us how these irregular sentiments can actually be seen to serve our ends and as we will see this is no easy task.²⁹

Fortunately, if Smith's task is hard, it is not hopeless. As Flanders argues, although Smith's justifications may seem at first pass to be quite weak, a closer reading reveals a "more nuanced and plausible position on how our irregular sentiments might be justified."³⁰ While Flanders agrees with Smith that our irregular sentiments may be justified, the sort of justification of our irregular sentiments that Flanders draws out of Smith largely sets aside his arguments based on utility.³¹ Flanders makes a strong case on Smith's behalf and I will discuss it in more detail in the sections which follow. First though it is worth asking whether Smith's arguments from utility might in the end be more powerful than either Russell or Flanders allow. Perhaps unsurprisingly, I think that they are, and so let me now say something about why I think that is. In this section I will catalog the four arguments that Smith gives for the utility of our irregular sentiments. Having done that, I will in the next section turn to the question of how these arguments serve to justify our irregular sentiments, focusing especially on the various criticisms of this claim that Flanders and Russell have offered.

Cautionary Note: As we turn our attention to the question just posed it is important to keep in mind that Smith's arguments are only utilitarian in a very broad sense – that is, Smith's general argumentative strategy is to show how our irregular sentiments serve human purposes (whether or not this means promoting our utility is unclear). It is in this restricted sense only that I think Smith's arguments from utility are powerful. And now to anticipate a worry: while it might seem that my disagreement with Flanders on this point is minor (Flanders argues that Smith's utilitarian arguments really justify our irregular sentiments by showing us something important about moral agency) this is not right. Although I agree with most of what Flanders says I also think that the consequentialist strands

²⁹ Flanders begins his exploration of Smith's account of moral luck with the observation that "the most significant reason for the neglect of Smith in debates on moral luck may be that his arguments attempting to justify our 'irregular' sentiments regarding moral praise and blame appear on a first reading as almost unaccountably weak" (Flanders, 2006, p. 193) and if anything Russell is even harder on Smith, arguing that Smith's utilitarian justifications are 'implausible', 'unconvincing' and 'flawed' (see (Russell, 1999, pp. 5-8)).

³⁰ (Flanders, 2006, p. 194)

³¹ Flanders observes that "Smith's arguments for the utility of our sentiments are pretty weak" and then prefaces the rest of his remarks with the claim that rather than defend Smith's claims about utility his argument tries "to read Smith's arguments along a different line, one less utilitarian and more of the kind the impartial spectator could endorse, that is, a kind of explanation which shows the sentiments might be proper whatever utility they might also have" (Flanders, 2006, pp. 197-198).

of Smith's argument do important justificatory work and so it is a mistake to proceed as if it hardly matters whether or not Smith's arguments go through.

Smith's first attempt to justify our irregular sentiments deals with cases in which our practices of moral criticism and of punishment strongly reflect the consequences of our actions and so agents with similar intentions will be responded to differently depending upon the outcome of their acts. In particular, Smith is concerned with the way in which we typically blame and punish the perpetrators of mere attempted crimes less than those who succeed in doing mischief or causing harm and very often we do not punish the former at all.³² In such cases, Smith argues that it is a good thing that we have an eye towards the consequences of actions and the reason is that our focus on outcomes insulates our thoughts from the 'tyranny' of public inspection.³³ Not only is this perhaps valuable in its own right, as it would be if for instance we attached considerable importance to freedom of conscience,³⁴ but as Smith notes, were this not the case even our most innocent and circumspect conduct would not render us safe for "bad wishes, bad views, bad designs, might still be suspected" and in the most worrisome cases punished (TMS II.iii.3.2).³⁵

Similarly Smith argues that the concern for consequences which our irregular sentiments direct us to encourages men to act rather than to be satisfied with the mere possession of benevolent

³² "Actions, therefore, which either produce actual evil, or attempt to produce it, and thereby put us in the immediate fear of it, are by the Author of nature rendered the only proper and approved objects of human punishment and resentment." (TMS II.iii.3.2)

³³ See TMS II.iii.3.2-3, in particular Smith writes "That necessary rule of justice, therefore, that men in this life are liable to punishment for their actions only, not for their designs and intentions, is founded upon this salutary and useful irregularity in human sentiments" and this he says "demonstrates the providential care of [Nature's] Author, and we may admire the wisdom and goodness of God even in the weakness and folly of man."

³⁴ Here we can see what I meant when I said that Smith's account is utilitarian only in a very broad sense. Smith's main concern (or at least one of them) is for something like liberty of conscience and so the justification he offers is utilitarian (or at least consequentialist) in the sense that he suggests our practices (which are reinforced by our irregular sentiments) serve to protect and promote the value we attach to liberty of conscience.

³⁵ Smith's rhetoric in the fuller passage is even more 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."

thoughts and desires.³⁶ This, Smith argues, serves any number of human ends and so for this reason our sentiments can be approved of however irregular they appear.³⁷ Note also that for Smith this is true despite the fact that the irregular sentiments serve our ends only because of an imperfection in human character (viz. that we are motivated to act by the praise and blame of others and so would often be satisfied merely by the possession of good thoughts were these rewarded).

Third, Smith 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). In particular Smith notices that, even though our irregular sentiments cause us to blame the agent who brings about harm accidentally or without malicious design, such blame encourages us to take precautions in order to avoid causing harm to others (at least where doing so is reasonable).³⁸ This concern for others, Smith saw, was especially important for agents in a society where the actions of any individual will inevitably affect countless others in some way. As we will see in section VII this point (as well as the next) proves especially important in Smith’s discussion of negligence.

Finally and in my view most significantly, Smith realized that the sort of reverence for the happiness of others pointed to above also imbued man with the natural motivations needed in order to solve one of the most significant problems of social life – viz. how we deal with compensating the victims of accidents. As Smith recognizes 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)

Call this the *Principle of Victim Compensation* (henceforth PVC). On my view the PVC is at least as important as the EM in explaining Smith’s account of moral responsibility. I will discuss PVC further in

³⁶ “Man was made for action, and to promote by the exertion of his faculties such changes in the external circumstances both of himself and others, as may seem most favourable to the happiness of all. He must not be satisfied with indolent benevolence, not fancy himself the friend of mankind, because in his heart he wishes well to the prosperity of the world.” (TMS II.iii.3.3)

³⁷ “That he may call forth the whole vigour of his soul, and strain every nerve, in order to produce those ends which it is the purpose of his being to advance, Nature has taught him, that neither himself nor mankind can be fully satisfied with his conduct, nor bestow upon it the full measure of applause, unless he has actually produced them.” (TMS II.iii.3.3)

³⁸ This is seen when one takes in the whole passage quoted from above. There Smith writes: “It is . . . of considerable importance, that the evil which is done without design should be regarded as a misfortune to the doer as well as to the sufferer. Man is thereby taught to reverence the happiness of his brethren, to tremble lest he should, even unknowingly, do any thing that can hurt them, and to dread that animal resentment which, he feels, is ready to burst out against him, if he should, without design, be the unhappy instrument of their calamity.” (TMS II.iii.3.4).

the sections which follow, but for now the important thing to note is that Smith recognizes that the problem of victim compensation arises in cases where there is no blamable negligence and in these cases it is our irregular sentiments which allow us to solve the problem. Smith makes this point in a very interesting and insightful passage towards the end of the section on moral luck where he observes:

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 peculiar, though not guilty. During his whole life he considers this accident as one of the greatest misfortunes that could have befallen him. 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. (TMS II.iii.3.4)³⁹

Here we see Smith pointing to the importance not only of our irregular sentiments in general, but of our self-directed sentiments in particular. Smith distinguishes peculiar atonement (what he elsewhere calls ‘fallacious guilt’) from proper guilt of the sort that arises from an agent’s having either a blamable intention or quality of character. This distinction is important and I will discuss it in greater detail in section VIII, but for now two things are important: first, Smith’s charge of irregularity extends all the way to our self-directed sentiments and second, and more importantly, on Smith’s view the irregularity of these sentiments is at least as useful as the irregularity of our other-directed sentiments like gratitude and resentment.

