

COLLECTIVE REMEDIAL RESPONSIBILITY AND HISTORICAL INJUSTICE: THE CAPACITY CUT

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Submitted to

Central European University
Department of Philosophy

In partial fulfilment of the requirements for the degree of Master of Arts

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Budapest, Hungary
2017

Acknowledgments

I would like to thank Professor Zoltan Miklosi for encouraging my interest in Political Philosophy through his courses, and for supervising this thesis. Special thanks also go out to professors Emma Bullock, Andres Moles, and Simon Rippon for their intellectually stimulating courses which have contributed to my thinking about Global Ethics and Global Justice.

I would also like to thank Thomas Rooney at the Center for Academic writing for his great help with editing and revising earlier drafts of this thesis. To Stephen Morgan: “*Medaase!*”, for reading over my drafts and asking many helpful questions.

My heartfelt gratitude goes out to my family and friends (in Ghana, and across the world) who have been a great source of encouragement in these two years of study in Hungary.

ABSTRACT

In *National Responsibility and Global Justice* (2007), David Miller develops an account of collective responsibility to present his connection theory of remedial responsibility. According to Miller, a connection theory of remedial responsibility must take into consideration six factors: causal responsibility, moral responsibility, capacity, community, outcome responsibility, and benefit. On Miller's account, these factors are to be weighed equally and considered together to determine the remedial responsibilities of nations for suffering and deprivation in the world. In this thesis, I first of all reject Miller's account of collective responsibility by adopting some alternative accounts of collective responsibility. I however combine these accounts of collective responsibility with a minor revision of Miller's connection theory of remedial responsibility which highlights the primacy of the capacity factor. In doing this, I argue that remedial responsibility for rectification for historical injustice carried out by a nation-state, currently lacking the capacity factor in Miller's connection theory, is transferrable to a collective of nation-states with capacity as a matter of justice.

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INTRODUCTION

It is intuitive to think that whenever harms from historical injustice are identified, justice requires due rectification for those harms. As a matter of conceptual consistency, we cannot hold a situation to be unjust but refrain from any prescriptive attempts to correct that injustice. Injustice and its effects should create an aversion to the state of affairs that should also include the recognition of a need to correct that bad state of affairs. Rectification, falling under the purview of remedial justice, certainly raises questions about how responsibility for remedial justice ought to be assigned. The thrust of such questions is based on a recognized need to correct past injustices in ways that are compatible with our understanding of the moral demands of justice. These questions stem from a belief that the bad consequences of past actions can be affected or altered in the present in a morally significant way by some agents.

Within discussions on distributive justice, answers to the question of who should bear remedial responsibility for historical injustices are bound to face some challenges. A number of approaches have been explored in relation to these challenges. Some approaches rely solely on the idea of inheritance, supplemented with the idea of descendants' subsequent benefitting from the past injustice as a means of assigning responsibility.¹ This approach, however faces individualist objections which essentially argue that people ought to be held responsible only for effects they have directly caused or have in some strong moral sense contributed in producing. Beneficiaries of historical injustice are then considered to be innocent, and are disentangled from the causal contributions to the past injustice. Consequently, they are said to have no responsibilities for past injustice. Other approaches simply attempt to emphasize the need to let bygones be bygones when

¹ See for instance Butt (2009, 2013).

it comes to historical injustices for which rectification faces seemingly insurmountable practical problems. These problems include, amongst others, the difficulties of quantifying historical harms in present value and other additional opportunity costs to descendants of victims.

Still, some approaches attempt to demonstrate that the descendants of victims of injustice have in some significant sense benefited from the past injustice. These positions, relying on a counterfactual scenario of the non-occurrence of the past injustice, suggest that the existence of the descendants of victims is as a result of the very injustice in question, and that this fact cancels out a need for remedial justice.² Yet another central approach targets the ascription of responsibility to collectives such as nations or states. Skeptics in this camp argue that it is a conceptual error to assign responsibility to a group. This is based on what they identify to be significant differences between individuals and groups, and the alleged non justifiability of ascribing a morally significant sense of agency to a group in order to ground responsibility.³

There are many approaches to the problem of historical injustice and my aim will be to locate my thesis within some specific approaches. I will draw on some particular theoretical approaches to the collective responsibility of nation-states in order to investigate the possibility of combining relevant aspects of these approaches in providing a persuasive normative basis for addressing suffering and deprivation caused by episodic historical injustices. One such approach is the focus of David Miller's 2007 book *National Responsibility and Global Justice*. Although I will be relying on other works on collective responsibility in the global justice literature, Miller's work will be the central focus of my discussions in the three chapters that make up this thesis.

² Such positions rely on the Non-Identity Problem by Derek Parfit (1984, pp. 351-355).

³ See Narveson (2002) for instance.

In chapter one, I will introduce the concept of responsibility in order to make sense of how a collective may be understood to have responsibility distinct from that of its individual members. I choose Miller's models of collective responsibility purposefully to highlight how my view in this thesis is an adoption of a revised version of his comprehensive theory in *National Responsibility and Global Justice*. This strategy serves as background work into the notions of responsibility Miller employs for his connection theory. Thus, even though I reject his models of collective responsibility in this chapter, I employ his connection theory with slight modifications in the rest of the thesis to fit the context of historical injustice I discuss.

In chapter two, I present four types of responsibility introduced in Miller's work. This is necessary to answer the question of the appropriate sites and burden-bearers of remedial responsibility which will be assessed in line with Miller's connection theory. I adopt a slightly modified version of his theory by centralizing the role of the capacity factor in the assignment of remedial responsibility for episodic transactional injustices. I will present a two-stage algorithm Miller did not acknowledge in his connection theory. Ultimately, I show that the responsibility for rectification of historical transactional injustice carried out by a nation-state, currently unable to meet Miller's capacity criterion for remedial justice, is able to generate remedial responsibility for a collective of third-party nation-states with capacity to discharge those remedial duties. This collective of nation-states will be shown to be normatively desirable and morally prudent if we want to eradicate suffering and deprivation globally.

Admittedly, the arguments I present in chapter two apply to global suffering and deprivation simpliciter. So even in cases of natural disasters or other fairly benign causal conditions with adverse effects, remedial responsibility must still be assigned to some agent capable of putting things right. The crucial analysis I offer however, is to contextualize remedial

responsibility within the scope of historical injustice. I differentiate between the task of identifying offender-agents who presumptively ought to provide redress for injustices they have caused or benefitted from, and the process of assigning responsibility to capable agents who can remedy the effects of those injustices.

