

Chapter 1

Introduction

1.1

We live in a morally flawed world, one full of regrets and reproaches. Some of the things we regret, or for which we are reproached, we bring about intentionally and on our own. But our lives are increasingly complicated by regrettable things brought about through our associations with other people or with the social, economic, and political institutions in which we live our lives and make our livings. Try as we might to live well, we find ourselves connected to harms and wrongs, albeit by relations that fall outside the paradigm of individual, intentional wrongdoing. Here are some examples: buying a table made of tropical wood that comes from a defoliated rain forest, or owning stock in a company that does business in a country that jails political dissenters; being a citizen of a nation that bombs another country's factories in a reckless attack on terrorists, or inhabiting a region seized long ago from its aboriginal occupants; helping to design an automobile the manufacturer knowingly sells with a dangerously defective fuel system, or administering a national health care bureaucracy that carelessly allows the distribution of HIV-contaminated blood. Although in each of these cases we stand outside the shadow of evil, we still do not find the full light of the good. Even individual acts of violence are characterized by a whole spectrum of relations between agents and harms, doers and deeds. Consider the burglar whose partner violates the understanding that there will be no violence during a robbery, or the members of a military firing squad, each eased in his conscience by the knowledge

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that one of them – it could be any – has been distributed a blank cartridge.

It is an undeniable feature of our social life that people have a host of morally significant reactions when they stand in such mediated relations to harms – reactions ranging from discomfort to regret to guilt – and that they are judged by victims and onlookers. They are also often punished or compelled to make restitution and repair. These cultural and legal practices, surrounding relations of an agent to a harm that are mediated by other agents, comprise the domain of *complicity*.

Moral philosophers have tended to avoid the problem of collective wrongdoing, a tendency reflected in the origins of philosophical ethics. Aristotle, for example, when discussing the concept of the “voluntary,” gave the example of someone ordered by a tyrant to do something shameful, lest harm come to his family.¹ On its face, this is a case of forced collaboration, in which an essential feature is that the plan to do wrong originates with one person, and is completed by another. But Aristotle ignores this relational feature, in effect reducing the problem of shared responsibility to the purely individualistic question of whether the threat was grave enough to defeat any element of choice. If the threats were more than human fabric can bear (at least relative to the badness of the crime demanded) then we cannot say the agent has acted voluntarily; and so, on Aristotle’s account, there is no question of imputing shame to the person.² Responsibility appears wholly a function of individual choice.

Immanuel Kant likewise reduced cases of apparently collective responsibility to questions of individual choice and action. Kant infamously claimed that it would be wrong even to lie to a murderer who asks whether your friend has taken refuge in your house.³ Kant transforms the example into a case of complicity when he argues that if, intending to deceive the murderer, you said your friend “was not at home when he had really gone out without your knowing it, and if the murderer had then met him as he went away and murdered him, you might justly be accused as the cause of his death.” By contrast, “if you have held rigorously to the truth, public justice can lay no hand on you, whatever the unforeseen consequences may be.”⁴ His reason for this surprising conclusion is that by lying, but not by telling the truth, you make the murderer into an instrument of your

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will, and so assume responsibility for the harms arising from that instrument. Now Kant may well have mistaken the implications of his own theory;⁵ but the essential point for our purposes is to notice that, like Aristotle, Kant answers the question of responsibility purely in terms of facts about you, in this case what you intended and what you caused, and without regard to the aims and acts of the murderer. A virtuous will, in Kant's view, seems to insulate from responsibility, while only a vicious will implicates. What Primo Levi called "the gray zone" of collaboration with evil is artificially transformed into the sharp light of duty and the darkness of its violation.⁶

1.2

Recognizing complicity and its uncertain terrain poses problems not just for those who are (as Aristotle said in another context) "maintaining a thesis at all costs."⁷ The responses called for by complicitous relations to harm and wrong also seem to conflict with a set of principles of commonsense morality and moral psychology that limn our common, nonphilosophical understanding of individual accountability. Call these the *Individual Difference*, *Control*, and *Autonomy Principles*. The Individual Difference Principle holds that I am only accountable for a harm if something I did made a difference to its occurrence.⁸ If substantially the same harm would have occurred regardless of what I have done, I cannot be accountable for it. The Control Principle holds that I am only accountable for events over which I have control, and whose occurrence I could have prevented.⁹ Finally, the Autonomy Principle holds that I am not accountable for the harm another agent causes, unless I have induced or coerced that agent into performing an act.¹⁰ At work implicitly in our norms and practices of inculcation, these principles reveal themselves most openly in our pleas for excuse. We may repeat mischievous gossip with the thought that it's going around anyway, or dissociate ourselves emotionally from the policies of our institutions when we do not occupy administrative positions, or regard a customer's informed, voluntary purchase of a dangerous product as exculpating the seller from untoward consequences. These principles may or may not be well applied in such instances; but they are a standard, regulative element of our ethical practices of allocating responsibility.

