Conflicts of Values and Political Forgiveness

Citizens have a right to be governed by officials with an acute awareness of the conflicts between the constitutional values of liberal democracy. Such an awareness is an integral part of a public official’s integrity. That is why citizens should have a say in deciding whether to remove from office an official with such integrity. In this article, this type of conflict between constitutional values is translated into the terms of an individual official’s decision making with the help of moral theory. This yields two paradoxes: one focusing on the decision maker and the other on the object of his or her decisions: the citizen. These paradoxes lead to the following questions: If running a liberal democratic constitution essentially involves moral complexity, should we not try to have it run by officials with a sensitivity to that complexity? And if officials with that sensitivity are bound to commit moral wrongs because of complexity, do we owe them something like political forgiveness? The paradoxes are used to formulate conditions for political forgiveness.

While the integrity of a public official is multifaceted and complex, it certainly includes the endorsement of values enshrined in the constitution that, in the words of the late John Rohr (1986), he or she has to “run.” But what if these values clash violently in a moral dilemma? Such is the predicament of the police officer in the following real-life case.

On September 27, 2002, Jakob von Metzler, son of a Frankfurt-based private banker, is kidnapped by 27-year-old law student Magnus Gäfgen. In a letter to Jakob’s parents, Gäfgen demands a ransom of 1 million euros. Two days later, the kidnapper is identified while collecting the money. The next day, on September 30, Gäfgen is arrested by the Frankfurt police. During interrogation, Gäfgen consistently misinforms his interrogators as to the whereabouts of Jakob. At one point, Gäfgen tells them to go and take a look at a cottage near a lake not far from Frankfurt. In the cottage, police officers find a bed with bloodstained blankets. They surmise that if Jakob is still alive, he is likely to be in serious danger.
sharp focus to the complex relationships between a society’s moral intuitions, its formal institutions, and the demands of everyday administrative practice. The case may duly be characterized as a tragic one. It is a defining feature of tragedies that their heroes come to grief. So does Daschner. There is nothing we can do about that.

This article refuses to indulge such resignation. It hopes to flesh out a justification for preserving officials like Daschner for public service. Its aim, however, is primarily diagnostic. Its central contention is that in cases like Daschner’s, we should redirect our attention from the outcomes to the nature of the choice situation. It argues that those officials who make themselves guilty of a moral wrong in such conflicts have a right to be forgiven. The reason is that citizens have a right to be governed by officials with an acute awareness of the conflicts between the constitutional values of liberal democracy. Such an awareness is an integral part of a public official’s integrity. That is why citizens should have a say in deciding whether to remove from office an official with such integrity.

The argument unfolds as follows. The first step shows that the conflict of values at the heart of liberal democracies is meant to be there; it can even be considered a good thing. With the help of moral theory, this type of conflict is translated into the terms of an individual official’s decision making. This yields two paradoxes: one focusing on the decision maker and the other on the object of his or her decisions: the citizen. These paradoxes lead to the following questions: If running a liberal democratic constitution essentially involves moral complexity, should we not try to have it run by officials with a sensitivity to that complexity? And if officials with that sensitivity are bound to commit moral wrongs because of complexity, do we owe them something like political forgiveness? The paradoxes are then used to formulate conditions for political forgiveness. For the purposes of the argument pursued here, I adopt the existing technical term “political forgiveness” and define it as a publicly performed performative speech act that aims to create the possibility for an official to continue in office despite his or her violation of the moral values embodied in the constitution. However, I can only start to explain the elements of this definition once the paradoxes are in place.

Two caveats should be inserted before the argument starts. As indicated, the purpose of this article is to find a justification for forgiveness, not institutional embodiments of political forgiveness. Second, the real-life case serves mainly expository grounds. It does not try to make a substantive moral point about the rightness or wrongness of (the threat of) torture.

**Liberal Democracy as an Expression of Value Pluralism**

The point of calling a democracy “liberal” is to indicate that it is a polity in which the rule by the majority is moderated, “tempered,” or checked by mechanisms and institutions that are designed to prevent popular tyranny. The ways of doing this are familiar: prominently among them are individual rights and the separation of powers.