A number of concerns and normative issues inevitably arise out of the way I go about constructing collective remedial responsibility in the second chapter. As a result, in chapter three I assess some implications of this way of thinking about remedial responsibility and anticipate objections that may stem from the stated implications. In refuting these objections, I will maintain the plausibility of my approach to historical injustice and collective remedial responsibility. Ultimately, the contribution of my thesis is to show that when we take collective remedial responsibility seriously in the global context, there are a number of normative strengths to a revised version of Miller's connection theory which can persuasively inform how we can go about fostering global justice.

This thesis explores and analyses how some widely shared intuitions about morality are defensible and also how they square up with conflicting or alternative intuitions. My discussions primarily target principles that may underlie more comprehensive moral and legal theories. That notwithstanding, the discussions are intended to be fruitful for everyday issues in global ethics and global justice.

1. MAKING SENSE OF INDIVIDUAL AND COLLECTIVE RESPONSIBILITY

What I aim to do in this chapter is as follows; I will introduce some approaches to the concept of collective responsibility. To do this, I begin from a basic philosophical understanding of individual responsibility. Philosophical approaches to the concept of responsibility are very diverse, and I do not aim to provide a comprehensive view. I will therefore not be addressing deep metaphysical issues pertaining to the concept of responsibility. My interest here is in making sense of collective responsibility and specifying which types of collectives qualify for my analyses of remedial responsibility in later chapters. In conceptualizing collective responsibility, I will proceed on the approach in David Miller's *National Responsibility and Global Justice* (2007) which constructs national responsibility as a specie of collective responsibility.⁴ Ultimately, this chapter aims to contextualize the relevant accounts of individual and collective responsibility which will serve as basis for analysis in the rest of this thesis. In this chapter, I outline and agree with some criticisms of Miller's view offered by Roland Pierik (2008) and I later adopt portions of Anna Stilz' (2011) account of collective responsibility to make sense of collective responsibility applied to formal and informal groups. For my purposes in this thesis, Miller's models of collective responsibility—together with his distinction between nations and states—are unhelpful and thus my adoption of his theory will exclude these going forward. Also, my adoption of Anna Stilz' account of collective responsibility includes informal collectives and this serves as a revision of her restriction to formal collectives only.

⁴ References without further indication refer to page numbers in Miller's book.

1.1. THE NEED FOR THE CONCEPT OF COLLECTIVE RESPONSIBILITY

A straightforward approach in moral philosophy for understanding the concept of responsibility is to begin from a conceptual understanding of individual responsibility. Ordinarily, an individual is held morally responsible when she is deemed praiseworthy or blameworthy for some action she has performed. Under this conceptualization, there are a number of constitutive attributes that are accorded to human beings who are considered to be moral agents. These include intentionality; voluntariness; ability to will; ability to deliberate; ability to make decisions for oneself, and so forth. Thus, for actions of an individual to be considered worthy of praise or blame, she must first of all be thought to qualify as a moral agent according to those attributes.

We judge these attributes to be present in degrees in any individual. This is so because some individuals may not meet the normal requirements for the attribution of moral agency in specific circumstances. As such, there are a number of factors and situations that can count against our assignment of responsibility. We typically do not ascribe individual responsibility to persons suffering from mental derangement, or persons subject to some level of manipulation and coercion. In a similar vein, little children and adults suffering from dementia are thought to lack some of these attributes essential to responsibility and are typically not held responsible for their actions.⁵

Although there are many controversial cases, the merits of the aforementioned approach is clear. To the extent that individuals instantiate these attributes that make one a moral agent, we are able to assess our ascription of responsibility to them. It is therefore evident that the attribution of

⁵ This is not to say that we cannot hold children responsible in an everyday sense or as part of a chosen method of upbringing. However, when we want to capture the moral relevance of their actions, these attributes are often invoked justifiably to excuse their bad actions. So parents may end up saying for example, "He is only a child. He did not know or understand what he was doing."

moral agency itself is a normative exercise whereby we assess individuals according to the standards of what we consider to be the normal powers of a moral agent.⁶

Collective responsibility is defined as the “responsibility of a collective entity, e.g., a corporation, a nation-state, or a club, for harm in the world” and the idea of a collective is here associated with that of a “single, unified, moral agent.”⁷ In light of the wide application of the concept of individual responsibility, one might wonder why the concept of collective responsibility is needed. One might ask if the idea of collective responsibility is not a simple matter of summing up the individual responsibility of each member of the group.

In line with this and related concerns, a number of objections have been raised against the idea of collective responsibility. One objection stemming from a liberal perspective charges that collective responsibility fails to take seriously the separateness of persons. In allegiance to Rawls’ “plurality and distinctness of persons” dictum (Rawls 1971, p. 29), this view stands opposed to attempts to hold a collective responsible for harms on the grounds that such a move is unfair to innocent individuals included in the group. The grounding principle for this objection stipulates that one should only be held responsible for what she has personally done.

Another objection, known as the “debunking view”, points to a superfluity in the notion of collective responsibility. Unsurprisingly, this view suggests that group agency can be efficiently and completely reduced to individual agency. The debunking view argues that what we deem to be choices and attitudes of a collective, to which we cast our evaluations and ultimately reach

⁶ The literature on responsibility is extensive and there are various sub-issues that have generated further literature. I will not be delving into the deeper metaphysical issues at stake in these analyses. They are beyond the scope of this thesis.

⁷ Smiley, Marion, “Collective Responsibility”, *The Stanford Encyclopedia of Philosophy* (Summer 2017 Edition), Edward N. Zalta (ed.), forthcoming URL = <<https://plato.stanford.edu/archives/sum2017/entries/collective-responsibility/>>.

responsibility ascriptions, are nothing distinct from that of its members. Essentially, these choices and attitudes are completely reducible to those of the members of the collective.⁸

In summary, although we may conventionally choose to assign responsibility to a group, that in itself does not warrant the conceptual move beyond individual responsibility. A justified methodology objectors suggest, is to simply ascribe whatever responsibility we think can be ascribed to a group to its individual members. Consequently, the ascription of responsibility to a group is rendered redundant. This move, in spite of its attractive parsimony in sticking to the widely accepted concept of individual responsibility, is rather too hasty and ignores some deeply important moral considerations. There are some moral situations that demand the conceptual step beyond individual responsibility into collective responsibility. There are some situations where the responsibility for an outcome cannot be ascribed to individuals in a manner consistent with widely shared moral intuitions. For instance, there are situations where we have what is known as a *responsibility shortfall*.⁹ By way of illustration, consider this case from Stilz (2011, p. 193):

On November 28, 1979, a flight operated by Air New Zealand crashed directly into the side of Mount Erebus, a 12,000 foot volcano, killing all 257 people aboard. An inquiry determined that the primary cause of the crash was an inadequate company organization that led to the filing of a faulty computer flight plan. In this case, various employees' actions combined to create a disaster that no one employee could have reasonably foreseen.

