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Lewitt, Moira S.

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Moira S. Lewitt

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The Political Theatre of Dirty Hands in the UK Government Response to the COVID-19 Pandemic

MOIRA S. LEWITT

How can we get our hands dirty by doing what we ought to do?

Michael Walzer (1973: 164)

Since 2020, governments have needed to respond to a public health emergency involving a novel virus. It is estimated that more than six million people globally have died because of COVID-19 (WHO 2022). This article will focus on the UK context where COVID-19 has had an impact on the lives of all citizens and is listed as one of the causes of death on at least 160,000 death certificates (UK Government 2022). Government leaders communicated public health requirements in televised press briefings. Citizens were expected, by law, to comply with the changing requirements. Public health is a responsibility of the devolved administrations in the UK. Early in the crisis, a UK-wide action plan was jointly produced, and England, Northern Ireland, Scotland and Wales announced together on 23 March 2020 the same strict limitations on when citizens could leave their homes. However, as these restrictions were lifted, the four nations took different approaches, with Scotland and Wales choosing a slower pace to re-open the economy (Paun et al. 2020). Governments were faced with difficult choices, each of which would have a negative impact on its citizens and for which governments would later be held accountable.

Michael Walzer (1973) emphasized that politicians are often required to act, or tolerate action, in ways they would normally consider immoral. He labelled this situation, where action is required, but every course available includes a breach of a moral constraint, the 'Dirty Hands' problem, and argued that this paradox is part of our moral reality. Walzer coined the term from Jean-Paul Sartre's play *Dirty Hands* in which a character, a politician addressing a young member of the communist party, says: I'll lie when I must, and I have contempt for no one ... We shall not abolish lying by refusing to tell lies, but by using every means at hand to abolish classes ... I have dirty hands right up to the elbows. I've plunged them in filth and blood. Do you think you can govern innocently? (Sartre 1949: 224)

This article will focus on the political theatre around the decision by the UK Government on 12 March 2020 in relation to restricting movement of citizens. Did the decisions made prior to the eventual lockdown of the population on 23 March 2020 mean the UK Government had 'dirty hands'?

SETTING THE SCENE

The World Health Organization has maintained a detailed timeline of events throughout the pandemic (WHO 2021). On 31 December 2019 the Wuhan Municipal Health Commission reported a cluster of cases of pneumonia to the WHO. Three weeks later, a WHO mission to China issued a statement that there was evidence of human-to-human transmission of a novel coronavirus, with significant mortality. By 28 January 2020, there were reports of cases outside China, including the UK, and the WHO advised this was a 'Public Health Emergency of International Concern'. On 12 February a Strategic Preparedness and Response Plan was published that advised limiting transmission through identifying and isolating patients. On 11 March 2020 the WHO characterized the disease, COVID-19, as a pandemic. There had been six deaths due to COVID-19 in the UK and the UK Government was considering options, including a position explained to the public by a member of Whitehall's Scientific Advisory Group for **Emergencies (SAGE):**

There's going to be a point, assuming the epidemic flows and grows as it will do, where you want to cocoon, to protect those at-risk groups so they don't catch the disease ... By the time they come out of their cocooning, herd immunity has been achieved in the rest of the population. (cited by Boseley 2020)

This was viewed by other scientists as a dangerous fallacy (Alwan et al. 2020). In retrospect, with the knowledge that individuals can be reinfected by SARS-CoV-2, even those who have been vaccinated, the case against herd immunity is stronger. However, this was not known at the time. The public did not have access to the minutes of SAGE meetings where scientific evidence was discussed - these were not published until 29 May 2020. The outcomes of these meetings, and of meetings of the Cabinet Office, were communicated in televised announcements, usually led by the UK Prime Minister at a lectern, flanked by the Department of Health UK Chief Medical Officer and UK Government Chief Scientific Adviser. Erving Goffman (1971 [1959]: 32-4) uses political examples of leadership performances as employing, through 'a kind of "rhetoric" of training', a 'front' that influences audiences. Political performers are seen as having an important role in 'saving the show' (207). In those early months of the COVID-19 pandemic, the performances of politicians and scientists through the news media became essential but were differently convincing for a public reliant on these for essential health messages. In a Scottish survey in 2021, for example, 66 per cent of respondents thought that the Scottish Government was handling communications and lockdowns well, compared to 27 per cent who thought the UK Government was doing well in these areas (McMillan 2021). The media were political stages for revealing, and potentially concealing, information for the population.

