



DELIVERING THE DEADLY BLOW: UNDERSTANDING COLLECTIVE RESPONSIBILITY

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ABSTRACT. This paper deals with ascriptions of collective responsibility and the distribution of the responsibility from the group to the individuals. Specifically, this article proposes a solution to cases of collective responsibility which is also sensitive to the demands of normative individualism. The article contends that Judith Jarvis Thomson's concept of a Minimally Decent Samaritan is a valuable tool for the correct ascription of responsibility to individuals from collectives as it is neither excessively demanding, like Arendt's and Jaspers' accounts, or not demanding enough. It is contended that being a Minimally Decent Samaritan is enough to distance oneself from the group and, hence, avoid being held responsible.

KEYWORDS. Collective Responsibility, Minimally Decent Samaritan, Opting Out of Groups.

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RECEIVED. January, 16th 2014. **ACCEPTED.** March, 31st 2014.

Recently, in Barcelona, a man was reduced by the police after a fight over an alleged theft. The police officers reduced the suspect and, according to eyewitnesses and video material, delivered a number of blows to the man's head which, it is thought (and autopsy reports confirm), caused him to suffer heart failure, which ultimately resulted in his death.

At the time of writing the investigation is ongoing: the final results are yet to be uncovered and the responsibilities are yet to be assigned. This paper's objective is not a minute examination of a particular court case but to reflect on two interesting ethical questions: (i) Can there be group responsibility? and (ii) What is group responsibility?

I.

The notion of responsibility is closely linked to the notion of accountability and also, in a less direct way, to the notion of causation. One, it seems, can only be responsible for those acts which he has caused.

The case outlined above, taken as an example, can be seen as a case where a group of people are all responsible for a blow to the head. Taken under normal circumstances a blow to the head would be considered an assault. Each individual police officer assaulted this man.

However, in this case, the end result is 'worse' than the sum of the parts. The victim of this assault died. Yet, who killed him? Who is morally accountable for his death? Who is to be held responsible? It could be thought the officer who delivered 'the deadly blow' (if this could even be determined) is responsible for the suspect's death. It seems that that particular police officer is guilty of assault and, unfortunately for him, suffered bad moral luck. Were the other police officers present not accountable for his murder, not in the least? However, wouldn't it be a gross miscarriage of justice if these individual police officers were only accused of assault? Doesn't it intuitively seem that these police officers, acting together, killed the man? This paper contends that, in order to resolve these questions, a notion of group responsibility is required. Collectives seem to be, therefore, of moral interest in as far as they «make decisions and do things which have an impact on the world» (Graham, 1987, p. 8).

II.

However, many philosophers view collective rights and responsibilities with a certain healthy skepticism. This is due to the fact, I believe, that rights and responsibilities are normally used as justifications against forced individual submission to collective goals and limits on the accountability of individuals. They are seen, as Dworkin famously put it, as trumps¹. The notion of a collective responsibility thus, if one conceives rights as a trumps system, simply defeats the point.

Marion Smiley, in her article for the Stanford Encyclopedia of Philosophy, states that the opposition to collective responsibility comes from two distinct lines of thought. Methodological Individualists (who argue groups can't hold responsibilities) and Normative Individualists who argue group responsibility violates «principles of both individual responsibility and fairness» (Smiley, 2011).

On a pragmatic level, the notion of collective responsibility has many uncomfortable consequences and raises many difficult questions, such as: «Is it appropriate to hold individual

¹See Dworkin *Taking Rights Seriously*, especially Chapter 7.

group members morally responsible for harm that other group members caused? that the group itself caused? that the group as a whole failed to prevent?» (Smiley, 2011) The problem seems to be that one is reticent to attribute responsibility to groups in as far as they include innocent members. Ascribing collective responsibilities to groups also raises the distinction between formal (or organized) groups such as a company or a government and informal (or unorganized) groups such as mobs. Another distinction between types of groups comes to light when debating the fairness of ascribing collective responsibilities to groups: those groups where membership is voluntary and one can leave (such as country clubs) and those where membership is involuntary (such as race, nationality, gender. . .).