⁸ For a reply to the debunking view based on Philip Pettit's "discursive dilemma", see Miklosi (2016).

⁹ Stephanie Collins has recently noted in her "Distributing States' Duties" (2016, p. 345) that "The problem arises when the group's duty derives from sources that aren't instantiated by any member." I find Collins' refined definition more accurate in capturing the import of the problem within the context of intergenerational historical injustice.

While several people did contribute to the crash, in isolation their separate actions seemed unlikely to lead to any disaster.

In the example above, the problem is that it is impossible to pick out any one person or persons who can justifiably be assigned responsibility for the crash and the lives that were subsequently lost. If their actions and inactions were not combined, it seems the crash would not have occurred, although it could have occurred due to some other reasons. The point here is that individual responsibility does not suffice in this case. We can attempt to attribute some liability to individuals, but this will not add up to liability for the entire harm caused. Shortfall cases of this sort make it normatively desirable that we assign collective responsibility to the airline as a corporation.

1.2. CONCEPTUALIZING COLLECTIVE RESPONSIBILITY

As can be easily discerned from the previous section, individual responsibility is often couched in what is known as the agency model. This agency model has been one major way philosophers have sought to explain the possibility and justifiability of ascribing responsibility to a collective. The assumption is that individual participants in the collective may cooperate to perform acts in ways that bear strong resemblance to an individual agent's acting.¹⁰ The

¹⁰ This way of considering a collective as an individual is not altogether radical and US law linguistically constructs corporations in this way. In 1 U.S.C. § 1 (2012), it is noted: "In determining the meaning of any Act of Congress, unless the context indicates otherwise—the words "person" and "whoever" include corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals."

participants in such a collective are thought to ‘mimic the performance of a single unified agent’ (Pettit 2007, p. 179). Here, the ‘normal powers’ of individuals are the basis upon which they are ascribed responsibility. As we have seen earlier, these powers are taken to qualify an individual as a moral agent capable of making decisions and choices by herself and to be subject to blame or praise as a result. Agency understood in this individual perspective involves a presupposition of one’s ability to understand a particular moral situation and the available courses of action one could take. Furthermore, the consequences of these actions must be sufficiently deliberated upon and the preferred course of action taken.

For the collective perspective then, the decision-making process must be similarly carried out in the manner of an agent. The processes of deliberation, decision-making and taking a preferred course of action must be set in place within an institutional structure of the collective. To be sure, there does not have to be unanimous agreement on decisions made but there must at least be agreement on decision-making procedures which take into account the disagreements of individual members.¹¹ With all members included in these processes, the result is that “institutionalized routines and procedures mimic decision-making habits in the case of individual agents.” (Pierik 2008, p. 473).

Armed with these conditions, the collective can thus be granted a metaphysically non-mysterious level of autonomy. Its attitudes are considered to be that of the collective and thus distinct from that of its individual members. However, this does not assume that the individuals are excluded in the collective’s composition. As Philip Pettit notes, the attitudes are “produced by those individuals, and they derive all their matter and energy from what individuals supply” (Pettit

¹¹ This process of not having unanimous agreement mirrors an individual’s deliberation. An individual may still be responsible for the outcome of her decision, even though she wasn’t sure it was the right decision.

2007, p. 184). Certainly there is no group apart from the constituents of the group. There is surely no faculty with its own existence and essence apart from the professors who make it up. One way to think of this distinctness of the collective is to understand its properties to have arisen out of the properties and relations of its component parts.

While the above strategy has many normative advantages, the process of conceptualizing collective responsibility requires that at least two types of mistakes are avoided.¹² The first, a *Type 1* mistake, involves an insistence on individual responsibility, thereby denying the normative importance of collective responsibility. In light of the example of the shortfall case presented earlier, when we insist on holding individual workers of the airline responsible, what happens is that victims may end up receiving no redress for the harms they have suffered. This is because we cannot determine individual contributions to the final outcome. Ultimately, there is an unfair distribution of burdens and benefits between perpetrators and victims when we commit this type of mistake. The second, or a *Type 2* mistake, involves an uncritical careless acceptance of the notion of collective responsibility with the resultant inclusion of innocent passers-by or making all group members automatically responsible even if some of them opposed the actions that caused the harm. Here, we have an unfair distribution of benefits and burdens between perpetrators and alleged perpetrators.

¹² I borrow the *Type 1* and *Type 2* formulation from Pierik (2008, p. 473).

1.3. MILLER'S TWO MODELS OF COLLECTIVE RESPONSIBILITY: A CRITIQUE

Miller argues for national responsibility as a specie of collective responsibility. His aim is to show how a nation can be held responsible for harms it causes to others and benefits it produces for itself. Miller's account of collective responsibility proceeds on a distinction between moral and outcome responsibility buttressed by the development of two models of collective responsibility in Chapter 5 of his book (pp. 117-119). Miller does not strictly follow the agential approach to collective responsibility, although he perhaps unwittingly employs terminology that seems to suggest otherwise. The reason for this becomes clearer when we see how he delineates his two models of collective responsibility.

The first is the *like-minded group model*. This is a group defined primarily by its members' sharing of common aims and outlooks. To explain this model, Miller uses the example of a mob rampaging through a neighbourhood. Some of the members of the mob attack persons or properties, others shout abusive words or threats, while others take on a more passive role by simply running along and urging on the active members, thereby fuelling the general atmosphere of euphoria. For Miller, this group has a collective recognition of their like-mindedness and share some general attitude, and this is enough to ground their proper categorization within the scope collective responsibility.

The second is the *cooperative practice model*. Here, the group is defined by members' participation in specific practices of which benefits are shared. Miller uses the example of an employee-controlled firm whose manufacturing process produces some unwanted environmental

effects. There is no requirement that the group members share outlooks and aims in common. The minority who may disagree with a decision still stand as beneficiaries of the common practices of the group with a fair chance to have an influence on the decisions made by the group. So even if members are divided on alternative ways of manufacturing, they are still collectively responsible for the ongoing damage they are causing and the costs for the damage must be borne collectively.

Different groups typify these models to different degrees and the models may overlap in practice in any single group. The models are also complementary and highlight why members of a group can be held collectively responsible: An individual can share in collective responsibility for an outcome by either being part of a like-minded group or being a participant in a cooperative practice, or for both reasons at the same time.