This is, or should be, stock knowledge. However, because it is stock knowledge, we tend to lose sight of it. What should be stressed here is that the very label “liberal democracy” captures a deep conflict that is at the heart of all constitutions deserving it. In the extreme case, the individual, deserving the protection of his or her inalienable rights, stands alone against the overwhelming majority. If it seeks redress in court, that frequently means a conflict of values has been well under way for some time. Admittedly, this is not the only type of conflict found in the running of a liberal democracy. But what is important is that this type of conflict is hardwired into its constitutional substance. Therefore, it is not just a quirk of fate that such conflicts occur. On the contrary, it is part of the very purpose of a liberal democracy. One could even say that this type of conflict of values is itself a good. It forces public officials to constantly renegotiate constitutional priorities, thereby keeping the relevant values alive.

Rights constrain the choices that individual officials have to make because of their special status. This status is special in at least two respects. In the first place, rights are (in the words of Ronald Dworkin) “trumps” (Dworkin 1977). They have to have a particularly strong claim against other kinds of value. Second, rights are justified in a way that is nonconsequentialist. That is to say, rights are conceived of as intrinsically valuable, not just because respecting them has beneficial consequences. This is the reason rights are often formulated in an absolute way. For instance, Article 2.2 of the United Nations Convention Against Torture reads, “No exceptional circumstances whatsoever, whether a state of war or a threat or war, internal political instability or any other public emergency, may be invoked as a justification of torture” (emphasis added).

Making rights subject to the consequentialist (or utilitarian) calculus puts them on a slippery slope—and a slippery slope is a “natural progression” toward humanitarian disaster (Williams 1985).

By contrast, the justification of general welfare claims is particularly hospitable to utilitarian justification—which is why in modern liberal democracies, utilitarianism is considered the “leading public philosophy” (Goodin 1995). This means that pitting rights against welfare claims not only results in a conflict between different kinds of constitutional value in liberal democracy. It also means that we have here a conflict between different patterns of justification of those values. The strict absolutist will respect the intrinsic nature of rights, regardless of the consequences, while the die-hard utilitarian has to consider only their consequences. This means that the conflict between individual rights and a democratic conception of the common good that is typical of liberal democracy is a manifestation of a deeper conflict. The origin of this deeper conflict is moral or value pluralism. The central claim of value pluralism is that (1) our moral universe contains a plurality of final ends that (2) may conflict in such a way that no rational way out is possible (3) without remainder (Berlin 1969; Crowder 1994; Galston 2002, 2005; Hampshire 1983, 1989, 1999; Kekes 1993; Larmore 1987, 1996, 2008; Raz 1986; Williams 1981).

As to (1), a plurality of values is a presupposition of true moral conflict. But that does not mean that the amount of final ends is indefinite. Value pluralists usually hasten to point out that they are not moral relativists. The latter hold that the value systems of different cultures with specific moral outlooks cannot be rationally compared.
with each other as a matter of principle. Value pluralists do not claim that intercultural comparison is per se impossible. More important for present purposes is (2). This clause tells us that true moral conflict cannot be solved by practical reason. This is because the values are *incommensurable*, which means that they cannot be rationally compared in terms of an overarching value. In other words, the logical structure of a moral dilemma rationally underdetermines the choice between its horns (Crowder 1994). Finally, the phrase “without remainder” in (3) refers to the fact that by picking any alternative, we make ourselves guilty of a moral wrong. For that reason, we shall, if we are relatively normally functioning human beings, be tormented by feelings of guilt, shame, and regret. Of course, such remainders would be preempted, in principle, if the dilemma could be solved in a rationally satisfactory manner. In that case, the choice problem simply vanishes.

Significantly, in newspaper interviews, Daschner described his decision as a *Güterabwägung* (a weighing of goods) (*Frankfurter Rundschau*, October 4, 2002). This is signal evidence that he was aware of the value-pluralist nature of the fix in which he found himself. If it had been a matter of “choosing the lesser of two evils,” it would not have been a dilemma. Choosing the lesser of two evils assumes a way to compare them in terms of a common measure. On such an interpretation, it is perfectly rational (in utilitarian terms) to choose the lesser evil. On Daschner’s own interpretation, however, he had to choose between two heterogeneous *goods*. He construed it as a choice between, on the one hand, the protection of an individual right and, on the other hand, a consequentialist task to protect the welfare of as many citizens as possible. That in his particular situation it was only one citizen does not alter the fact that the justifications of these values were fundamentally different. It was a tragic choice, and he deeply regretted having to make it.