Cambridge University Press

978-0-521-59452-3 - Complicity: Ethics and Law for a Collective Age

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Together, these principles of accountability define an individualistic conception of moral agency. This conception of accountability is individualistic in three respects: its *subject* is an individual moral agent; the *object* of accountability, or the harm or wrong for which the subject is reproached, is ascribable to that subject alone; and the *basis* of accountability, or the grounds for holding the subject accountable, consists primarily in facts about that subject, such as the subject's causal contributions or the content of the subject's intentions. Paradigmatically, individual moral agents are reproached, or reproach themselves, for harms ascribable to them and them alone, on the basis of their intentional actions and causal contributions.

The individualism of this understanding of the subject of accountability is deeply rooted in modern consciousness. It owes much, clearly, to Protestant theologies and Kantian moral theories, but it is not the product of a moral theory or doctrinal theology. Rather, this conception is an expression of the social and economic transformations that have made the conviction, in Emerson's words, "that imitation is suicide; that [each] must take himself for better, for worse, as his portion," a primary element in our cultural self-understanding.¹¹ The Autonomy Principle expresses the primacy of the individual subject.¹²

The other two aspects of this conception of moral agency, the individualistic object and basis of accountability, reflect a commitment to what I call *evaluative solipsism*.¹³ This evaluative solipsism has two elements, *relational* and *causal*. Evaluation is relationally solipsistic in the sense that questions of accountability are resolved without reference to the nature of the agent's relations to particular others, whether fellow actors, victims, or bystanders. Rather, individuals are evaluated exclusively according to the content and effects of their wills, and the relation of that content and those effects to highly general normative standards. Considerations of what others do, or of how they may be warranted in responding to what the agent does, play no role in the evaluation. Kant's discussion of lying to the murderer was solipsistic in this sense: The special relation of trust between you and your friend, and of opportunism between the murderer and you, made no difference to the permissibility of your lie. Such a conception of accountability is essentially retributivist or desert-based: its primary question is what treatment the agent

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deserves in virtue of what that agent has done, rather than how others ought to respond to the agent's actions.¹⁴

The causally solipsistic element consists in the presumption that the object of evaluation is solely what an individual has caused or meant to cause, as captured by the Individual Difference Principle.¹⁵ States of affairs to which an individual has made no significant contribution lie outside the bounds of assessment.¹⁶ Thus, causal relations that depend upon sets of individual acts, but upon no particular individual act, fall outside the bounds of individual normative evaluation as well. This aspect of the individualistic conception is strongly supported phenomenologically: our sense of ourselves as agents emerges from the experience of making changes in our environment.¹⁷ The distinctive contribution of causal solipsism is to translate this point about the experience of action into the sole basis of normative evaluation.

It should be clear how the relational and causal solipsism of the individualistic conception tends to preclude moral accountability based upon complicity. As I said, this is a problem for moral philosophers, whose theories of moral evaluation make little conceptual room for the socially pervasive claims of complicitous participation in wrong. But this theoretical problem also carries with it a set of practical problems. Practices of accountability comprise a system for protecting and maintaining social interests, and these underlying interests are routinely violated so long as the accountability system remains solipsistic. These violations are frequently the products of what can be called *I-We problems*, in which I participate in a harm caused by something we do, but am not personally accountable for that harm, because of the insignificance of my contribution. The individualistic conception drives a wedge between me and us, between private and public. Since individuals are only accountable for local effects, responses aimed at individuals are inappropriate. But since there is also no legitimate moral subject corresponding to the *we*, responses to collective harms find no proper target.