Although Miller considers these models to be applicable to different types of groups, nations remain his primary focus and thus he considers the possibility of understanding national responsibility in line with these two models. That notwithstanding, there appears to be a further motivation behind the like-minded model in particular: it seems to stem from his need to capture a strong conceptual difference between nations and states. Miller defines a nation as a community of people who have a number of features: a shared identity; a shared public culture; a recognition and acceptance of obligations to one another; they value their continued association and they share an aspiration to be politically self-determining. States, on the other hand, are defined by their “formally constituted bodies” characterized by specific institutions such as legislatures, parliaments and governments (pp. 111-112). He considers nations to be more basic in his analysis of collective responsibility, and offers three reasons for the necessity of his distinction. First, he wants his account to be able to ascribe responsibility when a state harms some of its citizens or some other persons. However, if states are considered to be acting on behalf of nations, then we

can much more easily ascribe responsibility which can be shared by members of a nation whose states have caused harms. A second reason is that in cases of a stateless nations or in cases of nations seeking secession for instance, the concepts of nation and state do not converge. Yet, national responsibility will be relevant for situations where the seceding nation caused significant harms on their path to self-determination. Lastly, a particular state may cease to exist after some point in time, but we would still want to hold the residual nation responsible for wrongful acts that were carried out by that state.

One reason I reject Miller's like-minded model and his concept of nations is because the model commits the earlier-mentioned second type of mistake to avoid in collective responsibility ascriptions. As a reminder, a Type 2 mistake results in making group members automatically responsible even if they opposed the actions that caused the harm. In ascribing collective responsibility based on Miller's mob example, like-mindedness cannot be a sufficient condition. It is often too difficult to distinguish between participants and nonparticipants in such groups as described in the example of the mob. A blanket ascription of collective responsibility results in an unfair distribution of burdens between perpetrators and alleged perpetrators. For collective responsibility to avoid the second type of mistake, we must have clear knowledge of the membership of the group beyond a reasonable doubt.

Even when participants and nonparticipants of a collective can be clearly distinguished, the like-minded model fails to do the work desired by Miller. I find a tweaking of Miller's mob example greatly helpful in showing why this is so. Pierik (2008, p. 476) uses the example of a group of students protesting against a cutback in student loans. The students share like-mindedness with regards to the unjustness of the cutback and also with regards to their need to demonstrate. Unlike Miller's mob they wish to have a peaceful protest, as they know rioting will undermine the

potential for their cause to be taken seriously. However, during the course of their protest, some students, are incensed at the sight of a poster from an apartment building which reads “students are parasites, get a life!”. These students get agitated and throw stones at the apartment building thereby causing considerable damage. Although the students who turned violent are part of the larger group of demonstrating students, holding the entire group responsible for the damage caused would be unjust. There are clear outcomes of the demonstrator’s actions which may be a result of unexpected escalations for which we cannot justifiably assume or expect a reasonable participant of the group to have foreseen.

We can separate two levels of like-mindedness here: (1) like-mindedness which may inform the aims of the demonstration or protest; and (2) like-mindedness as to how these aims are to be best achieved. The example thus points out an inconsistency in the like-minded model and Miller’s claim to the effect that “we hold people responsible for the consequences of their actions that a reasonable person would have foreseen” (p. 116). The like-mindedness which informs people’s decisions to form or join groups ought to be distinguished from the group dynamics which lead to some outcomes as a result of the provenance of such groups. Clearly, like-mindedness is not a strong bond on sufficient fronts to ground the ascription of collective responsibility and the distribution of responsibility to all members for an outcome caused by some perpetrators only.¹³

While a discussion of the conceptual merits of pressing the distinction between nations and states may be philosophically interesting, the primary aims and context of an analysis employing these terms is equally important. In many discussions of global justice specifically and political

¹³ For a fuller discussion of how the like-mindedness model commits the second type of mistake, see (Pierik 2008, pp. 475-478). But also see (Miller 2012, note 17) where he alludes to Pettit’s “embryonic group agents” perhaps as similar to his like-minded model. Note that Miller’s point is still no reply to this inconsistency. Moreover, see Lippert-Rasmussen (2009) for a related, but somewhat different critique of the like-minded model.

philosophy generally, there is good reason to stick to states or nation-states or political communities.¹⁴ This is partly because the state is widely considered to be the nation in action, and political communities are a reflection of the connectedness of states and nations. Cases where states and nations do not coincide are an exception to the models usually employed and should thus not be primary in our assessment of the responsibility of political communities. As a result, the philosophical imports of Miller's distinction may not contribute much to the debate in such contexts.

The focus of this thesis is within the context of distributive justice and transactions amongst nation-states. As such, I begin with the assumption that there must be a strong decisional structure that allows for large-scale transactions of the sort that can lead to the significant types of historical injustice which call for collective remedial responsibility on a global level. What this further means is that I construct the collective at the heart of my discussions in this thesis on the agency approach. Thus, nation-states, the interactions between them, and the resulting questions of distributive justice that arise remain my major focus.

¹⁴ For instance, Buchanan (2000, p. 699) chooses to use the term "peoples organized in states". For a further critique of the factors that inform Miller's distinction, see Lippert-Rasmussen (2009).

1.4. FORMAL AND INFORMAL COLLECTIVES

I have already noted that in ascribing collective responsibility on the agential model, the collective is seen to simulate the agential powers of an individual. Since Miller does not explicitly endorse this agential view and because his like-minded model of collective responsibility is largely unsuccessful as a model of collective responsibility, I will provide further analyses that aim to fill this gap.¹⁵ In the following paragraphs, I will outline different ways a collective may mimic the agential powers of an individual. At the end of this chapter, it will become clear how nation-states qualify as a specie of this type of collective.

A centralized decision-making process or body is a major characteristic of formal collectives. States, corporations, some community clubs and unions are classic exemplary formal collectives because they employ such processes. Like an individual, these collectives are able, through their standing decision procedures, to evaluate alternative choices and make decisions on courses of action. In light of the possibility of the collective's decisions deviating from the individual preferences and judgments of its constitutive members, the agential powers of the collective here are not simply a sum of that of individual members. Additionally, individual

¹⁵ As I noted earlier, Miller does not explicitly endorse the agential view, especially owing to his discussion of the like-minded model which does not meet the requirements of a *unified agent or actor* as required by the agential view. See Pierik (2008, p. 478) on the like-minded model: "The turmoil generated by the provocative poster, and the impossibility of collective deliberation and decision-making, *might be better described in terms of collective insanity than collective agency.*" (italics are mine) The cooperative practice model, however, shares some degree of similarity with other approaches to collective responsibility that proceed on the agential view. Nonetheless, for simplicity, I reject Miller's cooperative practice model and rather employ more explicit agential views in the literature.

members are democratically compelled to abide by the governing rules and enforcement powers of the collective to which they belong.