Theories of value pluralism, however, address us as human beings rather than as inhabitants of a certain role or function. At least two emendations should be made to tailor value-pluralist dilemmas to the context of public organizations in a liberal democracy. In the first place, public decisions are typically taken in contexts of organizational hierarchy. Hierarchy, however, promotes moral *contagion*, both in upward and downward directions. Contagion sinks in the hierarchical structure because the decisions of superiors have to be carried out by subordinates. Dilemmas may be, and often are, delegated down the line. And when they are, they sometimes are transformed: Should one carry out the order or be disloyal? Should Daschner’s subordinates uncritically carry out his orders? The Adolf Eichmann case has shown that hierarchy and loyalty do not absolve the subordinate civil servant from moral responsibility (Arendt 1963). Moral contagion also travels upward, as formal structures of responsibility often have implications for superiors who have made no (direct) causal contribution to moral wrongs committed by subordinates. Second, many decisions made in organizations have implications that transcend the boundaries of these organizations. One should not forget that the criminal judge in Daschner’s case was facing a legal version of his dilemma. She could not possibly ignore the strictly absolutist claim of the first article of Germany’s Basic Law (to the effect that human dignity is inviolable, or unantastbar). On the other hand, she had to take into account the general police duty to protect German citizens (*Abwehrpflicht*). Organizational decisions often spill over into other organizations.

So much for stage setting. Enough material has been gathered to frame two paradoxes following from this value-pluralist interpretation of liberal democracy. It should be noted that the formulations of the two paradoxes capture two different perspectives: one is the perspective of the official, the other that of the citizen. They are, in fact, two descriptions of one and the same state of affairs. What unites these paradoxes, despite their different perspectives, is the point that on a value-pluralist construction of liberal democracy, the public official not only has to be committed to the conflicting values but also to the conflict between these values. This may seem a quibble, but it is not. The point is that it matters to the integrity of an official who is aware that what he or she faces is in fact an insoluble conflict—which is why he or she has to have an appreciation of the heterogeneous nature of the (justification of the) values involved. It will turn out that this awareness plays a decisive role in answering the question of whether to mete out political forgiveness.

**Two Paradoxes**

**Paradox 1**

Unsurprisingly, the first paradox concerns the moral psychology of the official. The sense of the claim that the public official is committed to the conflict between liberal-democratic values is this: because moral conflict is extremely painful, individual agents have a natural psychological incentive to circumvent, evade, or deny it. In general, individuals will adopt strategies, whether conscious or not, to avoid moral conflict. This is not different in organizational contexts, which in some respects facilitate ways of dodging responsibility. Recognizing and dealing with moral conflict requires virtues such as truthfulness, courage, and competence, which indubitably belong to an official’s integrity (Nieuwenburg 2004). So does the responsiveness to moral conflict.

The first paradox, then, is this: although the conflict of values enshrined in liberal democracy may be a good thing from a constitutional point of view, it certainly is a bad thing from a psychological, subjective perspective. That is why it is meaningful to speak of a commitment to the conflict *itself*. But this paradox also shows why it is a non-negligible accomplishment to stand up to a moral dilemma. Even possession of the virtues of truthfulness and courage does not turn moral conflict into something easy to confront. Therefore, from the perspective of the official, strong reasons count against its acceptance. This is one reason not to take that acceptance as a matter of course. For it registers something that is really there: it is an institutional, even a constitutional fact (Searle 1995, 2010). And it is a requirement of integrity to take account of the facts—and to shape one’s actions accordingly.

**Paradox 2**

The formulation of the second paradox requires that we take up the perspective of the citizen. What does it mean for citizens that public officials are aware of a commitment to conflicting values?

To throw the importance of this awareness into relief, let us think of an official, A, who is a full-blooded consequentialist. Official A believes that actions are exhaustively and exclusively justified by their results. If the result turns out to be good, the action is good; if the result is bad, the action is bad as well. Official A decides to threaten a suspect with torture because he believes this is fully justified because of the intended consequences (saving, say, hundreds of
innocent people). Nonetheless, he is removed from office because he has committed a moral wrong. Of course, he disagrees with that removal because he believes his decision to be right without remainder. Obviously, A is the consequentialist version of Daschner. Suppose another official, B, believes that torture is absolutely prohibited. No consequence, however beneficial, can impact his commitment to that value. As a matter of fact, he does not even need to consider them, and he remains unimpressed by all if/then scenarios. By his lights, his refusal to torture is completely justified. B does not torture and is removed from office because of his failure to discharge his task of protecting hundreds of innocent citizens. B, it is clear, is the absolutist version of Daschner.