THE DRAMATURGY OF DIRTY HANDS

A Dirty Hands problem is 'a paradox of action' whereby action is required, but every course available includes breach of a moral constraint. Some argue against its existence: absolutism holds that there are universal laws that are strictly immoral, for example, taking human life. Nevertheless, these moral laws may be legitimately overridden in some circumstances, when weighed one against the other (Coady

2018). Kai Nielsen does not see the problem of Dirty Hands as a conceptual problem. He argues,

The choice here – when there is a choice – is not between good and evil, right and wrong, but between evil and evil, between wrong and wrong ... we should choose what we have the best reason to believe is the lesser evil ... *Indeed, we do what, everything considered, is the right thing to do: the thing we ought – through and through ought – in this circumstance to do.* (Nielsen 2007: 20, 22)

Thus, while Nielsen appears to agree with the question posed by Walzer 'how can we get our hands dirty by doing what we ought to do?', he would consider unreasonable the question first posed by Waltzer, 'how can it be wrong to do what is right?' (Walzer 1973: 164).

Michael Stocker (1989) argues that it is entirely logical to be doing wrong to do right. Indeed, we can and do get our hands dirty from time to time, since choosing the lesser evil will always be right, all things considered: if the overall value of the action is that it is the right thing to do. While a course of action is 'justified, even obligatory', Stocker emphasizes that it includes actions that are none the less wrong and shameful, and the agent will feel anguish (10). It is entirely appropriate that the agent will feel shame or regret. Nielsen suggests, however, that 'to feel guilty is not necessarily to be guilty' (2007: 21). Thus, while theorists might consider the overall value of an action, the agent experiences, and takes responsibility for their own, separate actions.

On 12 March 2020, the UK government decided to stop community testing and contact-tracing, driven partly by a lack of testing capacity (Iacobucci 2020), and it was clear that further COVID-19 deaths were inevitable, no matter what action was taken. Accepting that failing to act when the responsibility to do so exists, is an action, and based on information available at that moment, including the rate of viral transmission and risk of death, the choices and likely outcomes can be summarized as follows:

A Do nothing and risk high disease prevalence and mortality.

B Impose stringent 'lockdown' measures for lowest disease prevalence and mortality in the short term. Impose a range of measures including 'cocooning' and C degrees of social distancing to reduce disease

prevalence and deaths.

None of these choices avoided the loss of human life. A choice had to be made from incompossible options, each of which would have a negative impact on the quality of human life. The situation would appear to be a case for a Dirty Hands analysis. If reducing disease prevalence and mortality was paramount, with every human life deemed important, choice B would be the right thing to do. Some public health experts called for this strict approach (Ward 2020). On 12 March 2020, however, the UK Government chose C, convinced that the greatest impact on the epidemic, the onset of the peak and the total number of cases, would come from home isolation of symptomatic cases and social distancing of the over 70s (UK Government 2020). On 23 March 2020 the strategy was changed to option B and a stringent lockdown was announced. It was later estimated that 'locking down' a week earlier would have reduced the number of deaths resulting from the first wave in England by approximately 20,000 (Knock et al. 2021).

THE MORALITY OF THE CHARACTER WITH DIRTY HANDS

According to Walzer, the Dirty Hands phenomenon requires a 'moral agent', one who is aware of the wrongness and rightness of their actions: 'If he is the good man [*sic*] ... he will believe himself to be guilty. That is what it means to have Dirty Hands' (Walzer 1973: 166). The *good* agent who violates a moral constraint will do so reluctantly, with contrition over the stain that cannot be expunged. Others refer to this as a 'moral residue' (McConnell 1996), 'uncancelled moral disagreeableness' resulting in 'agent-regret' (Williams 1978) or 'tragicremorse' (de Wijze 2005).

Politicians more often have the opportunities or need, and means, to do what is morally disagreeable, thus making the phenomenon of Dirty Hands unavoidable (Mendus 1988; Archard 2013) and the perception that politicians are 'a good deal worse, morally worse, than the rest of us' (Walzer 1973: 163). Niccolò Machiavelli illustrated 'how not to be good' in his book *The Prince*. However, he required of the Prince a representation of innocence (Machiavelli 1950). This does not meet the requirement of a good agent. Walzer describes the moral politician:

Here is the moral politician: it is by his dirty hands that we know him. If he were a moral man and nothing else, his hands would not be dirty; if he were a politician and nothing else, he would pretend that they were clean. (Walzer 1973: 163)