For formal collectives, the process of collective responsibility is relatively straightforward although a number of wrinkles may need straightening. Here I employ a combination of conditions provided by Anna Stilz (2011) and Roland Pierik (2008). Stilz, in considering the state as a moral person, notes four conditions widely thought important for responsibility attribution to moral persons. The person must have: 1) intended the act that resulted in harm; 2) had the capacity to grasp moral and other reasons; 3) had deliberative control of his own actions and 4) acted voluntarily, that is, without duress (Stilz 2011, pp. 191-192). She then shows how states, as incorporated groups, may meet these conditions in order to be held responsible for harms. The idea of an incorporated group is of the essence here. Simplifying greatly, an incorporated group is akin to corporate bodies that have “standing decision procedures by which to grasp reasons and revise its intentions” (Stilz 2011, p. 192). For Stilz, states—as opposed to governments—qualify as an incorporated group.¹⁶ With their governing institutions which include the executive, legislative and judiciary amongst others, states possess a good level of specification of procedures for making collective decisions.

Similarly, Pierik (2008, pp. 473-474) concludes from the analogy between collective responsibility and individual responsibility that a collective may be held responsible for harms when its members can deliberate, decide and act as a unified agent. Essentially, possessing an internal constitution is what makes incorporated groups like states capable of deliberating about their intentions, revising them as they so wish, and controlling their acts. This then provides a

¹⁶ States as opposed to governments, because of the obviousness of the relative permanency of states as opposed to the relative temporality of governments.

metaphysically non-mysterious distinction of the state from its members. And then to avoid *Type 2* mistakes with collective responsibility attributions, collective responsibility can descend to individual members only when those included and those excluded from the collective are clear, and when there are possible means for participating in the collective decision making by those included.

One noteworthy point from Stilz is her claim that occasional or unorganized groups cannot form intentions like organized bodies (Stilz 2011, p. 192). Consequently for her, the former group cannot be held responsible due to its lack of organized decision procedures and an internal constitution. For instance, unorganized groups like Miller's mob of rioters, in spite of acting in a seemingly coordinated way, still cannot be considered to be an incorporated group on her analysis as such groups by default do not have the elements of formal deliberation and decision-making. This view, however, is not altogether correct as it fails to take into account some very important considerations. There are some types of occasional or unorganized collectives which may yet qualify for collective responsibility ascription based on agency arguments. Virginia Held discusses the example of a random collection of subway passengers (Held 1991, pp. 94-96). In her example, there are seven strangers in a subway car. One of these non-acquainted persons starts violently beating and strangling one other passenger. If this is allowed to continue, the passenger being beaten will die. Alone, none of the passengers can stop the attacker; however, as a group they can save the victim without themselves suffering any serious injuries. Additionally, there will be no confusion if the group decides to take action, considering its small size. Held's argument is that the other five passengers can be held responsible if the victim dies as a result of the violent act.

This is because the passengers could possibly organize themselves into a group, deliberate to make a decision and take action to prevent the ultimate harm to the victim.¹⁷

Here, the ability of the collective to function in the manner of a unified agent (if even once), with participants accorded an appreciable level of deliberation and decision-making; serves as a justification. As a result, for situations that amount to one-time-only events or for collectives with a temporary lifespan, collective responsibility may still be justifiably ascribed. Two underlying factors are at work here. Individuals may be held to be responsible collectives if (1) it was clear that collective action was required in a particular situation and (2) it was obvious which particular course of action had to be taken in the specific situation.¹⁸ Therefore, contra-Stilz, some occasional and unorganized group can be rightly thought to bear responsibility for these reasons.

¹⁷ Held's example is not far from real world examples. We see the assumption of such collective responsibility in the brave actions of passengers who were aboard flight 93 during the terrorist attacks on September 11th, 2001 in the United States. See <https://www.nps.gov/flni/learn/historyculture/sources-and-detailed-information.htm>

¹⁸ See Pierik's (2008, pp. 478-479) discussion of Held.

2. REMEDIAL RESPONSIBILITY, THE CONNECTION THEORY AND THE CAPACITY FACTOR

In the previous chapter, I employed the agential view of responsibility to show how it informs an understanding of the responsibility of formal and informal collectives. In this chapter, I highlight Miller's discussion of four types of responsibility; causal, moral, outcome and remedial in the first section. In the second section, I briefly introduce Miller's connection theory and I analyse remedial responsibility as the pertinent form of responsibility for my thesis. My argument then proceeds by way of a thought experiment to show how our assignment of remedial responsibility ought to be grounded on the capacity factor. This is outlined in the third section where I consider how episodic transactional injustices create contexts where Miller's model must be revised to meet its ends. In doing this, it will become clear that for remedial responsibilities to be discharged as a matter of global justice, a collective of nation-states is morally desirable and prudent. The fourth section of this chapter then expatiates on my understanding of capacity and its role in collective remedial responsibility.

Remedial responsibility, as I employ here, is grounded primarily on capacity defined according to a sufficiency principle. Consequently, remedial responsibility for the effects of episodic injustices, I will argue, can be assigned via a two-level algorithm based on factors listed in Miller's connection theory. Crucially, I shed more light on how two distinct ways of understanding remedial responsibility—as either, 'correcting a wrong' or 'coming to the assistance of' can overlap and diverge depending on the context under discussion.

2.1. FOUR TYPES OF RESPONSIBILITY

Some terminological housekeeping is in order before I proceed with my analyses in this chapter. In chapter 4 of his *National Responsibility and Global Justice* (2007), Miller makes a distinction between four related types of responsibility; causal, moral, outcome and remedial. For his theory of national responsibility, he restricts his analysis to outcome responsibility and remedial responsibility. However, outcome responsibility is first of all differentiated from moral responsibility and causal responsibility.

Outcome responsibility is basically “the responsibility we bear for our own actions and decisions” (p. 81). The responsible agent in the case of outcome responsibility is “the one who has acted in a way that foreseeably contributes to the outcome that concerns us - the agent who has helped to bring it about” (Miller 2012, p. 629). This form of responsibility is motivated by our interest in ensuring a fair distribution of burdens and benefits between different agents. Furthermore, it seeks to grant people control over the benefits and burdens they receive, whilst offering them protection from the intended and unintended side effects of other people’s actions. (p. 89).