In terms of ethics textbooks, A and B are contraries because they represent diametrically opposed varieties of moral reasoning and valuing ("Kant versus Mill"). However, if we shift our attention from their particular ways of justifying action to their attitude toward the structure of the choice situation, A and B are very much alike. Both deny a conflict of values. In this crucial respect, A and B differ from Daschner. A and B are insensitive to the moral complexity of their office, while Daschner does appreciate this. He knows that he has to rely on his powers of judgment in particular situations, calibrating different claims, and deciding what is best. Daschner’s awareness is in tune with the objective value structure of his office and, by implication, of the constitution he is running. This makes it deeply regrettable that he suffers the same fate as A and B. His moral sensitivity ought to be considered: it should be part and parcel of the integrity of public officials. It is part of their integrity because systematic neglect of patterns of justification is alien to a liberal-democratic constitution.

Citizens have an interest in an executive that keeps alive both kinds of values and their justifications. The exercise of moral judgment, the marshaling of the right kinds of reason, is indispensable for this. Therefore, it is in their interest to leave those officials who commit a moral wrong where they are: in office. The second paradox may be stated as follows: if the citizen has an interest in being governed by officials with moral integrity, and if responsiveness to moral complexity is an essential part of public integrity, citizens have an interest in keeping those officials in office. However, they are treated in exactly the same way as those who lack this responsiveness: they are removed from office—but not by citizens.

In fact, the two paradoxes show that tragic choices are tragic twice over. They are tragic from both perspectives. What the first paradox shows is that officials need certain virtues enabling them to recognize, face, and endure moral dilemmas. Such virtues have to be acknowledged as an integral part of public integrity. This part of their integrity, however, takes care that they have an awareness of the tragic condition in the first place. What the second paradox tells us is that it is in the interest of citizens to have morally sensitive officials running their constitution, but such officials face no better fate than those who lack this sensitivity. This depressing result makes one want to look for ways to retain officials with such virtues, even if they are guilty of a moral wrong—given that the wrong was the outcome of a moral dilemma and they wish to continue in office. This paradox shows that this should be done by giving citizens an essential part in this project: by giving them the authority to forgive the official. In the last two decades or so, there has been something of a revival, or perhaps we should say a resurrection, of the concept of forgiveness in the psychological and philosophical literature (see, e.g., Calhoun 1992; Enright 2001; Enright and Fitzgibbon 2000; Goveir 1999, 2002; Griswold 2007; Holmgren 1993; Lang 1994; Murphy and Hampton 1988; North 1987; Richards 1988).

**Political Forgiveness**

The importance of the citizen perspective cannot be stressed too strongly. In the first place, the account presented here is not driven by considerations of criminal and/or restorative justice (Adams and Balfour 2008; Digeser 2001; Griswold 2007, 39). This is not to say that these considerations are not valid or that they should be replaced by the reflections presented here. The introduction of political forgiveness is not intended to substitute for legal action, whether of a criminal or civil nature, but focuses instead on disciplinary measures. The point of a disciplinary measure is not retribution but the improvement of the institution. It goes without saying that improvement here includes moral improvement. Second, in a liberal democracy, all authority exercised over citizens originates in their (tacit or express) consent (Simmons 1981). This in itself constitutes an important, broadly constitutional reason to at least explore the possibilities for giving citizens the authority to forgive their officials. This is a political rather than a legal take on the issue.

That is why the relevant concept of forgiveness discussed here is the concept of political forgiveness (Digoser 2001). As noted, political forgiveness is here taken to consist of a formal speech act with performative force aimed at the restoration of a relationship of trust between two parties. If a linguistic utterance or speech act has performative force, it has practical or even moral consequences. It aims to have an impact on the way things are in the world, not just to report or describe them (Searle 1969). For instance, if I say “John has promised to give me back the money by Monday,” my utterance does not have performative force; it just reports a fact, namely, that John has made a promise. There is no way this report can undo this fact. By contrast, if John himself says “I promise to return the money by Monday,” he does not describe or report a state of affairs in the world, but he creates a moral obligation by the very act of uttering them. It should be noted that John creates this moral obligation irrespective of his intentions. Whether he likes it or not, by uttering the sentence, John has committed himself to giving back the money. Similarly, by saying “John has forgiven Mary,” I am reporting a state of affairs. My utterance does not aim to impact that state of affairs. But when John states to Mary, “I forgive you,” his utterance aims to have an impact on a particular state of affairs in the world, namely, John’s relationship with Mary.