V. Does the Utility of Our Sentiments Justify Them?

In section IV we looked at four of the ways in which Smith argues our irregular sentiments are useful. As I pointed out at the beginning of that discussion these arguments play an important justificatory role for Smith. The task at hand now is to ask whether Smith’s arguments can bear the justificatory burden he places on them.

Recall that Smith’s first argument is that the way in which our sentiments are disproportionately affected by the consequences of actions serves to insulate our thoughts from the tyranny of public scrutiny. How good is Smith’s case here? Flanders at least agrees that “Smith actually has a pretty good point here” but he goes on to worry that “what he does with it . . . may not be the best way of

³⁹ Smith continues: “If [the victim’s family] 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.”

expressing it.”⁴⁰ Flanders’s worry is that the utilitarian justification of our irregular sentiments that Smith offers obscures a more important point (or rather a number of closely related points). Here Flanders follows Russell who argues that Smith’s account depends on a failure to distinguish between our punishing individuals for the nature of their wills and choices and punishing individuals merely on account of their having entertained various desires or sentiments however fleeting these might be.⁴¹ Russell and Flanders are right up to a point: Smith does not do a good job of distinguishing between the various sorts of intentional states we can have and when it comes to morally evaluating others the differences between these states are surely important. That said it is important to note that, for all the problems that the brevity of Smith’s account engenders, he clearly is concerned with the distinction that Russell draws. Indeed Smith begins his discussion of the utility of our irregular sentiments with the observation that “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” (TMS II.iii.3.2). Whether or not the criticism of Smith discussed above is germane it is I think clear that the rest of Russell’s criticism does not follow. Similarly, as we will see, Flanders’ criticism obscures an important part of Smith’s argument.

As we have seen Russell argues that the important distinction is not between intentions and consequences, but rather between intentional states which engage the will and our mere thoughts and desires which do not engage the will. On Russell’s view:

The fact that we adopt and put into practice EM does not imply that we can ignore the line between those desires and sentiments that engage the will and those that do not. On the contrary, we may insist on judging actions and attempts solely in terms of the nature of the will or intention involved, without reference to the actual consequences, and still, consistently, insist that we respect a sphere of thought and feeling, beyond the will, that is free from all retributive concerns and evaluation.⁴²

Again Russell is right up to a point, but only to a point. This is clear once one sees that Smith seems quite clearly to have had two more important concerns. The first is that it is important that we be motivated to act, and so pace Russell we need a way to distinguish those thoughts which engage the will from those that do not. Smith goes further than Russell though because he realized that we are not usually in very good epistemic position when it comes to evaluating the thoughts and motives of others. This means that it will often be hard to distinguish those thoughts that might have been only briefly

⁴⁰ (Flanders, 2006, p. 198)

⁴¹ See (Russell, 1999, pp. 5-7) and (Flanders, 2006, pp. 198-203)

⁴² (Russell, 1999, p. 6)

entertained from those which actually engaged an agent's will. Further, as Flanders points out sometimes our intentions are not fully formed until the moment of action.⁴³ Related to his first concern, Smith's second concern is that our poor epistemic situation might lead others to question even our benign thoughts and intentions. It is not enough to say then that the EM ought to regulate our sentiments but that in doing so it ought only to engage those thoughts which engage our will, for Smith's point is that once we orient our sentiments towards our intentions all of our thoughts become vulnerable to the terror of inquisition.⁴⁴ As Smith saw what we need is a way of encouraging action which insulates our private thoughts and motives from the tyranny of public scrutiny.⁴⁶

Where Russell's criticism of Smith proceeds too quickly, Flanders picks up on exactly the point I have been making, although as we will see he exploits it in an interesting way. Notably, Flanders, rather than looking at the quality of Smith's utilitarian justifications of our irregular sentiments, instead stresses the things that Smith's arguments tell us about our nature as moral agents.⁴⁷ As I have already indicated I think that Flanders's observations are prescient but where Flanders thinks that Smith's utilitarian language obscures the more important point about the nature of moral agency I think Flanders is similarly guilty of obscuring the important justificatory role that Smith's account of the utility of our irregular sentiments plays. Having said that let us now look at what Flanders says.

Pointing out that the generally poor epistemic position we are in vis-à-vis knowledge of the motives and intentions of others is a fact that shapes our conception of moral agency Flanders observes:

The fact is that although we can know a person's intentions, we cannot know them infallibly, and for this reason we may sometimes realize what a person has intended only when his intentions 'break out into action' and produce either a good or bad consequence. This allows us to give a different spin on Smith's first argument, by not

⁴³ (Flanders, 2006, p. 203)

⁴⁴ See the passage quoted in note 35 above.

⁴⁵ Further, it is worth pointing out that while Russell is surely right that Smith may not have done as good of a job of distinguishing between our thoughts which engage our will and those which do not as he might have, Smith clearly does gesture at this distinction. Recall that Smith's formulation of the EM and much of his subsequent discussion focuses on our 'intentions' and it is perfectly natural to read Smith's use of 'intentions' as singling out mental states which engage the will in one way or another.

⁴⁶ Note responding to Gill's point that Russell might be seen to be offering a rather different albeit related concern viz. that if Smith is serious about the arguments from God's creation concerning our final ends it is odd that we would be created with the sort of epistemic and motivational shortcomings that Smith justifies our irregular sentiments in light of.

⁴⁷ Flanders prefaces his comments with the claim that his goal is to "step away from the question of the usefulness, strictly speaking, of our tendency to punish and resent based on consequences" in order to "look at our dependence on consequences not in terms of their utility, but in terms of their epistemic value." (Flanders, 2006, p. 201)

reading it as an argument about how our irregularity of blame leads to our ‘happiness and perfection’. What I will suggest is that we read it, instead, as showing us a truth about our nature as finite and imperfect agents: we cannot read one another’s minds, and many times we do not even fully know the content of our own minds.⁴⁸

What isn’t clear from the story Flanders tells is why focusing on our nature as epistemically constrained and fallible judges should require us to ignore the ways in which our irregularity of sentiments are useful. Indeed it seems more appropriate to say our conception of moral agency is in large part built up from considerations of 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. Here it is important to recall the cautionary note offered at the beginning of section IV. Smith’s account of utility is importantly not the maximizing conception defended by Bentham and a number of the utilitarian moral theorists that followed him, nor is it concerned with a single or narrowly circumscribed set of values. For Smith claims of utility are simply meant to reflect the fact that our practices, sentiments, or whatever else is being justified are generally advantageous where this means that more often than not they serve one of the many ends of human life.

If what I have said above is right then we can say that Smith’s conception of the moral agent reflects the irregular sentiments we have precisely because the irregular sentiments serve our ends and if they did not then Smith’s conception of the morally responsible agent would undoubtedly look different. Of course there are aspects of our conception of moral agency that are not built up in this way. For Smith these are things like: a concern for freedom (and privacy) of conscience (the subject of Smith’s first justification), that individuals be motivated to act (the subject of his second), and that our social life does not generate too many uncompensated externalities (the subject of his third and fourth). The point is simply that Smith’s utilitarian arguments are a significant part of the justification of our irregular sentiments.

Unfortunately space constraints don’t allow me to look at Smith’s utilitarian arguments in greater detail. There is however one piece of contemporary psychological evidence that I think serves to further support the utilitarian arguments Smith offers. That evidence concerns the superior role that a focus on outcomes plays vis-à-vis a focus on intentions in facilitating learning.⁴⁹ If further support

⁴⁸ (Flanders, 2006, p. 201)

⁴⁹ See recent evidence from both the Cushman and Pizarro labs, brought to my attention in conversation with Fiery Cushman and David Pizarro during the conference on “The Nature of Moral Judgment” held at the University of Arizona, Nov. 6-8, 2009. [Report the data/sources](#)

emerges for this evidence, then our irregular sentiments might be seen to play not only an important role in motivating agents but in facilitating their learning of the rules and norms that play such a necessary role in regulating and facilitating social life.