Moral responsibility is ascribed when an agent “has acted in a way that displays moral fault” (p. 100) and in a way which informs our attribution of praise or blame. When we are interested in attributing blame, we check to see whether an agent harmed another agent deliberately or recklessly. This may be either through a clear deprivation of something of significant moral worth or through a failure to keep a promise or pre-existing obligation. For Miller, an agent’s moral fault

is not necessary for attributing outcome responsibility to him, but outcome responsibility is a necessary condition of moral responsibility attribution to that agent (p. 89).¹⁹

Miller provides two reasons for keeping outcome responsibility and moral responsibility distinct (p. 90). First, outcome responsibility sometimes informs decisions to leave losses and gains undisturbed. In an example of a market setting where one supplier of particular goods or services loses customers because another supplier across the street provides superior similar products, we do not judge the profiting supplier's actions to be morally unjustified or demand compensation from her. Nonetheless, there can be some cases where an agent is outcome responsible for the losses suffered by another such that we may justifiably demand compensation or redress be made. Noticeably, for outcome responsibility, imputing moral blame or according moral praise is not always needed. A fairly benign act, even with the intention to help rather than hurt, may still lead to outcomes which require redress or compensation.²⁰

Second, for Miller, if we focus on the role of antecedent causal conditions of an agent's action or decision in order to relieve her of responsibility, then we may see the need to keep outcome and moral responsibility distinct. This is reflected in everyday situations where we do not hold toddlers or mentally handicapped persons blameworthy for their actions. An agent who is subjected to manipulation, coercion or hypnosis and therefore acts non-voluntarily, is also typically judged in accordance with this distinction. So although we may not hold them morally blameworthy because they may have acted non-voluntarily, it appears the conditions for

¹⁹ Moral responsibility has largely been the type of responsibility used in chapter one of this thesis. As will soon become clear, this does not invalidate the analyses carried out in that chapter. This chapter aims to considerably expand on the analysis of collective responsibility initiated in chapter one.

²⁰ These points will become significant when I begin to analyse the international context of nation-states, and particularly the topic of historical injustice. There, arguments for compensation or redress can be disentangled from claims of blameworthiness or praiseworthiness of nation-states.

voluntariness we consider when we ascribe moral responsibility are not the same when we ascribe outcome responsibility.

In identifying *causal responsibility*, we typically look to the way an agent contributed to producing a particular outcome. Here, we ask a *why* question; that is, *why did x occur?* With the assumption that there are a number of conditions that led to the occurrence of x, seeking to identify the cause then involves figuring out which of the many conditions leading to x's occurrence can be singled out as the cause of x. This is of course notoriously a very difficult and often impossible question to answer both analytically and empirically.²¹ To be sure, outcome responsibility certainly has a causal component. But it is possible for me to be outcome responsible for something for which I bear no causal responsibility. For any outcome, there is often a large set of conditions involved which are necessary but not sufficient. To accord a special status to human agency in the set of relevant causal conditions is not straightforwardly justifiable. Moral or legal analysis however place a limit on the links in the causal chain for which persons can be held responsible. It is this analysis which informs Miller's notion of outcome responsibility.²² Consequently, to ascribe outcome responsibility is to presuppose agency but not necessarily intention. Miller writes, "We hold people responsible for the consequences of their actions that a reasonable person would have foreseen, whether these consequences were intended and whether they were actually foreseen by the person in question" (p. 116).

²¹ For an overview of this problem, see Hart and Honoré (1985).

²² Miller notes that we may have good normative reasons to hold on to responsibility and this informs the strategy he adopts: "Certain causal explanations of human action are taken to relieve the agent of responsibility. But we can give reasons to distinguish these explanations from others that do not undermine responsibility in the same way" (p. 91).

2.2. REMEDIAL RESPONSIBILITY AND THE CONNECTION THEORY

Remedial responsibility is another form of responsibility Miller introduces. In moral terms, an agent is remedially responsible for a bad state of affairs if she has a special duty or obligation to put things right. One may have particular reasons to “come to the aid of those who need help” (p. 81) or to “put something right that needs putting right” (Miller 2012, 629) and these may be enough to ground one’s remedial responsibility. This suggests that it is possible to be remedially responsible for a bad state of affairs without being morally or outcome responsible.²³ Thus, in one instance, you can be both outcome and remedially responsible or moral and remedially responsible for something. On the other hand, you can be remedially responsible for something even when there are other identifiable agents who are outcome responsible (or morally responsible too).

I believe what captures this view in relation to collectives is perhaps a widely shared moral view which holds that, under some circumstances, we can permissibly hold some innocent or morally faultless people responsible and impose burdens on them in order to benefit a greater number of people who would have had to bear similar burdens instead.²⁴ Thus, the actions of a collective agent makes each individual member acquire a share in outcome responsibility in spite of any individual member’s role or attitude in bringing about the outcome. Consequently, we have at least a *pro tanto* justification to hold an individual member remedially responsible for the

²³ This accords with the view that an agent may very well be liable but not culpable for an outcome and this is reflected in a distinction between Blame-responsibility and Task-responsibility. Blame-responsibility “involves crediting or debiting an agent with producing an outcome in a way that exhibits a moral fault or virtue” and Task-responsibility on the other hand “involves assigning duties to people to repair a particular situation, even when they did not cause the outcome and cannot be blamed for it” (Stilz 2011, pp. 194-195).

²⁴ This is in line with a utilitarian principle of sharing burdens and benefits which imposes harms on morally innocent people in order to prevent comparable harm to a greater number of people.

particular outcome in question which needs setting right. This pro tanto reason is presumably not applicable to non-members of the collective who played no role in bringing about the outcome. But, as I shall argue, we may have overriding moral reasons to hold non-members remedially responsible.

It is presumptively clear that in cases of moral responsibility, identified perpetrators ought to bear the costs of the harms they have caused. If you deliberately harm someone, then you are morally responsible for whatever harms the person suffers. I believe this to be a widely shared and fairly uncontentious intuition about justice. However, considering the intricacies of outcome responsibility, it seems to me that there is another intuition at work. As a reminder, for one to be ascribed outcome responsibility, it is sufficient that one caused an outcome in a very indirect way, or as an unintentional side-effect. By implication, the causal requirement may be largely relaxed and even totally set aside in the attribution of remedial responsibility. Here, we may consider other factors which weigh in favour of holding some agent(s) responsible for remedying a situation even though they may not be morally or outcome responsible.

To better understand remedial responsibility, we must take note of a difference between identifying responsibility and assigning responsibility. In identifying responsibility, we look to see who meets the relevant conditions for being responsible. We might ask “who is responsible for this?” Whereas in assigning responsibility, we may choose to overlook these relevant conditions and proceed to attach certain costs or benefits to an agent. Here, we might ask, “Who is responsible for putting this right?” The former seems to readily map onto moral and/or outcome responsibility, while the latter onto remedial responsibility. However, the distinction between identifying and assigning responsibility may be evident in the different forms of responsibility assessed in previous paragraphs. For the forms of responsibility outlined here, one may either be justified or unjustified

in assigning any of them. This becomes particularly significant when we chose to assign remedial responsibility, considering the considerably relegated role accorded to causality. On the other hand, we can either be correct or wrong in identifying responsibility. These differences can be made clear with an example focusing on remedial responsibility.