For a performative speech act to be successful, it has to satisfy certain conditions. Thus, in an institutional context, certain speech acts do not create social facts if the utterer does not have the authority to do so. Someone who does not have the authority to bind people in wedlock may utter the words “I hereby pronounce you
husband and wife” at a wedding ceremony. However, this person has not created “hereby” a marriage. The conditions of satisfaction for a successful speech act of political forgiveness are the following. In the first place, the forgiving party has the authority to perform that speech act, that is, to forgive. This authority, of course, is an institutional fact with normative implications. Second, because of the public character of political forgiveness, its utterance is subject to procedural constraints. These constraints should ensure that the speech act is, in principle, publicly accessible. Just as a law is not a law before it is publicly promulgated, an act of political forgiveness needs publicity in order to be an act of political forgiveness. Finally, the subjective states and attitudes of those performing it are irrelevant to the success of the speech act (Digeser 2001, 19–21). This means that those meting out political forgiveness do not need to feel resentment toward the person to be forgiven. As will become clear presently, this is a consequence of the essentially public character of the speech act. This does not mean, however, that the state of mind of the person to be politically forgiven does not matter. As the first paradox shows, it does matter. Actually, it matters a lot.

Taking these conditions of satisfaction into account, we can rehearse the definition of political forgiveness given earlier. As said, the concept of political forgiveness is here treated as a publicly performed performative speech act that aims to create the possibility for an official to continue in office despite his or her violation of the moral values embodied in the constitution. The relevance of the concept of forgiveness to the public sphere has long been recognized but also disputed. However, before I can proceed to formulate conditions of political forgiveness, I have to get out of the way a daunting objection to the application of the notion of forgiveness to the public sphere. This is an objection against condition (3) that renders irrelevant subjective states of those who dispense forgiveness.

The main problem for the application of the concept in the public sphere is that forgiveness seems to be an essentially psychological concept. Hannah Arendt, for instance, who clearly sees the relevance of forgiveness to the political, is acutely aware of its limitations because she takes forgiveness to be linked to love (1958, 236–43). If forgiveness is an essentially psychological concept, it natural to assume that it is at home, primarily or even exclusively, in the sphere of the interpersonal. Some even go so far as to deny that there is such a thing as political forgiveness at all. In an influential study of the subject, Henry Griswold argues that this categorical difference between the public and interpersonal spheres allows no scope for forgiveness in the former. What he prefers to call “political apology” is not even an imperfect (or “nonparadigmatic”) version of forgiveness, despite the fact that they share some characteristics. Because forgiveness is conceptually dependent on sentiment or motive, one should avoid the term “forgiveness” in discourse about the public realm altogether. For one thing, the world of political institutions is too complex to assume that all parties are driven by the sentiments required to speak of forgiveness. For another, in the public sphere, authority is inextricably linked to the idea of representation, by means of which certain individuals apologize on behalf of (groups of) others. These representatives can and usually do perform such speech acts unburdened by the required feelings (resentment, a desire for revenge) (Griswold 2007, 59–71, 136–46; cf. Digeser 2001, 21).

These arguments are not as formidable as they appear. In the first place, suppose a conceptual watershed separates the public and the interpersonal that renders impossible the semantically responsible transfer of terms between these spheres. Why would the term “political apology” be a better characterization of what happens in politics than “political forgiveness”? Griswold argues that “[p]hrases such as ‘we regret’ or ‘we apologize’ when uttered in a political context are not reports of sentiments … but are speech acts aiming at some different purpose … It would seem that the force of political apology is independent of sentiment or motive” (2007, 141–42). But do not the notions of apologizing and regretting similarly originate in interpersonal, and therefore psychological, contexts? Why, then, is it allowed to prefix “political” to “apology”? And is it an insuperable conceptual problem to do the same with “forgiveness”? Is not the qualification “political” meant to signal the difference with “real” forgiveness or, for that matter, apology? If the phrase “we regret” in a political context is not a report of sentiment, why should not the same go for “we forgive”? Griswold’s semantic expulsion of forgiveness from the public realm has a question-begging air about it.

Nonetheless, Griswold’s objection points to a deeper and more interesting problem. If Griswold is right, then we should not allow essentially psychological concepts to infect our discourse about public matters. But this would mean that we have to radically overhaul our vocabulary—if that is a realistic option at all.