Hannah Arendt, in her article “Organized Guilt and Collective Responsibility”, argues this distribution of guilt and responsibility can, in some cases, be very extensive. Arendt writes:

Allied provisions for punishment of war criminals will turn out to be empty threats because they will find no one whom the title of war criminal could not be applied. (Arendt, 1948, p. 273)

How to bear the trial of confronting a people among whom the boundaries dividing criminals from normal persons, the guilty from the innocent, have been so completely effaced. (Arendt, 1948, p. 276)

Arendt, in the above fragments, seems to imply the whole German population is guilty, due to the fact they are partly responsible, for the tragedies of the Nazi regime. Karl Jaspers also argues for something similar when he develops his idea of ‘metaphysical guilt’:

Metaphysical guilt: There exists a solidarity among men as human beings that makes each co-responsible for every wrong and every injustice in the world, especially for crimes committed in his presence or with his knowledge. If I fail to do whatever I can to prevent them, I too am guilty. (Jaspers, 1947, p. 26)

Karl Jaspers goes on to state that all those who paid lip-service to the Nazi Regime are responsible, or at least partly, for the crimes:

Living in disguise-unavoidable for anyone who wanted to survive-moral guilt was incurred. Mendacious avowals of loyalty to threatening bodies like the Gestapo, gestures like the Hitler salute, attendance at meetings, and many other things causing a semblance of participation. (Jaspers, 1947, p. 58)

In the above quote Jaspers seems to be implying that protecting one’s life, that is paying the lip-service necessary for survival, makes one morally guilty of the Nazi crimes.

It seems intuitively plausible to argue that not stopping injustice, especially when it is a case of such gross injustice as the Nazi Holocaust, makes one complicit in the injustice². However intuitively plausible this may be, it also seems that the moral obligation of ‘speaking-out’ and interfering in defense of the rights of others is, obviously, conditional on other aspects. An ethical theory that made it compulsory to ‘speak out’ in any case would run the risk of forcing others to go over and beyond the call of duty. Arendt points out that one cannot be expected to be a hero, yet doesn’t consider the point in enough detail in her article.

The responsibility of acting out will, therefore, be limited. Jaspers’ condition of doing what one can will not be taken as an absolute obligation. The proposed limiting condition is,

²Jaspers distinguishes between being morally required to risk one’s life but not being morally required to choose death, that is, when there is no possibility of doing good. Notwithstanding he does believe one must risk their lives, even if the risk accepted is not prudent. (Jaspers, 1947, p. 65)

therefore, that of relative cost which is elegantly developed by Judith Jarvis Thomson in her characterization of the Minimally Decent Samaritan.

This limiting of the responsibility must be seen in the light of the well formulated questions raised by Smiley in her article for the S.E.P. «What about members of these groups who go out of their way to stop the harm? Are they excused from blame because they tried to reform their communities or are they, too, responsible for the harm in question by virtue of their group membership?» (Smiley, 2011) The condition for leaving the group, which for Arendt and Jaspers seems to be heroism, is, if one uses the extremely fertile concept of a Minimally Decent Samaritan, lowered.

Arendt acknowledges this point although she doesn't give it as much weight as it will have in this paper. Arendt acknowledges, in her paper, the fact that in some situations the cost of actively standing out against others may be extremely high. However, Arendt doesn't seem to consider this a mitigating circumstance or an excuse.

Both Arendt's and Jaspers' radical conclusions exemplify exactly why group responsibility is feared. The overreaching consequences of such indiscriminate attributions of responsibility are, I hope, seen to be obviously unacceptable.

III.

In light of the criticisms of both normative and methodological individualists and the extravagant nature of Arendt and Jaspers 'across the board' ascriptions of responsibility one must ask the following question: *Could it not be that the notion of collective responsibility could be boiled down to individual responsibilities?* I propose here that collective responsibility is boiled down to the individuals responsibility to uphold another persons rights. That is, not to kill him and to intervene when others are trying to kill someone³. The notion of Minimally Decent Samaritanism will be used to limit nature of the demands others hold to be assisted. Obviously this brief outline needs many revisions and adjustments which will be dealt with in the following sections.

As has been seen in the above section, ascription of collective responsibilities may lead to counterintuitive consequences. It is often argued that collective responsibilities defeat the precepts of individualism which is surely true of the two radical examples quoted above.