Take a group of three children—siblings—left at home by their parents who are out on a Saturday lunch date. Jane is 15 and is lying in the couch in the front yard listening to music or perhaps chatting away on the phone; Joan is 10 and is reading a mystery novel in her bedroom. Unbeknownst to these elder two, their youngest sibling Joe, who is 6, has set up a little war scene with his toy soldiers in the living room and is happily scattering items all over the place. On their parents return, they find the living room in disarray with toys and other items scattered about.

Here, Joe is outcome responsible for the state of the living room and as such remedial responsibility will naturally fall on him because he created the mess. He is here therefore identified as remedially responsible. Alternatively, the three siblings might have agreed not to mess up any part of the house in their parents' absence and may have set rules that state that whosoever creates a mess is responsible for clearing it up. But perhaps the siblings have agreed to take turns on each day of the week to clear up any mess created by any or all of them. Thus, if it was the day on which Joan was to clear up their mess, then she will be rightly identified as remedially responsible. The parents may intervene when it comes to assigning remedial responsibility. They may indeed choose to assign remedially responsibility—by virtue of her maturity—to the eldest sibling Jane. Perhaps the parents had placed her in charge of watching over her younger siblings in their absence and as such they may justifiably assign her remedial responsibility for the mess. If the parents deem the state of the living room to be such that Joe—who created the mess—is capable of clearing it up all by himself, then he can be justifiably assigned remedial responsibility. Here, he is not only

correctly identified as responsible for creating the mess, but also justifiably assigned remedial responsibility for clearing it up. If the parents however wish to arbitrarily punish Jane, or perhaps get back at her for something she did against them, they may simply exercise their authority and unjustifiably assign her remedial responsibility even if John is capable of cleaning up his own mess. The example can be modified in various ways to highlight the different ways remedial responsibility may be identified and assigned.

On the moral significance of remedial responsibility, Miller instructively notes that poverty in the world is morally intolerable and we must not allow such remediable deprivation and suffering to continue (p. 232). With remedial responsibility, our focus then is to determine which agents should remedy suffering and deprivation elsewhere. We must consider how we can go about determining the relevant burden-bearers of this responsibility. I find Miller's connection theory to be extremely helpful in identifying burden bearers and assigning remedial responsibility to them to "put things right". In chapter 5, Miller introduces six factors which can be considered in assigning responsibility to some nations for the alleviation of suffering and deprivation elsewhere. Accordingly, a nation can be considered remedially responsible for another's condition when the former is linked to the latter in one or more ways as captured by the six factors. They are to be understood as potential sources of remedial responsibility or criteria for assigning remedial responsibility. These factors are at the heart of his connection theory. I list them below with the questions they each seek to address. (p. 100-104)²⁵

²⁵ I maintain Miller's use of "nation" for simplicity, but I employ "nation-states" as my preferred term throughout this thesis.

1. Causal responsibility: Was a nation causally responsible for bringing about suffering and deprivation elsewhere?
2. Moral responsibility: Was a nation morally responsible for bringing about suffering and deprivation elsewhere?
3. Capacity: Does a nation have the capacity to provide a remedy?
4. Community: Is a nation amongst any particular community shared with a nation suffering deprivation?
5. Outcome responsibility: Is the suffering and deprivation faced elsewhere a side effect of any nation's activities?
6. Benefit: Did a nation benefit from the suffering and deprivation elsewhere even if the former played no causal role in the latter?

For Miller, “the point to bear in mind is that the weight of justification is borne by the pressing need to relieve ..., and the necessity of identifying a particular agent as having the obligation to provide the relief” (p. 100). These factors weigh equally and must be considered together to determine what connection a nation may have with another in order to address the suffering in question. In response to a temptation we may have to always give one factor priority over others in every instance, Miller maintains that no one form of connection has this strength.

However, this claim is doubtful. Surely there is one of these factors that has priority over the others if we are indeed looking to assign remedial responsibility. It should be obvious that without the capacity to remedy a bad state of affairs, an agent cannot be held remedially

responsible to put that situation right.²⁶ No matter the strengths of the other five factors, the conversation about assigning remedial responsibility cannot even get off the ground if the identified remedially responsible agent does not have the capacity to discharge her responsibility. A reminder of my earlier example about three siblings should help clarify this; if little Joe suffers from a health condition or any other condition that makes him physically incapable of cleaning up the mess, then his parents' attempts to assign him remedial responsibility will be absurd and unjustified. And the real upshot is that, if the parents want the living room cleaned, they better assign remedial responsibility to a sibling who can actually clean up the mess.

This is certainly a minor revision which does not in any way invalidate or tremendously weaken Miller's theory. However, it leads to some interesting applications of Miller's theory which I will explore in subsequent paragraphs. It also significantly leads to a much more methodological approach and something of a two-stage algorithm for assigning remedial responsibility.²⁷ Thus, in assigning remedial responsibility we first mark out all nation-states that possess sufficient capacity to remedy the suffering and deprivation experienced in a nation-state under consideration²⁸; and second, we assess the intuitive weight of the other factors in establishing connections between nation-states possessing capacity and the nation-state(s) in need of remedy. I consider a nation-state to have capacity to discharge remedial responsibility if the carrying out

²⁶ For instance, Thom Brooks, notes: "if a nation lacks the capacity to provide remedial responsibility, then it is nonsensical to weigh other considerations of various factors concerning its possible remedial responsibilities if only this nation had sufficient capacity." (Brooks 2011, op. cit. pp. 199-200)

²⁷ Note, I use assigning, and not identifying. In the latter case, capacity may be utterly irrelevant.