From its very inception, the whole language of politics in the Western world has been permeated with terms and expressions that derive from nonpolitical contexts. We may talk of “friendship” between states, of legal “persons,” and of votes of “no confidence” in a perfectly intelligible (even if metaphorical) way. In this connection, we should observe that the same goes for the use of “trust” in a perfectly intelligible (even if metaphorical) way. In this connection, we should observe that the same goes for the use of “trust” in the definition of political forgiveness given earlier—a point to be addressed in the next section. The fact that there is should perhaps rather alert us to the question of how fundamental the psychological element to the meaning of these terms actually is. It is so deep that we no longer realize that all our talk of “organization” ultimately refers to the way the “organs” of a living “organism” are arranged so that it can optimally discharge its function(s). Organizations still have “heads” and “members.” In social practice and theory, metaphor is rampant—and perhaps for good reasons. At any rate, we seem perfectly able to use and understand these terms in both interpersonal and political contexts.

If “we apologize” and “we regret” may be speech acts that aim to repair relationships rather than expressing sentiments, there can be no principled objection to consider “we forgive” in the same way. In sum, there can be no fundamental objection against the use of the concept of political forgiveness in the present context. On the contrary, it has distinct advantages.

Political Forgiveness and (Political) Trust

In general, the concept of forgiveness allows us to recognize both the wrongness of an act or decision and the desirability of continuing a relationship based on trust. As noted, trust is another originally psychological concept that has proven its use in understanding the functioning of representative institutions. Some qualifications should therefore be appended to the use of this term. It is not
uncommon to analyze the concept of forgiveness as an action or attitude restoring a relationship of trust that has been put under pressure by the commission of a wrong (Dígeser 1998, 701). Typically, such analyses focus on the psychological effort made by the victim to quench resentment or, as it is sometimes called in the literature, “a change of heart” (Calhoun 1992). Some claim that forgiveness requires actual purging of resentment (Downie 1965; Murphy and Hampton 1988, 157), others a commitment to do so (Haber 1991, 7). Psychologically speaking, the reestablishment of trust is very difficult and, in many cases, a bridge too far. This is particularly the case if there are very direct connections between the wronged party, the wrong, and the wrongdoer.

However, there are no such immediate (or direct) connections in the kind of situation envisaged here. The citizen body, conceived as a collectivity, is not directly or immediately harmed by the violation of the rights of an individual. Nevertheless, this is not so say that the notion of trust does not play a role here. The role it plays is, for obvious reasons, very similar to the notion of trust as employed by the tradition of theorizing representative government (Pitkin 1967, 127–31). In many liberal democracies, especially in parliamentary systems, institutionalized forms of trust are an integral element of the relationship between the executive and the legislative. It is one of the terms used to characterize a relationship vital to the exercise of (indirect) democratic control of the executive by the citizen body.

At this juncture, the second paradox asserts itself again. Suppose a minister of the interior who is responsible for torture administered by a police official survives a vote of no confidence in parliament. In a very real sense, this minister can be said to be politically forgiven, albeit indirectly, by citizens. Yet this is mainly, or even exclusively, a matter of political negotiation. Suppose, however, that the subordinate official responsible for the actual decision to torture, made in an insoluble conflict of values, has to resign as a result of a disciplinary measure. From the citizen perspective, this is awkward. If we are prepared to give responsible ministers the benefit of the doubt on behalf of the citizen body, we should seriously consider whether this can be done for their subordinates as well. Why not allow them to reestablish the relationship of trust with the citizen body or its proxy?

Forgiving an action or decision should be clearly distinguished from justifying it.

It is not the purpose here to detail procedures for administering forgiveness for every form of liberal democratic government. This cannot be done at a general level. Such procedures are, and have to be, dependent on their particular legal and political contexts. However, one can specify conditions that have to be satisfied by any procedure for politically forgiving subordinate officials. Two constraints should guide the formulation of these conditions. Obviously, the conditions should take account of the nature of the paradoxes discussed earlier. Second, they should reflect the relevant properties of the concept of political forgiveness. As noted, these properties follow from the citizen perspective. But they also have to respect more general features of being relevantly tied to value pluralism embodied in liberal democracy.

**Conditions of Political Forgiveness**

Generally speaking, political forgiveness should not be administered wantonly. To prevent this, forgiving should be logically connected to, and therefore derivable from, basic conflicting moral claims embodied in the constitution. A crucial feature of the first paradox is that the conflicts of values involved are attributable to the structure of the constitution. They are, so to speak, internal to what it is to serve the state. Put differently, the conflict should be clearly and objectively traceable to such constitutional values and not be the result of the official’s own faulty behavior.