If, however, we understand collective responsibility to be opt-outable, then the problem to individualism and violation of individuality is no longer there. That is, no individual is ascribed actions he did not commit. Each and every individual of the group must abstain from rights violation and, when other members of the group violate rights, interfere and, therefore, distance himself from the violation of rights that is occurring. It could be argued that taking collective rights in any other sense is, as J.R. Lucas points out, not considering individuals «autonomous agents who had it in their power to act or not to act, but merely natural phenomena» (Lucas, 1989, p. 202).

The justification behind the idea of ascriptions of collective responsibility to opt-outable groups depends on the fact that «the success of the co-operative enterprise depends on a number of different people contributing their own efforts and expertise, it was up to each individual taking part to decide whether or not to co-operate» (Lucas, 1989, p. 202). If the

³It must be noted that J.J. Thomson does not strictly believe in rights to assistance and protection although she uses the concept of a Minimally Decent Samaritan to account for the moral intuition that, in some cases, it would be immoral to save someone from, for example, drowning. Whether humans possess, or don't possess a right to assistance is a question left open in this paper as Minimally Decent Samaritanism gives an adequate solution.

group is voluntary and one can opt out then the precepts of individualism don't seem to be violated.

R.S. Downie, in his 1969 article "Collective Responsibility" develops a similar position. Downie states that «the individual person freely decided to become a member of that collective» and, furthermore, «a person can resign if he disagrees violently with the action he must take as a member of the collective» (Downie, 1969, p. 51).

Ascribing collective responsibility in this way (as the responsibility not to do harm and the responsibility to stop the harming of others) has certain advantages. Firstly, it ties action more closely to the individual, giving him an added incentive to abstain from wrongdoing and strive to protect rights, therefore helping to avoid the phenomenon known as 'diffusion of responsibility'.

Take, for example, case (i) in which one sees a fight. A group of 4 are kicking another person to the ground. If you could stop this by calling out, making the attackers run away, it seems one would be morally obliged to call out.

Suppose the 4 men are real thugs and would turn on you if you call out. Call this case case (ii). In this second scenario the cost of stopping harm is much higher. Stopping the beating is highly likely to cost you a beating. Is one responsible for not jumping in and receiving a beating? I believe not.

Whilst the two cases outlined above are about individuals acting the following case is closer to the cases this essay is aimed at solving. Take now, for example, the Kitty Genovese, case (iii). Kitty Genovese was stabbed to death whilst 38 bystanders did nothing. Was each bystander morally required to jump in and stop the killing? I believe the cost would be extremely high and, therefore, cannot be morally required. However, whilst an individual bystander could not have helped the woman (without significant risk to himself) a group of the bystanders could have put an end to the attack. Take now one of the bystanders (*A*) who, seeing the attack calls on another three people (*B*, *C* and *D*) to aid him in preventing the attack. Imagine *B*, *C* and *D* all refuse to help him and the woman is stabbed to death. It seems the group of bystanders is thus morally responsible for its omission. However, this seems highly unfair on *A* who at least attempted to put an end to the murder in a way that didn't seriously jeopardize his life.

What the above example brings out is the problem of how to understand opting out of the group and, hence, not being morally guilty. The moral intuitions at play seem to say that one need not risk his life in order to opt out yet one must do something, if there is an option which is not overly demanding. If one ascribes responsibility even in the cases where the cost of intervening and, hence distancing oneself from the group, is high, one ascribes collective responsibility in a way similar to Arendt and Jaspers which has already been made to seem completely unacceptable⁴.

IV.

The moral intuitions at play in the situations presented above seem to have an underlying principle, the notion of a minimally decent samaritan⁵. Judith Jarvis Thomson characterizes

⁴A real life example of this 'across the board' ascription of responsibility happened when the 45th Infantry Division of the U.S. 7th Army liberated the Dachau concentration camp and forced local Dachau residents to come and examine the bodies of the inmates and bury them as a reprisal for what was seen as complicity.

