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Précis of *Philosophizing the Indefensible*

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Abstract: This book asks what distinctive contributions political philosophers might make when reflecting on obvious moral failures in public policy. I defend a particular kind of contribution: I argue that political philosophers can and should craft 'strategic' arguments for public policy reforms, showing how morally urgent reforms can be grounded, for the sake of discussion, even in problematic premises associated with their opponents. The book's opening chapter provides a general defense of this approach, situating it within a broader conception of political philosophy's social responsibilities. Subsequent chapters then apply strategic theorizing to a set of diverse policy issues. These range from the abortion debate and financial regulation in the United States, through controversies surrounding the participation of Arab parties in Israel's political process, to global issues, such as commercial ties with oil-rich dictatorships, and the bearing of such ties on global climate change.

Keywords: political rhetoric; Donald Trump; Netanyahu; green energy; abortion; Israeli-Palestinian conflict

1 Interest in the Indefensible

Moral and political philosophers feel most at home where there is some moral uncertainty to tackle. We gravitate towards issues featuring tensions among weighty moral considerations. Where there are no such tensions, there is, it seems, nothing for us to say or contribute in our capacity as professional normative theorists.

The list of possible examples is quite long. Thinking whether to send a trolley hurtling towards some innocents to save the lives of others can be difficult. Thinking whether to kill others with a trolley to no moral gain is easy. Figuring out what to make of the goals of criminal punishment when they conflict can be hard. Figuring out whether to support the criminal punishment of an innocent person where such punishment would promote no good is not. What (if anything) we morally owe

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people who are no longer alive can be a vexing problem. Yet there is nothing vexing about opposing acts that gratuitously disrespect the memory of the dead.

But there is a crucial asymmetry here. Whereas moral and political philosophers look for moral complexity as the trigger and motivation for their inquiries, the real world often looks morally simpler. A great many social ills do not seem to feature conflicting moral considerations. Outright bigotry, violence, sexism, cruelty towards the vulnerable, environmental destruction – these and numerous other pervasive wrongs may often be hard to remedy or fight as a matter of political practice. But they are not hard as a matter of moral theory; it hardly takes a philosopher to designate them as morally unacceptable.

This asymmetry suggests a worrying possibility. Moral and political philosophy, at least as practiced in contemporary academia, may have little to contribute to a world in which core political disputes – even in supposedly 'advanced' democracies – increasingly revolve around basic moral values that had previously been taken for granted. This possibility may not be particularly disturbing to those theorists who regard engagement with actual politics to be (at best) an extra-curricular activity for the professional philosopher, or even (at worst) a distraction from 'real' philosophical work. But this is not a viable position for those of us who believe that academics, at least in disciplines such as ours, have a *professional* responsibility towards their fellow citizens to be attuned to the social world in which they operate.

Philosophizing the Indefensible is aimed at philosophers of this sort. Rather than shying away from a social environment increasingly dominated by patently indefensible policies and manifestly unreasonable views, the book delves into this environment. Intentionally focusing on obvious moral failures in public policy, the book proposes a strategic method of debating those who support or condone such failures. What I term 'strategic political theorizing' aims to establish that morally urgent reforms to indefensible policies can be grounded, arguendo, even in problematic premises associated with the policies' unreasonable proponents. The goal is to show how the policy conclusions of the unreasonable do not follow, even if we adopt their outlook for the sake of discussion. Moreover, these conclusions do not follow even if we go beyond the unreasonable themselves in making their outlook as systematic and wide-ranging as it can be. In what follows, I summarize the book's development of this strategic approach.

2 Theorizing the Unreasonable

Virtually all public policy choices are the subject of some disagreement. Contemporary political philosophy, however, has been concerned specifically with reasonable disagreement. Far less philosophical attention has been given to those who

are manifestly unreasonable. More precisely, far less attention has been given to (actual or potential) political interlocutors who are unreasonable in the ordinary-language sense of that term – interlocutors who simply fail to respond to reasons or to engage in reasoning. My definition of patently indefensible policies – the target of strategic theorizing – is intimately linked to this everyday understanding of 'the unreasonable.' I take patently indefensible policies to be those policies whose wrongness lies beyond the scope of reasonable disagreement, meaning that only the unreasonable can endorse them.