VI. The Equitable Maxim, the Control Principle, and Our Conception of Moral Agency

We have now looked closely at what Smith says about moral luck and in particular what he says about the irregular sentiments which are its source. We have also in the last two sections looked at some of the arguments that Smith gives which purport to justify our irregular sentiments. Along the way we have also seen that Smith's account of moral luck shows us important things about our moral agency and in particular our role as moral judges (albeit imperfect ones). To this point I have for the most part set many of these latter observations to the side although as I think Flanders has clearly shown, any attempt to justify our irregular sentiments full stop must appeal to the nature of our moral agency and in particular to the ways in which our irregular sentiments express it (or respond to it as the case may be). With the goal of doing justifying our irregular sentiments still in mind it is to the question of what Smith's discussion of moral luck shows us about our conceptions of moral agency and moral responsibility that I now turn.

The first question I want to look at is how Smith's EM relates to the principle that is more frequently discussed in the moral luck literature, viz. the 'control principle' (henceforth CP).⁵⁰ The reader will recall that I introduced this principle briefly in section III above and much of the discussion in this section will build upon that earlier discussion and especially the interpretation of the EM developed there. The reason for looking at the relationship between these two principles should be clear – each sets out a particular account of moral responsibility and so of what it means to be a *morally* responsible agent.

Just as Smith claims that the EM is 'self-evident' and accepted by 'all the world' Nagel claims that "prior to reflection it is intuitively plausible that people cannot be morally assessed for what is not their fault, or for what is due to factors beyond their control"⁵¹ where the content of this claim is what

⁵⁰ Russell poses this question and devotes a considerable amount of time to discussing it, ultimately arguing that it is the superiority of Smith's EM to the CP that make Smith relevant to the contemporary moral luck literature despite the weakness (on Russell's view) of Smith's attempts to explain and justify our irregular sentiments. See part III of Russell's paper (Russell, 1999, pp. 9-10).

⁵¹ (Nagel, 1979, p. 25)

constitutes the CP.⁵² Having defined the CP Nagel goes on to formulate the problem of moral luck in much the same way that Smith did, as a conflict between our judgments in particular cases and the principle of moral responsibility which we reflectively endorse (in Smith's case EM and in Nagel's case CP).⁵³ The question is what to make of this conflict and in particular whether Smith's view of the conflict differs in any interesting ways from Nagel's.

Readers familiar with the contemporary moral luck literature will anticipate the importance of showing that Smith's view does differ from Nagel's in some way. Nagel has famously worried that the conflict between the CP and our judgments in particular cases reveals that our morality is deeply paradoxical. Here Nagel relies on the observation that although we can be persuaded that our moral judgments are irrational, these judgments "reappear involuntarily as soon as the argument is over."⁵⁴ Smith though is somewhat more sanguine than Nagel. Although he never says so explicitly Smith's project seems more reconciliatory than Nagel's. Where Nagel despairs of paradox Smith seems happy to accept the tension between our reflective endorsement of the EM and our irregular sentiments noting (as we saw in the previous two sections) that although our sentiments may seem unjust they serve our ends, or at least they do given our nature as fallible moral judges. Perhaps Smith's sentimentalism makes this move easier for him to accept given that as a sentimentalist he accepts that our moral judgments are (appropriately) fixed by our moral emotions and further as Smith recognizes our moral emotions are something over which we are able to exercise only so much control. Whatever the reasons for the difference between Smith's and Nagel's views, it seems that Smith is in a better position to deal with the problem of moral luck.

Things are not quite so easy for Smith though. As my earlier discussion should have suggested, Smith is concerned primarily (though as we will come to see not exclusively) with consequential luck, that is with the ways in which fortune bears on the consequences of our actions and Nagel is similarly

⁵² Interestingly Nagel is as far as I know the only contributor to the contemporary moral luck literature (save Russell and Flanders) who acknowledges Smith's contribution. Nagel though equates Smith's EM with the CP which as we will see is a mistake, though perhaps not as large a one as Russell supposes. See (Nagel, 1979, pp. 31-32).

⁵³ Nagel writes: "Where a significant aspect of what someone does depends on factors beyond his control, yet we continue to treat him in that respect as an object of moral judgment, it can be called moral luck." (Nagel, 1979, p. 26). As Nagel observes the problem of moral luck is a real philosophical problem insofar as the moral judgments which seem to entail that at least as a matter of practice we reject the control principle, seem correct, or at least we do not stand ready to abandon them. Similarly, and despite the fact that our commitment to these particular judgments seems to entail that we often reject the control principle, reflecting on such judgments does little to move us from our firm conviction not only that the control principle is correct as a condition on some of our judgments, but that it seems correct to extend it even to the cases where affirming it proves paradoxical.

⁵⁴ (Nagel, 1979, p. 33)

interested in this phenomenon. But, where Smith is for the most part concerned only with consequential luck Nagel notices that when the CP is consistently applied other forms of moral luck come into view as we come to see that much of what shapes our moral lives lies beyond our control.⁵⁵ Having made this observation Nagel worries that the CP “threatens to erode most of the moral assessments we find it natural to make.”⁵⁶ As Russell realizes the important question for those of us interested in Smith’s account of moral luck is whether the EM leads to the same sort of erosion of our moral judgments as the CP and as Russell argues, it is not obvious that it does.⁵⁷ Indeed Russell argues at length that the distinctive virtue of Smith’s account of moral luck is that the EM does not generate the sort of skeptical worries that the CP does.⁵⁸ Russell is I think right that Smith’s EM has certain advantages over the CP, but the advantages that Russell points to at least are not as great as he supposes.

Essentially Russell’s argument is that because the EM singles out our intentional states as the feature which imbues us with morally responsible agency Smith is able to resist the worries generated by the both circumstantial and constitutive luck. On Russell’s view it is, for Smith, beside the point that to a great extent we do not control the circumstances that we face or the sort of person we become. Our moral agency is found in the sort of person we are, regardless of the extent to which we played a role in shaping that person and with that view of the person qua moral agent in mind we can see why we need not think ourselves to be responsible for the ways in which fortune bears on the consequences of our actions even though we do think that we are responsible for things like the character we have. Consequential luck is simply external to us in a way that constitutive and circumstantial luck are not. Put another way, consequential luck does not bear on *who we are*, although it is worth noting it does bear

⁵⁵ Nagel identifies two other forms of moral luck: what he calls ‘constitutive luck’ and ‘circumstantial luck’. The former refers to the fact that to a great extent the kind of person one is or becomes lies outside her control and the latter refers to luck in the sorts of problems and situations one faces in life. See (Nagel, 1979, p. 28).

⁵⁶ (Nagel, 1979, p. 26), Nagel’s worry is amplified by his conviction that his worry is not misplaced. Nagel expresses this conviction a few paragraphs later where he notes: “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.” (Nagel, 1979, p. 27). More recently Darren Domsy has expressed a similar worry noting that the moral luck paradox “jeopardizes the very possibility of making evaluative moral judgments” (Domsy, 2004, p. 445).

⁵⁷ See Part III of Russell’s paper (Russell, 1999, pp. 9-10). Russell points out that: “Whatever intuitive plausibility [the CP] may have, EM is not identical with it. It is possible to accept EM and still reject [the CP]. All that EM requires is that people be morally assessed only for the quality of their intentions in action. No further demand is made that their willings and intentions must also be under their “control.” (Russell, 1999, p. 9). As we will see, on Russell’s view the upshot of this is that we need not be bothered by the fact that among other things we do not control the circumstances that shape our lives.

⁵⁸ (Russell, 1999, p. 9)

on *what we have done*, a distinction that Russell seems to ignore and which I will try to make use of in what follows.⁵⁹ Before turning to that point though let us summarize where Russell's view leaves us.

