

## *Chapter 8*

### **Conclusion: Accountability and the Possibility of Community**

We are by nature social animals, and in the intricacy of our communal life we often do each other harm and wrong. These are the circumstances of morality and justice. Fortunately, our power to hurt one another, whether out of malice or indifference, is but the unhappy side of our other great power – to make a community. Aristotle offers the appropriate metaphor: The hermit may be compared to an isolated game piece, stripped of meaning and function when taken out of its relation to the other elements of the game.<sup>1</sup> A person is given meaning and purpose by the responses of others. It is through praise and blame, reward and punishment, resentment and forgiveness, that we define and thicken the bonds that make us a community.

I hope my attention to matters of harm and repair has not overshadowed my essential purpose in scrutinizing these matters, which was to understand the values that sustain a community. We hold ourselves and each other accountable not because reproach is righteous and shame a virtue, but because in responding to one another we foster the relationships that make our lives good. Much philosophical writing about moral responsibility takes a juridical perspective, from which the disinterested writer metes out the appropriate deserts to the offending agent. This tendency is unfortunate, not just because it often transmutes gestures of repair into punishment, but because it wholly fails to capture the way in which actual agents and respondents are mutually engaged in moral, social, and legal relationships. Out of context, a reproach can be nothing more than an enumeration of an agent's demerits. In its relational context, a reproach can be an expression of the respondent's dignity, a character-

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ization of the duties owed by the agent, and even a preservation of love.

Accordingly, I have emphasized throughout this discussion what I called the relationality and positionality of accountability. Responses to harm are always warranted in part by the preexisting relations among the individuals, and vary with the perspective of the respondent. I have used descriptive moral psychology, and cribbed from literary examples and memoirs, to make a normative point. As we think about the meaning of the harm we have done, and of the response it calls for, we must try to capture the perspectives taken of that harm by its sufferers and witnesses alike. The project of Chapter 2 was to articulate these different perspectives, and to show how they inflect the resulting judgments of individual accountability.

To say we are by nature social animals is simply to say we are disposed to live and act together, in collective projects. As I conceive them, our moral, social, and legal institutions of accountability are themselves collective projects, joint attempts to stabilize and foster our several communities of concern and interest. But, of course, accountability also attaches to individual involvement in other collective projects; and it was a principal task of this book to examine our ethical regard for individual participation in collective acts. This required first an understanding of the analytical basis of individual interaction and cooperation. I grounded my account of collective action on the notion of a participatory intention. Chapter 3 defined collective acts as the acts of sets of individuals who intentionally participate in a joint action, provided they share a common conception of that action. Because I aimed to account for a great variety of collective acts, from dancing a tango to fomenting a revolution to heisting a bank, I defended what I called a minimalist conception of collective action. Joint action as such requires only agents who act on overlapping participatory intentions. The intrinsic complexity of many kinds of collective acts will, of course, require far more coordination, but those are act-specific requirements, and inessential to the concept at the root of cooperation. While collective acts are just the acts of intentional participants, intentional participation is just the action of individuals who understand themselves to be promoting a collective act. The circularity of these concepts is inevitable but tolerable, I argued, if we adopt a developmental rather than reduc-

tive approach to understanding the psychological capacity to act together.

Having established the key notion of individual participation, I went on to examine its ethical implications. Both traditional consequentialist and deontological moral theories focus on harms resulting solely from individual acts. This focus, I suggest in Chapter 4, has made their application to collective harms problematic. In particular, it is hard to reconcile the intuitive, commonsensical force of what I call the Complicity Principle – the claim that individuals are accountable for collective acts in which they participate – with the individualistic perspective of traditional moral theories. The dependence of consequentialist theories upon causal links renders them inapplicable to morally puzzling contexts in which individual acts genuinely make no difference. Individuals, in these cases, have no direct, intrinsic moral reason to refrain from participating in collective wrongs. They have at most only indirect, purely instrumental, considerations in favor of refraining. Such indirect reasons, I argued, would not be motivationally effective, for they could always be undermined by the consequentialist thought that one's participation makes no difference. Equally, the Kantian tests of universalizability failed to bar complicitous participation, because the possibility of merely marginal contribution is enhanced rather than undermined by universalization. Since neither Kantian nor consequentialist theories could supply an explanation of the wrongfulness of complicity, neither could provide an adequate basis for individual accountability for collective harms.