Somewhat more technically, I understand 'the unreasonable' as those actual or political potential interlocutors who fail to respond, in minimally adequate ways, to key moral reasons that are clearly pertinent to the political subject at hand. My assumption throughout is that only the unreasonable, thus defined, can endorse patently indefensible policies. I use 'policies,' in turn, in a capacious sense, encompassing not just formal government measures enacted by public officials, but also a variety of indefensible political choices. These include, for instance, choices made by ordinary citizens as voters, and by members of parliament who have to decide whether to vote a given government into or out of office.

The book focuses on key variants of indefensible political choices or policies, corresponding to four types of seriously flawed reasoning. First, if a given political choice not merely understates, but entirely ignores what is plainly a vital moral factor, it qualifies as indefensible, and anyone who supports it qualifies as unreasonable. Second, a policy is indefensible if it reflects an entirely implausible interpretation of a central moral factor, and/or of its relationship to other central factors. For example, policies concerning sexual behavior which formally prioritize the significance of consent to sex, but interpret even consent extracted at gunpoint as legally valid, are indefensible in this sense. Third, a policy is indefensible if it depends for its purported justification on factual or empirical assumptions that are manifestly implausible (for instance, on the denial of basic, and repeatedly proven scientific truths). Finally, multiple policies can be indefensible when taken as a set – particularly when there is no way to (try to) justify all policies within the set without invoking premises that are flatly inconsistent (for instance, 'we need formal executive immunity from criminal prosecution to facilitate the stability of government,' but also 'the country's chief executive should be able to dismiss any other official even without special cause').

3 Debating Fanatics and Amoralists

The book's first and most extensive chapter provides a general account of strategic political theorizing. A core part of my effort in this chapter is to defend what I label *world-viewing*: the strategic attempt to systematize unreasonable views held

by our fellow citizens, making these views as wide-ranging and internally coherent as they can be. As part of this effort, I argue that respect for our fellow citizens – and indeed, civic friendship properly understood – bars us from abandoning the democratic hope regarding the *possible* philosophical quality of political discourse. This demand of civic respect stands – I contend – even in the face of empirical evidence regarding the distressing quality of *current* public discourse.

A central question explored in the opening chapter is whether strategic theorizing risks legitimating reprehensible political views. I answer this question in part by distinguishing between *repugnant* and *non-repugnant* unreasonable premises. Policy premises are repugnant when they fundamentally contradict the basic moral equality of all human beings (for instance, blatantly racist or misogynist premises). I argue that strategic theorists ought to have a strong presumption against reasoning from repugnant premises, even solely for the sake of discussion, but that this presumption does not apply to unreasonable premises that are non-repugnant.

My other response to the worry about reprehensible political views is more indirect. This response hinges on what I term the 'burdens of politics': self-reinforcing political dynamics, which undermine decent people's ethical reasoning about specific policies. I argue that the vicious cycles associated with the burdens of politics help to justify strategic argumentation. The need to break these cycles adds to the value of utilizing problematic premises, given the hope that the better policies supported by these premises will contribute to a better public discourse featuring better premises.

Finally, chapter 1 also pre-empts likely concerns regarding the practical impact of strategic theorizing. I pay special attention to worries regarding academics' political inefficacy, regarding the intended audience of strategic theorizing, and regarding the difference between strategic theorizing and purely intellectual argumentation in political philosophy.

Building on chapter 1, each of the book's subsequent chapters seeks to vindicate the abstract promise of strategic theorizing by delving into a different concrete example. Chapters 2 and 3 debate what I call *intellectual fanatics*. The unreasonableness of intellectual fanatics stems from the highly uneven structure of their engagement with moral reasons. Though genuine, this engagement is extremely narrow, focused on single moral factor or very limited set of moral factors, at the expense of other, clearly salient moral considerations.