We face two general sorts of I-We problems in modern life. The first concerns the accountability of persons within structured groups, such as business groups, government bureaucracies, political organizations, and criminal conspiracies. Individual members of such groups often do bad things on behalf of their groups, and members

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978-0-521-59452-3 - Complicity: Ethics and Law for a Collective Age

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with special responsibilities are sometimes called to account for what they have done. Sometimes the group or organization as a whole is also held accountable: Corporations are fined, governments make reparations, and so on. The trouble is that these forms of collective or ministerial accountability fail to provide the kind of individual motivational considerations necessary to prevent such harms from occurring in the first place. Particular culpable agents who regard a group as primarily accountable for what they do and who inhabit a micro-culture of covert support consider being held accountable as an incidental cost attached to their institutional role, rather than as a warranted response addressed to them personally.¹⁸ Moreover, these willing scapegoats displace the individual ethical concerns of the other members of the group, each of whom can now regard responsibility as discharged collectively. The burden of constraining individual actors from doing wrong is thus shifted from the ordinary (and crucially effective) basis of social and moral norms applicable to all, to the coercive threats of civil liability and criminal punishment applicable to only a few, threats whose marginal costs rational agents must discount by the extreme improbability of their realization. Nor can this problem be solved simply by aggravating the severity of legal sanctions, for very severe individual punishments for collective harms are often thought unfair just because they are inconsistent with individualistic principles of accountability.

The second form of I-We problem concerns unstructured collectives: relations among large and uncoordinated sets of individuals. This is the familiar class of “public goods” (and “public bads”) problems. Grave harms occur because of what large numbers of people do or fail to do. Say that the use of some widely available and cheap refrigerant causes a hole to develop in the ozone layer, and this hole causes increases in skin cancer among northern Australians. People individually do little to foster this outcome and can do nothing to prevent it. But people collectively bring it about and could have averted it. If what I do doesn’t make a difference (or makes no perceptible difference) to what we bring about together, then I can’t be accountable for what we have done, and so I have no reason to attempt repair or prevention.

Thus, the problem with relational and causal solipsism is that they make the individual’s role in collective agency disappear. It is true

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that from the first-personal perspective of the individual agent these restrictions on accountability are compelling, inasmuch as individuals identify with what they alone bring about. From the agent's perspective, there is no *we*, but only aggregates of *I*'s. However, from the perspective of those affected by a harm, the harm itself is salient, and a collective agency made up of individual members often easily identifiable. If a system of accountability is to afford us some protection from the serious harms we can so easily bring about together, it must therefore move beyond the first-personal perspective implicit in the individualistic conception, in order to accommodate the perspectives of all the parties to the harm. The problem of how to combine these perspectives, and not merely to suppress some, is the task of this book.

1.3

So I-We problems are soluble – but not within the terms of the individualistic conception. A possible route to a solution would be to seek to overcome the individual subject of accountability, to substitute a *we* for the *I*; this is the path of communitarianism. But, quite apart from the difficulties (and dangers) of trying to forge a strong sense of social unity in modern circumstances of limited cooperation among radically differing individuals, a conceptual divergence between *we* and *I* is inevitable at the level of agency. Because individuals are the ultimate loci of normative motivation and deliberation, only forms of accountability aimed at and sensitive to what individuals do can succeed in controlling the emergence of collective harms. The oughts of morality and politics must apply to *me*. The trick lies, then, not in modifying the fundamental bearer of accountability, but in expanding the scope of individual accountability by including an assessment of what an individual does with others.

How to include such an assessment? The two most prominent theoretical elaborations of accountability, Kantian and consequentialist, help little in comprehending the terrain of complicity. For the Kantian, causal solipsism, which also characterizes the deliberative framework of the Categorical Imperative (CI) test procedure, poses an immediate problem. Kantians' central question is whether they might successfully act on their maxims in a world in which everyone

Cambridge University Press

978-0-521-59452-3 - Complicity: Ethics and Law for a Collective Age

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does likewise. But cases of overdetermination of a harm, or marginal contribution to it – in other words, the possible insignificance of an individual's participation – generate notorious difficulties for the procedure. The CI test works when an individual's maxim can be realized only when it is exceptional, not when it, on the contrary, owes its success to the fact that others act in precisely the same way.¹⁹ Relational solipsism also poses a problem for Kantians: their exclusive focus on the content of the will as the object of moral evaluation creates problems when agents' maxims link them to the projects of other agents, so expanding the scope of their wills. How are Kantians to include such interpersonal projects without presupposing a collective agent whose unified maxims are subjected to the CI test?