Russell thinks that Smith defends an importantly different conception of moral agency than the competing conception grounded in the CP. The question is whether the EM provides as stable a foundation as Russell supposes. Unfortunately as we will see it's not clear that it does and as a result the advantages that Russell argues Smith's account of agency has are not altogether secure. The reason the EM is not stable is that it's not obvious that we can reflectively endorse the EM without coming to question the myriad ways in which luck influences our lives (or alternatively without coming to accept even more sorts of luck as further filling in our moral identity). To see why this is, consider the distinction drawn above between who we are and what we have done. One reason the distinction is important is that the EM arguably distinguishes between consequential luck on one hand and circumstantial and constitutive luck on the other because the former primarily impacts what we have done but not who we are. Notice though that while the latter forms of luck clearly do influence who we are, circumstantial luck at least clearly also influences what we have done in ways that are wholly unrelated to its influence on who we are. One might worry then that to the extent circumstantial luck affects what we have done these are things that we cannot or should not be responsible for (in much the same way that we should not be responsible for the consequences of our actions).⁶⁰

More importantly, although the EM holds that we can be responsible only for those things which we intended (or which reflect our character in some other way) notice that we do not intend every aspect of the outcome of our actions. There are some things for instance which we just do not think about and other things which are simply connected to our actions by too long or complex a causal chain for us to be able to reliably associate them with our action (even when it is our action that is their cause). Nor is this something that necessarily reflects a flaw in our characters for it is appropriate that our attention is circumscribed in this way (our cognitive resources being limited). When we turn our attention to these aspects of the consequences of our actions then one has to wonder whether we can (or should) be responsible for these things as well. To the extent that we are tempted to answer that 'we cannot be', we are likely to find many of our judgments undermined by the EM in much the same way we saw with the CP.

⁵⁹ Interestingly as we will see in section VIII Flanders, citing Williams, does realize this.

⁶⁰ Indeed, Smith does point to such worries. See TMS II.iii.2.3.

We have seen that Smith's EM doesn't provide quite the advantage over the CP that Russell supposes. The concern that our commitment to the CP threatens to undermine the vast majority of the moral judgments we make is however not the only worry that Nagel voices. As he goes on to argue, our commitment to the CP threatens us in an even more fundamental way. Nagel recognizes that in denying that there can be moral luck we leave ourselves with an impoverished conception of both ourselves and our place in the world. Here Nagel observes that "the self which acts and is the object of moral judgment is threatened with dissolution by the absorption of its acts and impulses into the class of events."⁶¹ As Nagel points out "moral judgment of a person is judgment not of what happens to him, but of him."⁶² Denying that there can be moral luck, however, leads us to concentrate on the influence of what is beyond our control and in doing so leaves the 'responsible self' playing an ever smaller role in our moral evaluations of one another as it becomes "swallowed up by the order of mere events."⁶³ Further as Susan Wolf has pointed out, although it is possible to define ourselves as pure wills, if we try to define ourselves in ways that minimize the significance of contingency and luck "we do so at the cost of living less fully in the world, or at least at the cost of engaging less fully with the others who share that world."⁶⁴

Taking survey of the bare landscape that comes with denying the possibility of moral luck Nagel is ultimately led to the conclusion that there *is* moral luck and he is led to this conclusion because of his confidence that the impoverished conception of our moral selves and of the place of morality in our lives that the denial of moral luck entails is not a conception of morality that we recognize.⁶⁵ Nagel nicely summarizes where his account leaves us with respect to our concept of moral responsibility when

⁶¹ (Nagel, 1979, p. 36)

⁶² (Nagel, 1979, p. 36)

⁶³ (Nagel, 1979, p. 36); Nagel emphasizes this point again a few paragraphs later drawing a parallel with the problem of free will: "as the external determinants of what someone has done are gradually exposed . . . Eventually nothing remains which can be ascribed to the responsible self, and we are left with nothing but a portion of the larger sequence of events, which can be deplored or celebrated, but not blamed or praised." (Nagel, 1979, p. 37).

⁶⁴ (Wolf, 2001, p. 15), Flanders makes this point as well, citing the same Wolf passage. See (Flanders, 2006, pp. 213-214).

⁶⁵ Bernard Williams reaches a very similar conclusion in his essay (which Nagel's was a response to). Perhaps the biggest difference between the respective conclusions that Williams and Nagel draw is that Williams is more comfortable accepting a sort of skepticism about morality, so Williams writes: "Scepticism about the freedom of morality from luck cannot leave the concept of morality where it was, any more than it can remain undisturbed by skepticism about the very closely related image we have of there being a moral order, within which our actions have a significance which may not be accorded to them by mere social recognition. These forms of skepticism will leave us with a concept of morality, but one less important, certainly, than ours is usually taken to be; and that will not be ours, since one thing that is particularly important about ours is how important it is taken to be." (Williams, 1981, p. 39).

he writes: “A person can be morally responsible only for what he does; but what he does results from a great deal that he does not do; therefore he is not morally responsible for what he is and is not responsible for.”⁶⁶ Put slightly differently Nagel’s point is that we can be responsible for things which, for all intents and purposes, are matters of brute luck, but that we are responsible for these things is not itself something we can be responsible for.

Finally we are at a point where we can see the clear superiority of Smith’s view. That superiority is found in the fact that Smith’s view can much more naturally express the view described above that Nagel is ultimately led to accept. The reason for this is that Smith is able to embrace the notion of moral luck in a way that Nagel cannot. As Russell points out Smith’s position on moral luck is essentially the opposite of the Kantian view expressed in the CP. Where Kant sought to purge our morality of contingency in all its forms, Smith was not so allergic to the notion of moral luck. As Russell nicely describes, on Smith’s view “morality is permeated by luck in all its dimensions” and yet this influence of luck is not problematic⁶⁷ – the reason for this being that Smith never thought (as Kant did) that morality should be immune to contingency in all its forms. Of course it is not enough to just assert this fact for Smith’s claim is exactly what the Kantian disputes. More importantly then is the fact that Smith provides us with the resources needed to distinguish between a number of different senses in which we can be responsible for things. Unfortunately Smith was not as clear as he could have been in distinguishing between these different senses. Nevertheless it is I think clear that Smith did think of responsibility in the variegated way I am suggesting and my goal in the sections which remain will be to highlight the various parts of Smith’s discussion of moral luck that support this claim.

Before moving on I want to pause briefly to consider some of the ways in which morality is permeated by luck in order to orient the discussion which follows. While for Smith some of the senses in which we hold one another responsible ought to be insulated from at least some kinds of contingency, there are other senses of responsibility for which contingency is not problematic. Judgments of blameworthiness governed by the EM provide an example of the first sort of responsibility whereas the sort of accountability we hold people to in cases of negligence arguably provide an example of a sense of responsibility which need not be free from contingency (I discuss this in section VII). Similarly it might be important to shield the sort of guilt we feel for wrongfully harming another from the further influence of fortune, but there are related species of guilt for which this need not be the case. Indeed it

⁶⁶ (Nagel, 1979, p. 34)

⁶⁷ (Russell, 1999, p. 10)

might be inappropriate for us *not* to feel a certain sort of responsibility for having innocently caused another harm (this will be my focus in section VIII). As we will see the lesson to be drawn from all of this is that part of what it means to be a moral agent is to be sensitive to moral value in the right sorts of ways and sometimes this means feeling ‘guilty’ or at least ‘responsible for’ things which, from another perspective we are not guilty or responsible for.⁶⁸

VII. The Strange Place of Negligence in Smith’s Theory

An extensive discussion of negligence is found in the heart of Smith’s account of moral luck. I have however put off until now the task of looking at the place that negligence has in Smith’s theory. Smith’s discussion of negligence is interesting for three reasons. First, as I discussed briefly in section III, it reveals that Smith’s EM is much richer and more nuanced than many of his commentators have appreciated. Second, and quite apart from its relation to the EM, Smith’s discussion of negligence shows us one of the many ways in which his account of moral responsibility embraces contingency. Perhaps most important though is that Smith’s discussion sheds light on the important role that normative expectations play in his theory. As we will see this role is seen both in Smith’s formulation of the EM and in the ways in which his theory responds to contingency.

We have seen that Smith’s EM differs from the CP in tying responsibility to our intentions rather than merely to the things over which we have control. Normally this has the consequence of extending the range of things we can be held responsible for. There is however an interesting exception to be found in case of negligence. Negligence is interesting because it is typically characterized by the *lack of intention* that characterizes the negligent party. An agent is guilty of negligently causing harm when she does so unintentionally, but culpably. Smith clearly thinks that it is appropriate for us to be blamed (and in some cases punished) for negligence, but the interesting question is why he is able to say this. I say that this is an interesting question because, at least at first glance, it is not clear how Smith can justify our blaming negligent agents and so negligence seems to provide a challenge to Smith’s view. As we will see though it is a challenge that Smith can meet.