Politicians act for others and through others. They make choices that may result in actions by others that are morally disagreeable: those others may experience 'agent-regret' (Archard 2013: 780). Politicians are authorized to act on behalf of the people. Therefore, it is said that when politicians' hands get dirty then 'so do ours' (Hollis 1982: 396). This raises the question - to what extent, and how, the public might be held morally accountable. Since the action is transferred from the public to politicians, it is suggested that 'our hands are dirty but not as *dirty*' (Archard 2013: 784). In a participatory democracy there are limits to delegated authority, politicians should be continually held to account and dirt does not necessarily transfer to the hands of the people. Public demand for moral character means that we expect politicians to openly acknowledge when they have Dirty Hands. When secrecy is not a condition of the best outcome, there should be transparency: they should not then 'wear clean gloves' (Hollis 1982: 389). As Bernard Williams points out: 'only those who are reluctant or disinclined to do the morally disagreeable when it is really necessary have much chance of not doing it when it is not necessary' (1978: 64).

Were UK politicians acting as *good* agents on 12 March 2020? In a statement on that day, the Prime Minister was honest in informing the public that 'many more families are going to lose loved ones'. However, conflicting messages were heard, from the need to build herd immunity by encouraging spread of the virus, to the need to limit spread of the virus. The Prime Minister is a member of, and usually chairs, cabinet committees that make collective decisions on behalf of the UK Government. Cabinet committees are deemed to have 'collective responsibility' (UK Parliament 2021). As reviewed by Marion Smiley (2017), most contemporary political philosophers distinguish between collective and individual responsibility. While both of these refer to the responsibility for harm in the world, as well as blameworthiness for that harm, collective responsibility locates the source with *groups*. In recognition of the role of collective entities to remedy or prevent suffering in the world, the notion of 'forward looking collective responsibility' has also emerged (for example, French and Wettstein 2014). Although collective responsibility cannot be distributed to all individuals since 'their actions do not *coincide* with their members' actions', proponents of collective responsibility suggest that individual members may be morally responsible for some of the harms (Smiley 2017).

UK government ministers frequently stated, on behalf of the government, that the COVID-19 policy was 'guided by the science'. However, UK Government decision-making was criticized by independent academics; for example:

When the government say their Covid-19 strategy is 'led by the science' but then refuse to publish the minutes or membership of the Scientific Advisory Group for Emergencies (SAGE) or allow the members of SAGE to debate with its critics publicly, that's dogma, not science. (Majeed 2020)

Holders of public office are expected to adhere to the Nolan principles, the Seven Principles of Public Life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership (UK Government 1995). The people expect their political leaders to promote and support these principles, which include openness, defined as 'taking decisions in an open and transparent manner' and not withholding information. Without sufficient openness, in a rapidly changing scenario, the public cannot bear responsibility: their hands are not dirty.

RESPONSIBILITY AND ITS SUBTEXTS

Moral decision-making is a complex process. It can be argued that the problem of Dirty Hands exists because morality is fragmented. According to Coady (2018), complex acts are simultaneously 'wrong in some respects and right in others'. Stephen de Wijze also explores the notion that the moral worth of an action is the sum of multiple evaluations, stating 'an overall evaluation results from a synthesis of particular considerations' (2007: 7). In contrast, if an action is considered morally absolutely inviolable in one particular respect, this may be used to override all other considerations. Such an approach appears to defuse the Dirty Hands paradox. Nielsen suggests that theorizing in this way, rather than resulting in 'clean hands', is a way of 'evasively and irresponsibly dirtying our hands' (2007: 23). He sees this as 'blind rights worship or rule worship' (25). Nielsen, in conceiving of Dirty Hands as the lesser of two evils, considers it compatible with, but not requiring, utilitarianism: we should not 'do justice though the heavens fall' (22). He suggests that, rather than taking a strong consequentialist position, with a duty to maximize a good consequence, conceiving of Dirty Hands is best facilitated by 'weak consequentialism', highlighting 'there are no acts ... that we can rightly say never should be done without taking into consideration their circumstances and consequences' (Nielsen 2007: 26).

While the principle that we ought to do something implies we have the ability to do it, judgements of ought are affected by judgements of blame (Chituc *et al.* 2016). Furthermore, as Stocker highlights, there are 'impossible oughts', oughts that we are unable to obey and that 'stain both the act and the agent' (1989: 13). The dirty feature, the impossible ought, is thus 'doublecounted' with the dirty feature taken into account on its own, as well as in the overall value of the act (9).