⁵It must be taken into account that Judith Jarvis Thomson's notion of a Minimally Decent Samaritan is linked to her perspective on rights, a deontological conception of rights. The proposal of this article, hence, broadly subscribes

this notion in a vague way by opposing it to good samaritans. A minimally decent samaritan, then, acts when the costs are not too high whereas the good samaritan acts even when the cost to him is large, larger than what one could be required to bear (Thompson, 1971, p. 85). The notion of a minimally decent samaritan could be defined as follows:

A minimally decent samaritan (i) intervenes in conflict to uphold others rights (ii) does so at reasonable cost to himself (iii) does not undergo large costs to uphold the rights of others.

The above characterization is sketchy and vague yet it seems a useful concept. It must be pointed out that Judith Jarvis Thomson's use of the concept of a Minimally Decent Samaritan varies from the use given to it in this paper. Whilst Thomson introduces the notion of a Minimally Decent Samaritan as a supplement to the notion of rights, and hence distinct from them, in this paper the notion of a Minimally Decent Samaritan is incorporated into the notion of rights as a condition on the duty of assistance. Thomson argues that Minimally Decent Samaritanism is a «standard we must not fall below» (Thompson, 1971, p. 87), however, she does not hold it is a duty to be a minimally decent samaritan. Keeping these differences in mind, what arguments do we have in its favor?

Firstly, the Minimally Decent Samaritan account is in line with many of our intuitive moral judgements. Take for example a man running out to confront Kitty Genovese's killer. If that is a morally required action, that is, if being a superb samaritan is required by right, one can't seem to make an important moral judgement, notably that that individual is a hero. No one becomes a hero by doing what duty requires.

Another reason for accepting the idea of Minimally Decent Samaritanism is that it makes ethical theories that are overly demanding unacceptable. The concept of a Minimally Decent Samaritanism is useful when constructing an ethical theory of obligations as it stops duties being overly demanding (in the way a exclusively deontological or utilitarian theory might be). Notwithstanding doesn't make ethical obligations disappear due to the fact that a reasonable cost may, in some cases, be a non-negligible cost. Peter Singer, in his highly influential *The Life You Can Save*, seems to implicitly appeal to the notion of Minimally Decent Samaritanism when he claims that one would be required to jump into a pool of water to save a child even if it would mean ruining one's new 300\$ shoes.

Another reason for adopting Minimally Decent Samaritanism is that Minimally Decent Samaritanism helps us argue against Arendt's conception of the guilt of the German people. It could be reasonable supposed fighting (or standing out or not paying lip-service to) the Nazi regime could potentially involve enormous costs. A theory which includes a Minimally Decent Samaritan clause helps preserve individual responsibility for individual actions fully acknowledging that, sometimes, one can be required to run the extra mile but not the extra marathon. Therefore the fears of the hard-headed liberals are unfounded in this case as an individual is held accountable only if he fails a very lax moral duty.

V.

In cases (ii) and (iii) the Minimally Decent Samaritan clause dissolves a moral obligation as the costs of acting are extremely high. The idea of a Minimally Decent Samaritan clause

such an approach to rights. For further information on Thomson's theory one should consult *The Realm of Rights* (1990).

doesn't, however, dissolve any responsibility an individual might have thereby justifying a bystander in a case of 'bystander effect'. In order to see this, let us return to the original case in this paper: Recently, in Barcelona, a man was reduced by the police after a fight over an alleged theft. The police officers reduced the suspect and, according to eyewitnesses and video material, delivered a number of blows to the man's head which it is thought, and autopsy reports appear to confirm, caused him to suffer heart failure, which ultimately resulted in his death.

Minimally Decent Samaritanism would require more than simply going along with this situation from each individual present. Any of the police officers involved could have avoided this while incurring little cost to himself. Had he told the other officers to stop he might have been relieved of his responsibility for this man's death by separating himself from the group, by opting out. None of the officers did so and they are, therefore, collectively responsible for his death. I have stated that the police officers would have undergone a small cost to themselves, perhaps animosity from colleagues or accusations of resisting orders. These, however, seem negligible costs when compared to the life of a man.

Some of the citizens who saw the brutal police actions recorded the incident and shouted out to the police officers. Confronting a group of police officers whilst they violently apprehend a suspect could be seen as overly costly. They, too, did what a minimally decent samaritan would do, gather evidence and, in some cases, volunteer to appear in court.