Moreover, the relevant moral conflict should not be a conflict between public and *private* morality. In general, incompatibilities between private values (deriving from, say, the official’s religious convictions) and public values do not fall within the scope of *political* forgiveness. According to certain religious views, it is, for instance, not allowed to conclude same-sex marriages. An official may suffer deep-ridden moral conflict because of this. However, it is not a case that is the concern of this article—even though, perhaps, the civil servant himself will deny that this is not a matter for others to decide. If, on the other hand, his constitution embodies his religious creed, then it becomes another matter. This is not to say that this other type of conflict is not real, important, painful, or in any other way worth engaging. It is just not the type of conflict to which political forgiveness applies.

Given these assumptions, the following conditions of forgiveness can be formulated.

**Political Forgiveness Is Not Justification**

As should be clear by now, forgiving an action or decision should be clearly distinguished from justifying it. It might be the case that, in everyday language, the term “to excuse” is often used indiscriminately with “to justify.” In philosophical idiom, however, they are importantly different. When I justify an action, I literally “make right” (*justificare*) that action. If it is justified, a normally functioning agent will experience no remainder. In contrast, it makes no sense to say that I forgive your action if I mean to imply that the action was the right thing to do. Forgiving implies an acknowledgment of wrongness. This is one of the semantic features of the concept that make it particularly suited to the recognition of value pluralism of the liberal-democratic kind.

The procedure of forgiving, then, should make unambiguously clear that an unjustifiable wrong has been committed. On the other hand, it should also be evident that, given the circumstances of the decision, there was no alternative to performing it. This means that, as noted, the administration of political forgiveness should avoid the impression that each and every executive violation of a right can be forgiven by citizens. Only those wrongs that are, paradoxically, right can be forgiven. Thus, if Daschner had made the decision to respect the suspect’s rights, in full awareness of the consequences, the same would hold. What counts in this type of conflict is his awareness of the dilemma.³

**Political Forgiveness Should Be Public**

In general, forgiving should be carefully distinguished from forgetting. The public acknowledgment that a wrong has been done is therefore crucial. For this reason, an indispensable part of political forgiving should be some kind of public ritual. We can envisage
various ways of devising such a procedure. However, it is of the essence that dispensing forgiveness requires a performative speech act that, just like a promise, creates an institutional fact (Searle 1969, 1995, 2010). If I say “I forgive,” I do not report a state of affairs; I create one. In the process, I commit myself to re-creating the relationship of trust that the person I forgive has put under pressure. So, even though citizens or their representative(s) are not obliged to forgive, once they do, they are under an obligation to act as if this relationship has been reestablished. At the same time, it does not create an obligation for the official to remain in office.

Another reason for making forgiving a public affair is the following. As the aftermath of the Daschner case in Germany shows, events such as this serve to bring into sharp relief the very conflict that is at the heart of liberal democracy. It is exactly in such cases that our most cherished practices and convictions are put to the test. That is why they have an important function in keeping alive the awareness about both our liberal and our democratic commitments. Thus, the public debate in German media stirred up at every stage of the torture case brought into focus all the important considerations involved in the discussion. Such public debates are tremendously important. They force us to exhumre the rational justifications for the things we are routinely doing—preventing our practices and convictions from solidifying into inarticulate dogmatism.

Political Forgiveness Should Be Rationally Justified
The previous condition is intimately linked to the requirement that political forgiveness be adequately supported by reasons. But it is important to make a distinction between two sets of reasons, which of necessity figure in the administration of political forgiveness.

In the first place, the official to be forgiven will have to make public the reasons leading to his or her decision. Ideally, the reasons given in the procedure are identical with the reasons that actually figured in the decision-making process. It should be noted that these include not only the reasons that actually were decisive but also the reasons that were overruled. The importance of emphasizing and asserting the validity of the latter(d)et of reasons in the procedure cannot be underestimated. This simply follows from the demand that the audience is persuaded that the official’s decision is the upshot of a dilemma that is both real and experienced as such.

Of course, in every process of rendering an account lurks the danger of misrepresenting actual decision making. Misrepresentation may be deliberate or the result of psychological mechanisms beyond conscious control. That is why it is important that witnesses are heard. The fact that testimony is hard to come by if such deliberations are the business of isolated decision makers explains the very urgency of this condition. If it is taken seriously, the prospect of political forgiveness exerts a disciplining force on the procedure of decision making in future cases. Rational justification of decisions ex post facto may constrain the repertoire of considerations fed into the decision-making process. The public character of political forgiveness will, to many decision makers, in itself constitute a reason for marshalling adequate reasons for action. As John Stuart Mill puts it in his Considerations on Representative Government, “To be under the eyes of others—to have to defend oneself to others—is never more important than to those who act in opposition to the opinion of others, for it obliges them to have sure ground of their own. … Publicity is inappreciable, even when it does no more than prevent that which can by no possibility be plausibly defended—than compel deliberation, and force every one to determine, before he acts, what he shall say if called to account for his actions” (1875, 84). The chance that one will be politically forgiven may press individual decision makers to seek advice, to engage in collective deliberation—if the circumstances of the case allow it.