⁶⁸ As Flanders recognizes many of our most cherished relationships and even our own identity are in some sense the result of accidents and yet these are surely still morally significant. And, as Flanders points out, this is a point that Smith was well attuned to. Flanders cites Smith’s discussion of duty in Part VI (TMS VI.ii.1) where Smith goes to great lengths to defend the idea that there is a certain degree of partiality that is appropriately due to those that are socially closer to us. This partiality though is clearly built upon contingency for the fact that one person and not another is one’s neighbor is well outside one’s control. See Flanders’s discussion at (Flanders, 2006, pp. 214-215).

We saw in our earlier discussion that closer inspection reveals the EM to be more nuanced than it appears at first glance. In particular the EM picks out not one, but two separate criteria which can found our praise or blame: our intentions and our 'affections of heart'. We have already seen though that Smith cannot explain our treatment of negligence in terms of the former so it is the latter which for Smith must explain our blaming of negligent agents. The question our earlier discussion left us with however was what Smith means by 'affections of heart'. Fortunately Smith's rich discussion of negligence gives us some clues as to what he means here.

Smith points out that negligence occasionally deserves punishment even when it engenders no harm.⁶⁹ Of such cases Smith observes:

The person who has been guilty of [gross negligence], shows an insolent contempt of the happiness and safety of others [even when his negligence engenders no harm]. 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 justice and of society. (TMS II.iii.2.8, emphasis added)

Smith's language suggests that negligence sometimes reveals a certain viciousness of character and it is this poor character that makes one vulnerable to moral criticism in cases of negligence. When we blame others in cases where they did not have malicious intentions then it is typically because their actions still displayed a callousness of character – something which manifests itself most clearly in a lack of sensitivity to what is owed others. Here then we see the important role that normative expectations play in grounding our responsibility practices. Our sense of what is due to others is built up in large part from the set of expectations that we have for one another and particularly important among these expectations in the case of negligence are the relevant standards of care and due diligence that govern our actions which (potentially) impose risks or costs on others.

As Smith recognized (perhaps more so than any of his contemporaries) we all greatly benefit from living in commercial society. As Smith also saw though living in such a society has its costs as well. As more and more people come to live closer together we begin to impose more risks and greater externalities on our neighbors. In both the English common law and Roman civil law systems that Smith was well acquainted with these problems were dealt with by developing a rich body of case law which

⁶⁹ The case Smith discusses involves a man throwing a large stone into a crowded street without regard for where it might fall and Smith writes that in such cases "a very accurate police would punish so absurd an action, even though it had done no mischief" (TMS II.iii.2.8).

established among other things the standards of care and due diligence required by society to minimize the most severe risks and facilitate an efficient allocation of those risks for which the costs of prohibition exceeded the benefits. Similarly an elaborate system of property rights evolved – a principle task of which was to facilitate the adjudication of disputes over the imposition of externalities by one party on another. One of Smith’s insights then was that men living in commercial society need to be attune to the various standards of care that regulate the affairs of their neighbors and which their neighbors (justly) expect to regulate the affairs of others living among them. To fail to attend to these standards renders one unfit for society and so vulnerable to moral criticism.⁷⁰

Further pointing to the role that normative expectations play in delineating responsibility Smith goes on to distinguish a second sort of negligence from the gross negligence discussed above. Here Smith writes:

There is another degree of negligence which does not involve in it any sort of injustice. The person who is guilty of it treats his neighbours as he treats himself, means no harm to any body, and is far from entertaining any insolent contempt for the safety and happiness of others. *He is not, however, so careful and circumspect in his conduct as he ought to be, and deserves upon this account some degree of blame and censure, but no sort of punishment.* (TMS II.iii.2.9, emphasis added)

Here Smith’s claim that the agent in question is ‘not as careful as he ought to be’ clearly points to the role being played by normative expectations. More importantly though we see Smith distinguishing between different degrees of blame (and also between blame and punishment). Nor is Smith simply making the claim that the blame we extend to an agent ought to reflect what she has done. In the beginning of the passage quoted above we see Smith suggesting that there are certain types of negligence which involve no injustice, but for which it is nevertheless appropriate to blame agents. An interesting question here is whether the EM licenses blame in such cases. Smith’s claim that the negligence involves no injustice suggests that it probably cannot (because the agent’s negligence would be evidence of her contempt for others). The fact that blame is appropriate in this case then is further evidence that the EM isn’t all there is to Smith’s theory of responsibility.

Another way of understanding the point just made is that blaming is not merely a single-valenced moral attitude that we take up to greater or lesser degrees depending upon the circumstance.

⁷⁰ Note how this fits nicely with the readings of Smith offered by Griswold, Rasmussen, and Hanley who each interpret Smith’s project as being to offer an updated account of the virtues required for living in commercial society. See [Griswold, Rasmussen, and Hanley citations](#)

Rather, it is something with rich and highly varied content. When we blame others for negligent acts of the first sort that Smith identifies that blame carries with it a strong moral criticism. In such cases we are not merely expressing disapproval but saying to the agent (or at least of the agent) ‘what you did was wrong’. In the second sort of case Smith discusses though this isn’t the case. There blame doesn’t carry with it the same sort of censure and the reason for this is clear – the agent guilty of the second sort of negligence Smith identifies doesn’t treat herself differently than she treats others, even though she is perhaps acting in a way that she ought not.

One has to wonder though whether it is appropriate for us to blame agents for violating expectations in ways (or for reasons) that are not serious enough to warrant drawing the conclusion that the agent’s character renders her unfit for society. Here though Smith can offer a utilitarian justification for our practice that should look familiar. Even if certain sorts of negligence do not render one unfit for social life, such acts still ought to be discouraged if for no other reason than to make social life less costly for the rest of us. This sort of argument is clearly part of the justification for blaming ‘innocent negligence’, as Smith recognizes though, our reason for blaming this latter sort of negligence is not just that the negligent behavior violates some sort of normative expectation. Rather, Smith points to the Principle of Victim Compensation (introduced in section IV above).⁷¹ Here Smith notes that even though we do not typically punish negligence that does not display contempt for others where such negligence engenders harm we do have reason to punish (and not merely for reasons of deterrence). That reason, as we saw with the PVC, is that as a society we need to find ways to compensate victims and it is fitting to look to the agent who caused the harm to provide this compensation. Here Smith clearly embraces one of the ways in which luck influences our moral practices. Even though it is often a contingent fact that one negligent actor caused harm where another did not it is appropriate to attach responsibility to the former and not the latter *because* responsibility has to be attributed to someone (lest we be left with uncompensated victims who have been harmed through no fault of their own) and the mere fact that the one agent caused the harm (and the other did not) is enough to make it fitting to let the responsibility lie with her.

Of course the appeal to fittingness here is unlikely to convince some that the responsibility we attribute to the negligent agent in cases like those discussed above is *moral* responsibility. I have argued

⁷¹ See TMS II.iii.2.9, especially the second half of the paragraph.

elsewhere that I think these critics are wrong,⁷² but for our purposes the important point is that there is a clear story explaining why it seems fitting to attribute a different sort of responsibility to the negligent agent who causes harm. Further, as we will see in the next section, the fact that agents who cause harms (whether negligently or not) feel guilty for having done so is further reason to hold them accountable (at least when somebody has to be held accountable).

Before moving on I want to briefly discuss one last species of negligence that Smith discusses. This last species is especially interesting because it's not obvious that it involves negligence at all. Smith illustrates this species of negligence in terms of a case drawn from the Roman Aquilian law:

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. (TMS II.iii.2.10)

Smith notes that in such cases we find it appropriate to hold the rider responsible for compensating the victim even though the rider did not violate any normative expectations *at all*. Indeed as Smith points out in this case the expectations run quite the other way – we would criticize the unfortunate rider if he had refused to take the reins of the horse, arguing perhaps that he was guilty of an excessive timidity. In cases like this then Smith explains responsibility solely in terms of the PVC, although as we will see it is still important (as Smith goes on to note) that in such cases the agent who causes harm feels a natural desire to compensate the victim.⁷³ This latter point deserves emphasis for it is what ultimately explains why it is appropriate to hold the agents who cause harm accountable for what they did rather than finding some other way of making whole the victims of accidents.⁷⁴

⁷² See my other paper on Moral Luck. There I focus largely on the significance that our practices of holding one another responsible play in our lives. That these practices are appropriate seems with a few exceptions to be uncontroversial among moral luck commentators. If our practices are appropriate though, given their significance it is hard not to think of them as moral practices.