Consequentialism, meanwhile, permits any form of accountability that maximizes aggregate welfare, including individual accountability for collective harm. But such flexibility is a dubious advantage, since it means that accountability for collective harms, like all forms of accountability under consequentialism, is conceived of purely instrumentally, in relation to maximal welfare. This instrumental conception fails to make sense of the special nature of associative wrongdoing. In order for moral agents to be genuinely motivated by responses of accountability, they must understand and acknowledge the basis of those responses. This demand can only be satisfied by a response of accountability that is grounded in an explanation of the wrongness of participating in a collectively harmful act. A purely contingent, instrumental basis for reproach will always be, in a deep sense, alien to a moral agent's self-understanding.

Thus, solving the I-We problems requires more than simply tailoring our received stock of moral precepts or moral theories to the particular case of collective action. Rather, we must dig deeper, in order to understand and then to change the underlying conception of agency that structures our accountability system. Such a project is potentially caught between the perils of utopianism, on the one hand, and conservatism, on the other. It risks utopianism by erecting an idealized self whose concern for the group is not anchored by a sense of its own distinctive identity within that group.²⁰ This is a recipe for inaction, not collective action. Meanwhile, it risks conservatism, because the conception of individual agency it reveals is inevitably already informed by our normative sensibilities, and so

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may offer us a starting point too close to the conclusions we seek to avoid. Given the already narrow space in moral and political philosophy between truism and absurdity, our argumentative path is tightly constrained.

Despite these constraints, there is reason for hope. The possibility of success is warranted not by the cleverness of theory but by the very tangle and intricacy of our normative practices and our social lives. Both our normative practices and our routinely exercised capacities for collective action contain material sufficiently critical to ground an expanded conception of the object of accountability. Samuel Scheffler has recently written that, in a world of essentially supra-individual processes and harms, the moral philosopher's task is to provide a theory with "a set of clear, action-guiding, and psychologically feasible principles which would enable individuals to orient themselves in relation to the larger processes, and general conformity to which would serve to regulate those processes and their effects in a morally satisfactory way."²¹ Similarly, Gerald Postema has argued that moral theory in general and consequentialism in particular must reorient themselves around what he calls a "plural deliberative perspective."²² Such a perspective would, among other things, allow us to see that something's being a collective responsibility does not entail that it is *not* an individual responsibility, but that it is therefore an individual responsibility, at least of the individuals who compose the collective.²³ This book's task is to develop such a perspective and to give it a philosophical foundation. I want to make our individualistic ethical concepts at home in a collective world.

To do this, I will try to show how conceptions of collective action and of individual responsibility both rely on a common notion of *participation*. My strategy accordingly has two components. First, I will try to expose the structural and substantive complexity of our practices of individual accountability. Both moral theorists and common sense often miss this complexity, generalizing the simple, retributivist picture of the agent who scrutinizes in his conscience the motives underlying his act. But an accurate picture of the social practices of accountability cannot be drawn from one perspective. Rather, an accurate picture must register the views of all participants in transactions surrounding a harm. The meaning and consequences of what someone did and the response thereby warranted are a

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function of the perspective (or position) of the respondent and of the relations between the parties. In particular, the saliency of intention, consequence, and character vary with the parties' relations and positions, although in no direct way. It is not always the case, for example, that victims care about consequences while actors care about intentions. I call this conception of accountability a "relational and positional" conception; and I take this portion of my argument to be primarily descriptive, not revisionary, although it does call for revision to traditional conceptions of accountability. I believe it forces us to discard a picture of accountability that sees judgments of accountability as external outputs, or verdicts, of a process of moral evaluation, which are then used as premises in a separate process of justifying liability. Rather, judgments of accountability (and the further responses, attitudes, and demands they support) are elements of a unified, dynamic system of social life, themselves constitutive of the goods and relations they protect.

The differences between the individualistic conception and a relational and positional conception are subtle but important. First, we can use them to understand the nuanced responses that reveal themselves when we attend to complicated cases, responses that include elements of accountability without necessarily being simple responses of guilt, anger, or shame. Take, for example, the sense of moral uneasiness many feel when by mere luck of birthright they find themselves occupying privileged positions in unjust political or economic orders. This sense is inchoate, and the specific responses agents think it entails will often be poorly defined. But it is a real form of accountability, generating sentiments and motives that resonate throughout one's social and political relations. Since such attenuated relations to harm and wrong characterize much of the terrain of complicity, it should be obvious why we need a nuanced account of the nature of accountability.

Tying accountability conceptually to warranted responses has some further virtues. Put roughly, on the one hand, the community may be better protected against the individual. On the other, the individual may be better protected against the community. By shifting from the agent's perspective to the respondents', harmful collective relations among individual agents can assume a normative significance otherwise lost from view. Since desert, individually con-