Because traditional theories could not make sense of the moral significance of complicity, I turned back to basics – more particularly, to the analytical understanding of collective action achieved in Chapter 3. By making individuals' participatory intentions the key to evaluating their accountability, we can link individuals to collective harms independently of their causal contributions, while retaining ethically significant distinctions among individuals. The links between agents' wills and what they do are as much teleological as causal, and it is the teleological connection that principally grounds ethical evaluation. Just as my actions reflect my will, our actions can reflect my will to the extent I intentionally participate in them. In the terms I introduced in Chapter 3, the products of our collective acts

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are inclusively ascribable to me as their partial author. An ethical evaluation of me must reflect the collective acts I seek to promote. Only then will it fully encompass my attitudes to others and the way in which I see myself as a member of collective endeavors.

Ethical evaluations based upon individual intentions rather than causal contributions might seem in danger of failing to take seriously morally significant differences among individuals. All members of a collective may will the same end, while each makes very different contributions to its realization, because of differences in power, knowledge, or causality. These factors greatly affect our evaluations and responses in purely individual contexts. It would be odd if they played no role in the collective context. So in Chapter 5 I drew upon the positional and relational nature of individual accountability to show the similarly positional and relational nature of complicitous accountability. Responses to individual participants depend upon the nature of their cooperation in a collective wrong. While guilt and resentment may only be appropriate in cases of direct wrongdoing, peripheral agents bear various normatively freighted relations and reparative duties to the victims of harms in which they participate.

Chapter 6 brought the discussion from cases of clear, individual moral accountability to the more attenuated relations of what I called political accountability, in which collective harms arise from the independent acts of many marginal participants. I made two interlocking arguments. Very large-scale collective harms can only plausibly be brought under control if individuals have internalized collective-oriented motivations of complicity and solidarity and if these motivations can be grounded in the forms of accountability I explored earlier in this book. In particular, we can extend the notion of participatory accountability to encompass participation in the shared norms and practices that define a way of life for a given society or group. One can find expressive significance in cooperating to right collective wrongs, even when one's own actions make no significant causal difference. Taken together, the symbolic and participatory sources of moral reasons can maintain stable patterns of nonexploitation and mutually assured cooperation.

I also examined the other face of political accountability in Chapter 6: holistic accountability, or the accountability of collectives for collective harms. I argued for a limited sense in which holistic, nonin-

dividual accountability is appropriate, such as in cases of systemic failure. In such cases, a collective is the only exclusive author of a given harm. But even such collective accountability must be accompanied by inclusive individual accountability, and ultimately, the responses of collective accountability must map onto responses to and by individuals. Accountability functions through the acts and attitudes of individuals, so even a conception of collective accountability must rely upon an underlying theory of complicity.

Finally, I turned in Chapter 7 to some exemplary legal contexts in which questions of complicitous accountability arise. I first made use of the analytical framework of participatory intentions to explicate murky complicity and conspiracy doctrine in the criminal law. Then I examined the discrepancy between the criminal law of complicity, which presumes the equal culpability of all participants, and the civil law of shareholder liability, which presumes no liability for capital participants. I argued that broad complicitous accountability can be justified, even within the constraints of a liberal theory of criminal punishment, but only so long as we pay attention to the specific participatory understandings and intentions of accomplices and conspirators. That is, the predominant rule of equal culpability must be rejected in favor of a more individually discriminating standard. In the context of corporate mass torts, I argued that we must rethink the limitation on shareholder liability, for it is morally indefensible and probably economically unwise. Shareholders are intentional participants in the activities of their corporations. There is no moral reason to refrain from imposing reparative duties upon them for their companies' torts.

As I remarked at the beginning of this book, the consolidation of social and economic life threatens the possibility of individual accountability. I believe the loss of a negative sense of individual accountability for harms also carries with it a loss of the positive individual sense of self. With respect to the collective harms that threaten our global age, all individual actions are essentially insignificant. These harms pose the great challenge to maintain a sense of the agency of individuals in a consolidated world. It may seem odd to turn for help to the counterideal of complicity. Surely, such edifying concepts as universal solidarity or cosmopolitan justice are more alluring. Reflection on complicity teaches us what it means to act

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together, when acting together goes badly. But the collective project of living ethically may find as great support in what it deplores as in what it prizes. The hidden promise of complicity is the conception of community upon which it draws: a world where individuals shape their lives with others, in love mixed with resentment, and in cooperation mixed with discord. Such a world is no utopia, which suggests that it can be made real.