⁷³ Smith writes: "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). I discuss this at greater length in the next section.

⁷⁴ [Note about alternative tort systems e.g. New Zealand](#)

The claim just made obviously requires unpacking but I leave that task to the next section where I will focus on the important role that guilt and the related species of self-directed sentiments play in grounding our moral practices. For now let me simply try to summarize what I think Smith's discussion of negligence shows us about the nature of responsibility. Smith's point is that life cannot be lived risk-free and because this is true our moral practices cannot be free of contingency. More specifically Smith shows us that social life being what it is there are cases where we have to hold persons accountable for things simply on account of what they have done, even though what they have done doesn't necessarily say anything about who they.

VIII. Guilt, Agent's Regret, and Piacular Atonement

I concluded the last section by suggesting that guilt and a variety of other self-directed sentiments play an important role in explaining why it is appropriate for us to attach responsibility to particular individuals, especially in cases where those individuals' characters or intentions don't give us any reason to do this. In particular guilt and its relatives are important because the displeasure that accompanies them encourages individuals to act cautiously, to show concern for the happiness of their fellows, and perhaps most importantly to compensate those whom they harm. It is also worth noting that at least as significant as the motivation that guilt and its brethren provides is the non-motivational support that they provide for our practices. Specifically if individuals didn't feel guilt our practices of blaming and holding those who cause harms responsible for compensating victims would be more divisive and less stable, and if our practices play an important or perhaps even necessary role in making social life possible, then it is especially important that guilt provides us a way of making these practices more stable.

As I have said I think Smith clearly held something like the view described above. For instance we saw in the last section that Smith clearly thinks we normally feel guilty when we cause harm to others even when we don't do so negligently. Further, as we saw in sections IV and V Smith clearly thinks that these sentiments (however irregular they might be) serve our ends and that they do so for the reasons pointed out above. Russell however has challenged both aspects of Smith's claim here. Russell identifies two key claims in Smith – the 'utility claim' and the 'naturalistic claim' – where the former is the claim that our irregular sentiments are useful and the latter is the claim that our irregular sentiments are natural, common, and relatively fixed.⁷⁵ Russell argues against each of these claims and

⁷⁵ See part II of Russell's paper (Russell, 1999, pp. 5-8).

although the claims are defined in terms of our irregular sentiments generally, Russell specifically discusses guilt so it is clear that he has that sentiment in mind when he argues that neither of Smith's claims ultimately go through.

I have already defended at length Smith's claim that our irregular sentiments serve our ends (see especially section V) and I have suggested above and at the end of section VII why guilt in particular is important. Space constraints prevent me from saying more about these claims so in what follows I will focus on the naturalistic claim. Before turning to Russell's criticism of that claim though I first want to say something about the nuance of Smith's account of guilt and in particular about the language he uses. Smith distinguishes between guilt and what he calls 'piacular atonement', something which he elsewhere refers to as 'fallacious guilt'.⁷⁶ Although both species of guilt play an important role in Smith's theory (viz. filling the motivational roles described above) it is the latter that has a special place in his theory. More specifically it is piacular atonement which explains why it is appropriate to occasionally hold agent's responsible for harms that they innocently caused. With this distinction in mind let us now turn to Russell's criticism.

Russell points to a number of passages that he thinks suggest that our irregular sentiments are not as fixed as Smith elsewhere suggests. Russell then goes on to argue that "this suggests that the relevant irregularities are in some measure a function of established social practice, and are not naturally embedded in human nature in the way Smith suggests."⁷⁷ Russell's naturalistic claim is too strong though. That our sentiments are natural need not entail that they cannot (in some cases) be revised upon reflection nor does it entail that our sentiments are not shaped by or embedded in our social practices. More importantly though the evidence that Russell marshals against the naturalistic claim is not representative of Smith's considered view. The two passages Russell cites as evidence that on Smith's view our irregular sentiments being revised upon reflection involve cases where Smith clearly thinks it is a mistake to blame or punish and it is not just a mistake because our judgments conflict with the EM, but rather because the features of an action which normally excite our sentiments are not

⁷⁶ Smith writes: "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 piacular, though not guilty" (TMS II.iii.3.4).

⁷⁷ (Russell, 1999, p. 7)

present namely a bad consequence and a malicious intention or affection of heart which was responsible for causing the act.⁷⁸

If Russell does not provide good evidence for his claim, even more significant is the fact that he ignores the passages where Smith most clearly defends the claim that we do feel guilty (or rather piacular) in cases where we have done nothing wrong and more importantly still he ignores Smith's claim that it would be inappropriate for us to *not* feel this way. We have already seen the clearest evidence of the first claim in Smith's discussion of the Aquilian rider (see p. 31 above and especially note 73). The latter claim however (that it is appropriate to feel guilt) is expressed in Smith's conclusion to that passage. There Smith writes that "to make no apology, to offer no atonement, is regarded as the highest brutality" to which he adds the observation that "this task [to apologize for harms one innocently caused] would surely never be imposed upon him, did not even the impartial spectator feel some indulgence for [the sentiments of the victim]" (TMS II.iii.2.10).⁷⁹ Here again, as we saw earlier in section III, we see Smith suggesting that were one not to feel guilty or if she lacked the desire to apologize for harms that she caused we would not just say that she was abnormal, but that she was lacking an important moral sensitivity – something which it seems is required for full moral agency. Perhaps more importantly though is the fact that we again see Smith appealing to the fact that our apparently irregular sentiment (in this case piacular guilt) is shared by the impartial spectator.⁸⁰ The question is what to make of this claim and in particular whether it serves to justify our irregular sentiments.

Here there seems to be two options. The critic (like Russell) might claim that the judgment of the impartial spectator simply reflects the fact that feeling guilty in the circumstances in question is

⁷⁸ Russell cites Smith's acknowledgement that although we are disposed to blame and feel gratitude towards inanimate objects, it only requires 'the least reflection' to correct these sentiments (TMS II.iii.1.1) and also his claim that in civilized nations people are disposed to mitigate punishments "whenever their natural indignation is not goaded on by the consequences of the crime" (TMS II.iii.2.4). Smith explains the features which excite our passions (and whose absence explains why our sentiments are mistaken and easily revised in the cases Russell points to) at TMS II.iii.1.6-7.

⁷⁹ Smith actually concludes the passage ". . . did not even the impartial spectator feel some indulgence for what may be regarded as the unjust resentment of that other." I've excluded this part of the quotation from the main body of the text because it is I think misleading. Although Smith speaks of indulging the 'unjust resentment' of the victim we have seen that the sympathy with the victim is perhaps better explained in terms of sympathy with the victim's need for compensation.

⁸⁰ Note that although Smith speaks of the desire to apologize or atone for what one has done these can I think be plausibly understood as desires that are driven by an agent's feelings of guilt; a reading which is I think further supported by Smith's later claim that "the evil done without design" is nevertheless regarded as "a misfortune to the doer as well as to the sufferer" (TMS II.iii.3.4).

normal, but that this doesn't do anything to justify these feelings.⁸¹ Alternatively (and this is where Smith's distinction between guilt and piacular atonement is important) one might say that the latter feeling (if not the former) really is appropriate and that it is this appropriateness that the endorsement of the impartial spectator is meant to reflect.