In the above discussion I have attributed collective responsibility to the group of police officers. Why? I have attributed collective responsibility to the officers following two criteria. That is, their participation in the beating and their not acting as a Minimally Decent Samaritan trying to stop the violations of other's rights⁶. The reason for their moral responsibility for the beating is obvious, they did it. The reason for their collective moral responsibility for the killing is more obscure. The point put forward is that, having been causally related to the killing, and through their omitting their duties as minimally decent samaritans, they are responsible for the death. Those who had opted out or potentially even later given evidence against the other individuals could be seen as having distanced themselves from the group.

However, a skeptical response may be in order. It is true that in some cases a group action brought about a certain situation yet no one individual is responsible for the whole action. Therefore, the argument concludes, no one individual can be held responsible for the full consequences of the groups actions. This is, I believe, a fair point. Joel Feinberg believes that, when attributing responsibility to someone they must have done the action in question (Feinberg, 1968, p. 674). This does, intuitively, seem correct. Yet, Feinberg also introduces another possibility, namely that «his action or omission made a substantial causal contribution to it» (Feinberg, 1968, p. 674). Feinberg's second possibility is related not only to the validity to the collective responsibility but also with the distribution of it from the group to the individual. Thus, whilst none of them actually 'caused' the death they made substantial contributions to it, both through action and omission. Feinberg's wider conception of causal connection seems more adequate for dealing with cases where the end result is worse than the sum of the parts.

⁶The problem of these men being police officers, and failing an even more stringent duty to protect citizens rights, is not taken into account as they can be held sufficiently morally responsible due to their failing of an even more basic (and less demanding) moral principle. The fact they violated stricter principles flows from that point.

VI.

Passionate critics of collective responsibility, such as H.D. Lewis, make a strong case against attributing responsibility to groups and argue that, in the case of joint undertakings, «the guilt of each is strictly proportional to his part in the joint undertaking» (Lewis, 1948, p. 27). This counter argument implies that each individual police officer's guilt is proportional to his action, each individual account of assault.

However, the case Lewis uses as an example is that of a burglary in which all the roles are easily attributable to each individual and is, therefore, less complicated than the cases this brief article wishes to reflect upon, namely, those in which the result is greater than the sum of the parts.

In a similar vein Samuel Brittan believes that «statements about large abstractions [...] must be translatable into statements about individual human beings» (Brittan, 2002, p. 12). The 'group' as an abstract entity then becomes the source of blame but it is argued the individuals which form this group are not responsible.

I contend Brittan's argument doesn't apply to the argument advanced in this article. The sketch given above avoids the overreaching consequences of views such as Arendt's and Jasper's by including an escape clause which is not overly demanding, namely, that of being a minimally decent samaritan. Thus, in some sense none of those guilty is being held accountable for something he didn't do and the statement about the abstraction is translatable to statements about the individuals.

However, it may be argued that the Minimally Decent Samaritan clause is too weak. Michele M. Moody-Adams, in her article "Collective Responsibility and Qualifying Actions", holds individuals responsible even though, some argue, their culture had a determining influence on their behavior. Moody-Adams believes that this attribution of responsibility from the group to the individuals is acceptable due to the fact it preserves the agency of the individuals:

To deny that an unimpaired person has engaged in wrongdoing-even if there are compelling reasons to mitigate our response to the behavior-is to deny the humanity of the person in question. (Moody-Adams, 1994, p. 306)

Moody-Adams claims that dissolving responsibilities by attributing certain behavioral patterns to 'the group' undermines the agency of the individual. Moody-Adams' point could be extended to cover the cases described above in the sense that the responsibility is being dissolved when we take into account the fact that the (potential) cost has a bearing on what is required and whether one is responsible.

Whilst it might be true the Minimally Decent Samaritan clause is not demanding enough, it has two things in its favor. Its deontological force seems, unlike other more demanding theories, obvious: failing a Minimally Decent Samaritan duty is truly and uncontroversially failing a duty. Secondly, Minimally Decent Samaritanism allows us to make positive judgments about those who go over and beyond the call of duty which other ethical theories make extraordinarily difficult.

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