Second, the decision to politically forgive will itself have to be publicly supported by adequate reasons. The case must be compelling. This is important also for subsequent cases. In this way, the forgiving institution will gradually build a kind of repertoire of deliberative reasoning involved in executive decision making. This repertoire, in turn, may serve to provide deliberative reasons for decision making in the relevant type of cases in the future. However, this should not go so far as to constitute a kind of stare decisis. Previous decisions should not bind future decisions. This is to stress the singularity of the case. Forgiving should retain its exceptional character. For this reason, the selection of cases qualifying for the procedure, and therefore access to the procedure should be carefully regimented.

Political Forgiveness Should Be Preceded by Sincere Public Apology Directed to Citizens
Typically, apology is the correlative of forgiveness. In an interpersonal context, apology might not be a necessary condition of forgiving. In the context of private life, it is perfectly conceivable that one forgives in foro interno, while the wrongdoer shows no sign of contrition. This may even be considered a mental act of great nobility or charity. However, in a public procedure, it is important that both sides perform their proper speech acts and that they do so in the right order. To return to a point made earlier, one could be tempted to see apology and forgiveness as correlatives in a public or political context: no political forgiveness without political apology. But there is an interesting and crucial asymmetry. In the type of case under consideration, the apologizer (the official) is an individual who is not represented by anyone else. His or her public apology has to be an expression of genuine regret, guilt, or shame. As noted, these feelings are part of the “remainders” that are the residues of decisions in moral dilemmas. At the other end of the line, those who forgive do represent the citizenry. In their case, forgiveness need not be an expression of (backward-looking) sentiments.

Conclusion
As noted in the introduction, the ambition of this article is mainly diagnostic. I have attempted to flesh out conditions of political forgiveness. A lot more effort is needed to translate these conditions into workable procedures and institutions. Another task lying ahead is the working out of the relationship between political forgiveness and forms of retributive and restorative justice. This is a technical task that cannot be undertaken here. But then again, the focus here is on the political dimension of forgiveness. Moreover, a serious investment has to be made in thinking of ways to prevent misuse of political forgiveness. As is the case with all political and administrative institutions, procedures for administering political forgiveness will not be impervious to manipulation. Yet this in itself should not be an argument to abandon the project; rather, it should be an incentive to think harder.
Forgiving public officials who make themselves guilty of a moral wrong so that they can remain in office is a controversial idea. However, in this article, it is argued that under certain conditions, it might be worth taking it seriously. There is something intolerably wrong with our theories about public integrity if we continue to remove those officials from public service who least deserve it. Of course, it would be an illusion to believe that we can expel all contingency from our moral universe. At any rate, this does not mean that we should not try to reduce the playground of blind fate. Tragedies may end with the demise of the hero, but the careers of public officials need not be ruined by tragic choices.

Notes
1. For a discussion of the implications of this convention for the Abu Ghraib case, see Adams, Balfour, and Reed (2006).
2. The fact that versions of this conflict appear in the works of preliberal thinkers can be taken as evidence for this deeper source of the conflict. An example that is not proper to liberal democracy is one version of the so-called problem of dirty hands (Coady 2008; Kleining 2007; Meisels 2008; Nagel 1972, 1978; Shue 1977; Sutherland 2000; Thompson 1987; Walzer 1973, 2004; Weber 1992). In essence, this problem is already dealt with by Augustine in his City of God and, of course, Machiavelli, most sharply in the Discourses.
3. An anonymous reviewer suggested that Duschen should have been aware of “the need for more of a public process in deciding what to do, which may well have led to a different decision.” Even if this were the case, that different decision still would not have provided a way out of the dilemma. That is the nasty thing about this kind of conflict of value. However, the way the public procedure of forgiving is organized should take care that decision makers will want to make sure that they have witnesses who will later be capable of reporting the actual course of the deliberations. So even if I have reservations in agreeing with the reviewer that it is unethical to decide alone, I do believe it is imprudent to do so.

References