I have suggested that it is the second route which Smith takes and which incidentally is also the more convincing view. Let me now try to support that claim in more detail. To begin it will be helpful to look at Flanders's extensive discussion of Smith's account of piacular atonement.⁸² Flanders draws a helpful comparison between Smith's piacular atonement and what Bernard Williams calls 'agent's regret'.⁸³ As Flanders (drawing on Williams's discussion of agent's regret) points out, if someone didn't feel the piacular atonement that typically accompanies cases where a shadow of demerit had fallen over her "we would suspect that something was missing that ought to be there."⁸⁴ The question though is why we think such an agent is missing something *that she ought to have*. Here I think the answer is (at least in part) that agent's regret is simply a part of how we experience the world, and because it is part of how we experience the world it is part of how we construct our moral identities. As Williams points out agent's regret is significant because it has the power to radically change us and the reason it has this power is that it doesn't just involve regret about things that have happened as a spectator might have, but is rather regret *that one has done something*.⁸⁵ Further as Williams goes on to describe "it is in the nature of action that such regrets cannot be eliminated, that one's life could not be partitioned into some things that one does intentionally and other things that merely happen to one."⁸⁶ We can see now that the distinction I drew earlier between who we are and what we have done is not as precise as it needs to be. While there is a sense in which who we are is a matter of the character we have what

⁸¹ In the course of considering a similar objection Flanders writes: "Would it not be better if no one felt the mistaken feelings in the first place? It may be that we end up doing all sorts of slightly irrational things in order to deal with the compulsive emotions we feel, but surely this is a second-best solution. It would be better not to have the compulsive feelings at all, rather than to have to go to absurd lengths to get rid of them. And if others feel an irrational resentment against us for the harm we have done, and that resentment is unjustified, surely this is more their problem than ours." (Flanders, 2006, p. 212).

⁸² In his discussion of this Flanders primarily uses the other label that Smith gives to piacular atonement viz. 'fallacious guilt'. As we will see later Smith's use of the former term is I think instructive and it is for that reason that in my discussion I use the former term.

⁸³ See (Flanders, 2006, pp. 212-214)

⁸⁴ (Flanders, 2006, p. 212)

⁸⁵ Williams's richest discussion of agent's regret is found at (Williams, 1993, pp. 69-74).

⁸⁶ (Williams, 1993, p. 70) Smith clearly expresses the inescapability of piacular atonement that Williams has described in terms of agent's regret writing of the man who feels piacular for having accidentally caused the death of another that: "during his whole life he considers this accident as one of the greatest misfortunes that could have befallen him" (TMS II.iii.3.4).

Williams's discussion shows us is that we cannot ignore the fact that there is another (equally significant) sense in which who we are is also a matter of what we have done.

The explanation laid out above for why agent's regret (or piacular atonement) is morally appropriate is not complete though. As Flanders points out:

We are not interested, or not only interested, in how our connection with the harm we unintentionally cause makes us feel and how it might change our lives, but with the question: should it make us feel this way?⁸⁷

To a certain extent Flanders's question is unfair. It's not clear what the force of his question is supposed to be for a sentimentalist like Smith who might be tempted to respond that our sentiments are simply not the sort of thing that need to be justified. While not entirely inappropriate such a response is too quick. Flanders's point is that if we are to endorse our sentiments we need an explanation either of why our sentiments themselves have moral weight or, if they don't, of why the things at which they are directed have such weight. Along these lines Flanders expresses dissatisfaction with Williams's justification of agent's regret, arguing that "it assumes that causing a harm has a moral weight in itself without explaining how it gets that weight."⁸⁸ Flanders accuses Williams of begging the question, but whether or not he is right Flanders is at least as guilty of ignoring the possibility that sometimes it just is our sentiments that supply things with their moral gravitas. In the case of agent's regret it is the harm done (and often also a concern for the victim) which clearly carry independent moral weight, but as Williams and Smith both show our relationship to the harm also carries weight and it is our sentiments which explain why. The point, put another way, is simply that it is to a certain extent simply the fact that we feel guilty or piacular for having caused a harm that makes causing harm morally weighty. This isn't to say that our sentiments do all the justificatory work, but it is important not to lose sight of the fact that for Smith at least they certainly do some.

Whatever the merits of the criticism discussed above Flanders's discussion of piacular atonement is illustrative for another reason. We have already seen that the various species of guilt are important in large part because they ground the social practices through which we deal with the costs of social life. Most important here is the role guilt plays in solving the problem of victim compensation both by motivating those who cause harms to compensate their victims and by making it appropriate to hold them responsible for doing so. As Flanders points out though guilt and piacular atonement in

⁸⁷ (Flanders, 2006, p. 213)

⁸⁸ (Flanders, 2006, p. 213)

particular are often important for another reason – namely for the role they play in founding, repairing, and strengthening relationships.⁸⁹ Often in cases where one has accidentally harmed another the paramount concern isn't how to compensate the victim, but simply how one should respond to the victim. Here, as Flanders recognizes, there is what Susan Wolf has described as 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.⁹⁰ With the role of this virtue in mind, we can see that sometimes what justifies our sentiments is not that they serve our ends, but rather that they allow us to be sensitive to the myriad things with value in the world (although the value to an agent of being able to maintain her relationships and to build new ones should not be ignored).

I have now said a lot about why guilt, agent's regret, and piacular atonement are important, but in doing so I have not said much about Smith or his view. By and large I think the view explicated above fits what Smith says about guilt and piacular atonement. Smith though has something of his own to contribute to our understanding of the importance of these sentiments. In particular Smith's use of the term 'piacular' to describe agent's regret is instructive. As A. L. Macfie and D. D. Raphael point out in their commentary on Smith's *Theory of Moral Sentiments* the word piacular is derived from the Roman 'piaculum' which referred both to the act of various sorts of trespass on sacred ground prohibited by religious law and the act of expiation required to atone for such trespass.⁹¹ Smith's use of the term 'piacular' seems quite clearly then to convey the connection he saw between guilt and the importance of being sensitive to things of great moral value. This is even clearer when one considers his argument in the paragraph where he most extensively makes use of the term that our piacular feelings serve to teach man to "reverence the happiness of his brethren" and similarly the claim that it is "by the wisdom of Nature" that the happiness of every innocent man is "rendered holy, consecrated, and hedged round against the approach of every other man" (TMS II.iii.3.4).

If Smith's use of the term 'piacular' is so important one question is why he also uses the term 'fallacious guilt' to refer to these feelings. The latter term might be thought to suggest that such feelings are mistakes, inconsistent as they are with the EM. If this were right then the account of why such feelings are appropriate laid out above would be in trouble. Fortunately there is another way of understanding Smith's use of the term, one that upon closer inspection fits better with Smith's view (at least as I have presented it) and which doesn't force us to say that such feelings are inappropriate. When Smith refers

⁸⁹ See (Flanders, 2006, pp. 213-215)

⁹⁰ See (Flanders, 2006, p. 213) where Flanders cites (Wolf, 2001)

⁹¹ (Smith, 1982 (orig. 1790), p. 107 fn. 1)

to piacular atonement as ‘fallacious guilt’ what he is saying is simply that the former is *not* guilt in disguise, but rather a fundamentally different albeit related sentiment. If this reading is right then we can see why it is a mistake to focus, as Flanders does on the latter term. While the term ‘fallacious guilt’ tells us something important about what the sentiment Smith is identifying *isn’t*, Smith’s other term, ‘piacular atonement’, tells us something more important viz. what the sentiment in question *is*.

So far I have focused only on the second option laid out above (that the fact that the impartial spectator shares our piacular feelings reflects their appropriateness). My reason for doing so as I suggested earlier is that I think it is both the right way to interpret Smith and the better way of thinking about guilt (or at least agent’s regret). Nevertheless it is worth pausing to consider whether there is anything to be said for the first option (that the endorsement of the impartial spectator simply reflects the regularity of our guilt). Pointing to the concluding paragraph of Smith’s discussion of moral luck, Russell suggests that there is reason to doubt whether Smith ever meant to endorse our irregular sentiments, presumably including piacular atonement.⁹² Russell’s doubts do not concern guilt, piacular atonement, or agent’s regret in particular though. Rather his doubt is whether Smith meant to endorse any of irregular sentiments. For this reason I leave discussion of his claim to the next section. As we will see I think Russell’s worry is misplaced. For now however it is safe to say that there is at least some sense in which Smith clearly thought that the various species of guilt were both appropriate and useful. To show that these sentiments along with our other irregular sentiments can be endorsed full stop will be my goal in what remains.

IX. A Tentative Solution to the Problem of Moral Luck

We have now surveyed in detail Smith’s account of moral luck. By now it should be clear that Smith’s account of moral luck is considerably more nuanced than it appears at first glance. It should also be clear from my discussion in the preceding pages that Smith’s discussion of luck shows us a lot about the nature of the nature of moral agency and moral responsibility in particular. The task now is to show where this leaves us and in particular to ask whether Smith has provided us with the resources needed to lead us out of the problem of moral luck.