Chapter 2 illustrates strategic theorizing operating within the premises of intellectual fanatics by considering in detail a key example from Israeli politics: the boycott of Israel's anti-Zionist political parties by certain Jewish hawks in the Israeli parliament. While this boycott has long-standing roots, it has carried special relevance in recent years, as Benjamin Netanyahu, the country's increasingly beleaguered Prime Minister, has struggled to retain power. For years, Netanyahu has

relied upon right-wing demonization of Israel's Palestinian minority, comprising one fifth of the country's population, as a means of sustaining power. Nowhere has the significance of this tactic been clearer than in the Israeli parliament (Knesset). If the parliamentary votes needed to topple Netanyahu and create an alternative government were missing, the cause has often been the conviction of key right-wing Jewish opponents of the Prime Minister that it is fundamentally illegitimate to rely on anti-Zionist Arab votes to topple him – virtually no matter the moral and prudential risks posed by Netanyahu's increasingly authoritarian rule.

I respond to this parliamentary form of intellectual fanaticism with two strategic arguments. First, even if, arguendo, we take on board the intellectual fanatics' warnings regarding the supposed menace of anti-Zionist sway in the Israeli parliament, these must be secondary to their own – accurate – warnings regarding the repercussions of an enduring Netanyahu 'monarchy' in Israel. Second, I examine the relevant Jewish hawks' explicit disavowal of any prejudice towards Israel's Palestinian citizens, who overwhelmingly vote for anti-Zionist parties. I suggest that, notwithstanding the hawks' proclamations to the contrary, their official commitment to the equal 'civic' rights of Palestinian-Israelis prohibits a boycott of the parties through which Palestinian Israelis participate in Israel's parliamentary system. This is true, in fact, even if one takes on – again, solely for the sake of discussion – the hawks' axiomatic rejection of the relevant parties' vision of Israel as a bi-national rather than Jewish state.

Chapter 3 turns from Netanyahu to another right-wing demagogue whose political demise has often been proclaimed prematurely – Donald Trump. More specifically, this chapter targets Christian right voters in the United States who, due to their anti-abortion views, have been single-issue Trump voters. My argument to these (previously character-oriented) voters is not the familiar progressive charge, that they have been hypocritical in their endorsement of Trump given his evidently flawed personal character. Nor is it even the (more recent) internal coherence argument, calling on Trump's Christian-right voters to abandon him given his fickle and unabashedly instrumental 'attachment' to their anti-abortion positions. Instead, the most important internal argument one could make to anti-abortion Trump voters lies with the expressive rationale for anti-abortion laws. The reams of empirical evidence regarding the repercussions of anti-abortion laws leave little room for doubt that anti-abortion laws do not reliably stop abortions from happening. Rather, such laws overwhelmingly push abortions into the shadows. Therefore, the only possible rationale for anti-abortion laws is expressive in character: the idea must be that a legal ban on abortions has intrinsic moral significance insofar as it expresses the political community's disapproval of abortions – and thus the community's symbolic affirmation of the 'equal human dignity' of abortion's victims. However, I show that even if one adopts – arguendo – the deeply flawed notion that all abortions are

tantamount to murder, this expressive rationale precludes a vote for Donald Trump, given the extraordinary expressive offense that is inherent in a Trump's presidency. Trump's blatant and recurrent disregard for the equal dignity of numerous human beings, and his wanton cruelty towards the most vulnerable, is fundamentally incompatible with an expressive anti-abortion rationale for voting him into office.

Chapter 4 shifts from intellectual fanatics to unreasonable interlocutors who are instead amoral. Unlike intellectual fanatics and their tunnel-vision morality, amoralists simply appeal to whatever normative premises might serve their pragmatic interests. The most salient example is that of major corporations. This is partly because of their obvious political clout, but also, relatedly, because of the 'burdens of politics' that are central to strategic theorizing. As Chapter 1 makes clear, attention to these burdens makes it natural to foreground self-perpetuating political dynamics, which constantly tilt the basic premises shaping public and policy discourse ever further away from reasonable starting points. I begin Chapter 4 by showing that inequality continuously cements the ability of the economically powerful – particularly, of global corporations – to shape the premises that underpin policy debates. Accordingly, the rest of the book takes corporations' self-reinforcing political ascent quite seriously. I seek to defend policy reforms that undermine corporate interests through arguments invoking corporate-friendly premises.