Don Moore and George Loewenstein argue that decision-making relating to self-interest and concern for others take place via different cognitive processes, concluding that violations of professionalism induced by conflicts of interest are often automatic and without conscious awareness (2004: 199). This can be problematic within the political field where choices tend to be dramatic or need to be made quickly (Archard 2013: 780). The stakes are often high in politics, with decisions having the potential to affect the well-being of an entire population. A single, hasty political action could have enormous impact. It can be argued that the UK government had several weeks to plan a response, weighing up the evidence as the COVID-19 situation unfolded. Acknowledging the need to dissect the

crisis from every angle, the German Government invited multidisciplinary views, including those of philosophers, to participate in planning the easing of social distancing restrictions (Matthews 2020). Today, the circumstances are different, as the likelihood of eradicating this virus seems increasingly remote and the need for multidisciplinary views even more important.

CONFLICT RESOLUTION WITH DIRTY HANDS

Dirty Hands scenarios involve conflict between moral principles and valued consequences. They are inevitable in this complex world and, in the high-stakes world of politics, have enormous impact. Choosing the lesser evil should be what we are 'resolutely and intelligently seeking' (Nielsen 2007: 23). However, being caught in the dilemma of Dirty Hands does not preclude the existence of the best path to take: it is often very clear what ought to be done. Based on the preceding arguments by several philosophers, the following is suggested as the requirements of a Dirty Hands problem:

(i) Every possible choice of action is, or includes an element that is, morally wrong.

(ii) The agent(s) is reluctant to choose a course of action because, prima facie, it involves wrongdoing.(iii) The agent(s) acknowledges, at the time of acting, that the circumstances demand that they do the wrong thing.

(iv) The agent(s), having acted, feels a sense of wrongdoing that is not absolved.

The choice faced by the UK Government on 12 March 2020 was part of a Dirty Hands scenario. Mike Scrafton, writing about a similar choice faced by the Australian Government, suggested that it 'has a dirty hands feel about it' (Scrafton 2020). If the intention was to minimize the number of deaths in the short term, clearly the UK government could have chosen option B on that day, rather than waiting until 23 March: the criteria are therefore not met. Scientists advising stricter measures instructed their teams to work from home from 12 March, rather than place them at higher risk (Ward 2020). On the other hand, for those implementing the government directives, there are likely to have been many Dirty Hands scenarios. Medical practitioners are often faced with situations that might call

for Dirty Hands. They are described as being 'double agents' when weighing medical needs against monetary costs to society (Angell 1993). Health professionals on the 'front line' of patient care in the pandemic were initially instructed to use the Clinical Frailty Score (CFS) 'irrespective of age and COVID-19 status' in triage for admission to intensive care and in decisions related to the use of Do Not Attempt Cardiopulmonary Resuscitation (NICE 2020a). In response to concerns raised by patient groups to the application of these guidelines, these were updated within days to take into account the limitations of the CFS tool in younger people, people with stable long-term disability, and learning disabilities (NICE 2020b).

In looking back at a single date, 12 March 2020, have we set the UK decision against the Dirty Hands thesis in a one-dimensional manner that is limiting? In politics, Dirty Hands occur systematically and frequently (Walzer 1973: 162). Demetris Tillyris argues that conception of a problem of Dirty Hands without relating it to ongoing political practice, makes it 'unsatisfactorily abstract and melodramatic' (2015: 70) and fails to 'capture the complexity and fragmentation of our moral cosmos' (61). Analysis of the events surrounding 12 March 2020 require a wide view of the impact on society, including the economy, and the effect of suspending communal gathering on the wellbeing of individuals and the cohesiveness of groups, for example, religious congregations. Public communications by government leaders are performances that have enormous biopower. Honesty and accuracy in public health messaging is therefore crucial. The style of performances by the UK Prime Minister was intended to persuade. An analysis of those COVID-19 speeches reveals that, while attempting to convince the population with confidence, perseverance and hope, there were some discrepancies between the narratives of those performances and the approaches recommended in health communications literature (McClaughlin et al. 2021).

In this article, the UK Government decision on 12 March 2020, at the start of the first wave of the COVID-19 pandemic, is considered as a Dirty Hands scenario. While the choices available would each have a negative impact on the lives of individuals, stringent lockdown measures, that would have had the greatest impact to reduce mortality, were not introduced until 23 March 2020. Openness within the context of the upcoming independent public inquiry (UK Covid-19 Inquiry 2021) should allow a more comprehensive analysis of the complex decision-making by the UK government, and reveal whether the decisions involved a series of paradoxes of action that were justified. Furthermore, drawing on the conclusions of the inquiry should allow the UK government to be better prepared to lead future pandemics.

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