In section II we saw what the problem of moral luck is, at least as Smith seems to understand it viz. that there is a tension between the moral judgments licensed by the EM and the judgments we actually make (grounded in our irregular sentiments). In section III we began to see that Smith’s view is

⁹² See (Russell, 1999, p. 7)

more nuanced than it appears at first glance. In particular we saw that the tension between the EM and our irregular sentiments doesn't entail that we simply ought to reject the judgments grounded in the latter. Sections IV and V further supported this claim by showing how our irregular sentiments serve our ends and why this serves (at least in part) to justify those sentiments and perhaps a fortiori the judgments grounded in those sentiments.

Having discussed in detail what Smith's account of moral luck is in sections II - V, in section VI we turned our attention to how Smith's EM relates to the CP which has been the focus of most of the contemporary moral luck literature. There I suggested that Smith's view has the virtue of resisting some of the worries that luck poses for our account of moral responsibility. As we saw, particularly important in allowing Smith's view to avoid these worries was the way he seems to have embraced the idea that morality need not be from contingency. Here, though, that the EM differs from the CP was only part of the story. At least as important was the fact that Smith's account of luck suggests how we might distinguish between a number of different senses in which we can be accountable for things. Having pointed to the significance of this claim sections VII and VIII then focused on developing the idea that our notion of moral responsibility is many-headed. In particular section VII focused on what Smith's discussion of negligence shows us about the importance of our practices of holding one another responsible and the different senses of responsibility that are involved in these practices. Especially important here was Smith's recognition that despite the immense benefits we derive from social life and in particular commercial society, these benefits come at a cost viz. that social life is inherently risky and our actions often impose costs on others. Here then we saw that at least as important as the EM in filling out our account of moral responsibility was what I called the Principle of Victim Compensation which reflects the need to compensate the victims of accidents. Finally in section VIII we looked at the important role that our self-directed sentiments play both in supporting the sort of accountability discussed in section VII and in developing our moral identities. As I tried to show there, there is an important distinction to be made between who we are and what we have done but that contra what many others have supposed it is not the case that the former matters morally speaking while the latter does not. Rather, our moral identity is constructed in part out of what we have done (even though our moral character is not). This is something that is I think suggested by Smith's discussion of piacular atonement and what Smith's discussion teaches us is that our characters are not the only thing of moral significance. The idea of moral responsibility plays a role then not just in how we evaluate our characters, but also in allowing us to embrace a world full of contingency where part of what this means is owning up to what we have done.

We can see now how Smith shows us the way out of the problem of moral luck. The problem of moral luck stems from the fact that both who we are and what we have done are highly contingent. What Smith shows us is that the solution to the problem can be found in its source. More specifically, finding our way out of the problem of moral luck involves embracing the contingency of moral life rather than trying to define our moral identities in a way that avoids the influence of luck and contingency. As I think Smith's discussion of the problem shows, albeit not as clearly as it could have, one way of embracing the fact that our moral identities are highly contingent is to embrace a richer account of moral responsibility – one in which there are many different senses in which we can be responsible or accountable for things. Moral responsibility in other words should be seen as a tool that can perform many tasks rather than as a unitary metaphysical truth (as I think others have often thought of it). Sometimes attributions of moral responsibility tell us something about a person's character, but other times (and perhaps more frequently) attributions of responsibility tell us simply what we have done. But this too is a morally salient sense of responsibility for what it means to hold someone responsible in such cases is to say that what one has done calls for a response. Here three features of the response are important. First, the response is demanded of someone in particular, namely the agent who did the thing. Second, only certain sorts of responses will be appropriate (something that is likely defined in terms of a set of shared expectations). And third the response that is called for will very likely affect how one's life goes and it will do so in a significant way. Focusing on this last point, it is the significant way in which we are affected by our practices of holding one another responsible that is part of what makes the call for response morally salient. If our practices of holding one another accountable for things had only a superficial effect on how our lives went then these practices would not clearly be morally salient, nor would the notions of responsibility involved in them.

I have suggested here that Smith should be read as endorsing our irregular sentiments and the multi-dimensional account of responsibility that best makes sense of this endorsement. As we saw at the end of the last section though Russell challenges this reading. Having offered his own survey of Smith's account of moral luck Russell writes that:

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.⁹³

⁹³ (Russell, 1999, p. 7)

As I suggested in the previous section, Russell's argument turns on his reading of the last paragraph of the section in which Smith discusses moral luck (TMS II.iii.3.6). In particular Russell focuses on a single line from that paragraph. Quoting that line Russell writes: "Smith points out that "the more candid and humane part of mankind" make some effort to resist and "correct" any irregularity of sentiment that results from the influence of fortune."⁹⁴ This Russell argues suggests that "in so far as a person belongs to the "humane part of mankind" that person will endeavour to correct her sentiments in line with EM."⁹⁵ Nor is Russell alone in his reading of Smith. Quoting the same line Flanders writes "this shows, I believe, that the true standard of moral worth for Smith is ultimately what he calls the 'equitable maxim'."⁹⁶

Were the reading suggested by Russell and Flanders correct it would pose a problem for the reading of Smith that I have suggested. More importantly it would pose a challenge to my claim that Smith provides us the resources needed to solve the problem of moral luck. Fortunately (for the view I have defended) Russell and Flanders are guilty of misreading the sentence in question and the reason is that they have taken it out of context. As we will see a closer inspection of the paragraph in question suggests an alternative reading, one which is consistent with general view I have attributed to Smith. To see this it is worth quoting the paragraph 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)

⁹⁴ (Russell, 1999, p. 7)

⁹⁵ (Russell, 1999, p. 7)

⁹⁶ (Flanders, 2006, p. 216)

If we shouldn't read this paragraph as Russell and Flanders read it, how should it be read? What I think Smith is doing here is drawing a distinction between first and third-personal morality. When Smith writes that 'Nature has not left man's virtue without reward' he is not contradicting his earlier endorsement of our practices of holding one another accountable for things which we did not intend (practices which are grounded of course in our irregular sentiments). Rather, Smith is saying that from our own first-personal points of view the EM provides us with a certain kind of comfort. We can appeal to our privileged knowledge of our intentions and the circumstances in which we act when we evaluate ourselves and our characters. In doing so we can measure ourselves against the EM and it is in this sense that the EM provides 'the true standard of moral worth'. This doesn't mean however that the judgments of others, very often made from epistemically inferior positions are inappropriate or that they don't involve the notion of responsibility. As we saw in particular in section VII, there are problems of social life that our practices of holding one another accountable for things that we did not intend provide valuable solutions to. Understood in this way our third-personal judgments are typically (if not always) judgments about social morality – that is about how to respond to what people have done. That our third-personal judgments conflict with our first-personal judgments need not be a problem then because they are judgments about different things even if there is a sense in which they are both judgments about moral responsibility.

With this reading on the table let us now return to the particular sentence that Russell and Flanders have put so much emphasis on. When Smith suggests that 'if the sentiments of mankind were more candid and equitable' that they would go along with the judgments of the EM what he is saying is that if our sentiments were only concerned with our moral worth, that is with evaluating our character, then they should be guided by the EM. Of course our sentiments are directed at more than just evaluations of character (and for good reason) and so they are sensitive to other things and in particular the consequences of our actions. Smith's point then isn't that 'the more candid and humane part of mankind' tries to correct the third-personal judgments of social morality. There isn't some hidden meaning in what Smith is saying. Rather Smith means exactly what he says, that we can all "entirely go along with the effort which [the individual] makes to support himself in his own opinion." On this view our first-personal judgments serve to reinforce our confidence in our strength of character which might otherwise be threatened by the (sometimes) harsh, but nevertheless appropriate judgments of social morality.

Having allayed the final worry posed by Russell (and suggested by Flanders) we are now in a position to conclude. What Smith shows us is that our morality is complex and our conception of moral responsibility particularly so. Responsibility is not as so many others have thought one-dimensional, rather it is multi-dimensional. Similarly our moral evaluations are a rich mix of first-personal and third personal judgments responding to both who we are *and* what we have done. Once we realize this we can see that although our judgments often seem to conflict they do not really stand in tension with one another. We do not then need to be revisionary about either our commitment to the EM or the judgments that seem to conflict with it and so at last we have found our way out of the problem of moral luck.

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