With this motivation in mind, Chapter 4 challenges US prosecutors' lenient treatment of major banks implicated in severe wrongdoing. Legal authorities in the United States have repeatedly shied away from criminal charges against either major banks as corporate entities or their senior executives, refusing to prosecute even severe transnational crimes, such as laundering billions of dollars for drug cartels across international borders. I construct the most credible justification that corporate defenders might offer for this refusal. This justification combines (1) fears of drastic economic repercussions associated with the collapse of 'systemically important' banks, and (2) the diffuse nature of individual responsibility for wrongdoing in large, complex corporate entities. I suggest that this combination is incoherent, and proceed to argue that the corporate defender's best hope of salvaging it is through a public/private distinction. It is worse for public authorities to infringe upon rights when prosecuting bank executives, than it is for public authorities to allow major banks to violate the rights of other private actors – or so, at any rate, the corporate defender might argue. However, I seek to show that the extensive public support currently accorded to the major banks renders this private/public distinction untenable. Therefore, at minimum, the largest banks have to relinquish such support – from bailouts and huge government loans to multiple tax subsidies – if they are to retain any hope of justifying the legal lenience that they and their executives continue to enjoy.

Chapter 5 offers a further example of strategic political theorizing within corporate-friendly premises. Here I consider major corporations' customary commercial ties with authoritarian regimes, providing such regimes with non-tax revenue in exchange for state property. Emphasizing a non-consequentialist presumption against such ties, I interrogate two main responses that a corporate defender might offer against this presumption.

According to the first, *vulnerable innocents'* response, customary commercial ties ought to be continued even when they benefit highly repressive regimes, since boycotting these regimes would be detrimental to the interests of their most vulnerable victims. The second response, *the challenge from soft authoritarianism*, holds that in the vast majority of cases, *de facto* rulers ought to be regarded as legitimate representative of the people over whom they preside, not least because they direct the bulk of public revenues towards purposes that are not alien to public interests. Although both of these arguments rest on flawed premises, I argue that reform of customary commercial ties can be defended even if these corporate-friendly premises are accepted for the sake of discussion. To establish this claim, I deploy a novel strategy in responding to the vulnerable innocent's argument: I compare the risks to innocents highlighted by this argument with the risks that a 'no payment' policy poses in the face of familiar ransom demands made by hostage-takers. This comparative move reveals that the corporate defender has difficulty accounting for the gap between the familiar willingness to consider a rigorist policy in these smaller-scale ransom cases, and the equally familiar reluctance to endorse a 'no payment' policy in the case of commercial ties with dictatorships. This asymmetry suggests that, despite possible appearances to the contrary, the corporate defender's real hope lies with the challenge from soft authoritarianism. I accordingly illustrate a creative strategy for dealing with this challenge. Concluding the chapter, I once again outline policy prescriptions. These prescriptions incorporate the non-consequentialist impulse favoring reform of customary commercial ties, while also giving vulnerable innocents concerns their due weight.

Lastly, Chapter 6 extends Chapter 5's strategic argumentation, by focusing on the fossil fuel industry's ties with dictatorships. Connecting oil and gas trade with dictators to environmental reform, I suggest that the non-consequentialist presumption against commercial ties with dictators yields a distinctive argument for the development of green energy, meant to move affluent democracies beyond their enduring reliance on fossil fuels.

In particular, recognizing the distressing public salience of climate change skepticism in the United States, I seek to construct an argument for the development of green energy that can appeal to Americans moderately skeptical of climate change and swayed by various forms of corporate rhetoric about environmental issues. Accepting – *arguendo* and in a qualified way – key empirical and

normative assumptions of American environmental skeptics, I proceed in two main steps. First, many environmentalists, even amid cascading climate problems at present, continue to try to justify the development of green energy through references to future generations. In contrast, I argue that environmentalists need a present-oriented argument focused on negative duties to respect rights, to justify prioritizing the development of green energy to environmental skeptics in the United States. Second, I outline such an argument, centered on affluent democracies duty to develop green energy to be able to stop their complicity, through oil and gas trade, in dictators' violation of their peoples' property rights. Once again, I preempt multiple objections that the corporate defender might invoke – paying particular attention to objections highlighting fracking as an anti-environmentalist alternative to oil and gas controlled by dictators.