²⁸ Perhaps an even better method is to simply reduce the factors to five, with the very idea of remedial responsibility suggestive of the capacity to remedy. After all, ought should imply can. This move however risks glossing over the distinction between identifying remedial responsibility and assigning remedial responsibility. Moreover, capacity itself is contextually defined here and will be explicated in subsequent paragraphs.

this responsibility will not move it below a stipulated sufficiency level.²⁹ Stipulating a comprehensive sufficiency threshold is beyond the scope of this thesis. However, we can roughly think of an absolute poverty line or set the threshold at a level where nation-states are unable to meet the most basic needs of its members.³⁰

2.3. COLLECTIVE REMEDIAL RESPONSIBILITY

Enough ground has now been covered for this chapter to proceed to the main argument of this thesis. To aid in assessing my main argument, consider this illustration outlining interactions between nation-states and how remedial responsibilities may arise in line with historical injustice:

Nation-state A at time T committed injustice against Nation-state B in some transaction. Redress for this was not made and this has over time led to Nation-state B's current state of deprivation at time T1. However, at time T1, the descendant generation of A does not have the capacity to rectify the situation in B. Faced with such a situation, can we be morally justified in assigning remedial responsibilities to capable Nation-states C, D, E, F, and G (as a collective) for Nation-state B's current state of deprivation even though they are not causally or morally or outcome responsible?

A number of clarifications are in order. As already noted, I employ a sufficiency baseline here in making the case for remedies. This means that the concern here is not about making the

²⁹ This formulation is akin to Peter Singer's "without sacrificing anything of comparable moral importance" (1972, p. 231) or John Rawls' "without excessive risk or loss to oneself" (1971, p. 114).

³⁰ For a fuller defence of the Sufficiency theory, see Huseby (2010). This "basic needs" idea is presented in a related but different context by Taylor (2013, p. 127): "The idea behind this is that, because essential public goods are required by justice, paying for their supply should not affect the just distribution of private goods, even if it reduces the amount of private goods available for distribution."

world as it would have been had the injustice not occurred. Such a counterfactual approach is beset with many problems, and has strong limitations in addressing injustices in accordance with widely held moral intuitions.³¹ What is troubling is the moral unacceptability of nation-states' being left in a deprived or needy condition as a result of a past injustice for which there are identifiable agents who *can* provide remedy. On any conception of justice, recognition and acceptance of a situation as unjust must, as a matter of conceptual consistency, be followed with an attempt to rectify that situation. Intolerable situations resulting from historical injustice for which guilty nation-states are identifiable are cases in point. And the claim I aim to defend here is that in such cases, we may still have an overriding reason to call on third-party nation-states to step in and provide remedies.

In order to outline this position more precisely, I note and address a two-level problem of responsibility here. First, there is the responsibility the current generation of Nation-state A has supposedly inherited from its predecessor generation in virtue of the latter being causally and morally responsible for the harm to a predecessor generation of Nation-state B. This intergenerational responsibility must be argued for and defended. Second, there is a defence to be made for the move to current collective generations in other nation-states not directly linked to the perpetrator generation and its actions. A defence of this intragenerational transfer of responsibility is what I believe the modified version of Miller's connection theory I employ succeeds in

³¹ For more on the failings of the counterfactual approach see Roberts (2006). This intuition was perhaps rightly captured by President J.F. Kennedy's comment on the cold war and arms negotiations during his commencement address at the American University in Washington: "We must deal with the world as it is and not as it might have been had the last eighteen years been different" (1963, 57).

supporting. I will now briefly respond to the first problem and then continue with the already-initiated response to the second.³²

The descendant generation of A is in no way outcome responsible for the injustice carried out against the victim generation of B.³³ They had no choice in becoming descendants of a generation guilty of historical injustice. Why then should they now be tasked with bearing the costs for that injustice? For them, their current holdings seem to be nothing more than manna from Heaven. Thus, one may object that a requirement that this innocent generation pay for the sins of ancestors seems greatly unfair. A further core issue here, it seems, is that they have had no choice with regards to the matter of taking up the responsibility; it is essentially being forced upon them. To this objection, a clear answer is given on non-voluntarist theories of responsibility. One basic idea behind these theories is that by the simple fact of being born, one becomes responsible for complying with moral duties. If rectification for past injustice falls under some relevant moral duties, then the point about non-voluntariness in acquiring them is moot. What remains to be shown is how these so called moral duties are derived in the first place. To this, I turn to a variation of what is known as the Beneficiary Pays Principle.³⁴

The beneficiary pays principle, according to Daniel Butt, “holds that agents *can* come to possess rectificatory obligations from involuntarily benefiting from injustice, not that they necessarily *do* whenever they so benefit” (Butt 2014, p. 338). This principle clearly requires a justification in the specific context I have raised. For it remains to be shown how the benefitting

³² There is the further complex problem of distributing states’ duties to individual citizens which I will not be addressing in this thesis. For avoidance of doubt, I subscribe to Stilz’ democratization model for distributing states’ duties to citizens. See also Collins (2016, esp. pp. 351-360) for a similar way of distributing states’ duties.

³³ I use alphabets A to G, as placeholders for nation-states henceforth.

³⁴ This principle is introduced in Butt (2007, 2014).

is of the right form to generate rectificatory obligations. This can be done in two ways. First, I posit that a nation-state's identity can be sustained over time if the formal institutions and decision-making mechanisms it has employed over the years have not been substantially altered. This is a difficult claim and the kind of precision it requires is one that is perhaps impossible to meet. Minimally, I believe that if the core parts of a nation-state's constitution and its democratic institutions survive—even with slight modifications—from the time of the particular historical injustice in question, then the nation-state maintains its identity and stands as a single agent.³⁵ Thus, even when individual members of the nation-state change, its identity is still maintained. If there are therefore tainted benefits accrued to descendant generations of the same nation-state guilty of past injustice, then there is a straightforward argument in favour of inherited responsibility.³⁶ If benefits of membership of a nation-state can be inherited, why then can remedial responsibility for the same nation-state's past unjust actions not be? Accepting one and denying the other will be a clear case of double standards. This option is not justifiably open to the descendant generation of Nation-state A in moral terms.

Perhaps this point may not be immediately convincing on account of scepticism about the idea of a persisting nation-state identity I have presented here. What about cases where we can clearly distinguish between the collective that committed the injustice in question and the collective that has benefitted later as a result? For instance, most people readily accept a discontinuity between the current German state and Nazi Germany. This is again not greatly

³⁵ This does not exclude new nation-states that have maintained informal systems on which they have built their formal institutions. If there is a relevant similarity between the institutions pre and post-state stage, my point about identity still applies.

³⁶ In much similar vein, Stilz (2011, p. 196) notes, "Indeed, states commonly treat themselves as moral persons: they sign treaties that are binding on the body politic in perpetuity and contract debts that future generations will have to repay."

problematic. And thus, my second response to the first problem raised concerning benefiting is that we can treat preceding and succeeding generations of the same nation-state as two distinct agents and still argue for remedial responsibilities. A cyber thief may steal some money from someone's bank account and that money may end up being deposited into my account. If this crime is later brought to my knowledge, after I have benefited from the wrong transfer, I would still be held responsible for correcting the injustice done to the third party who has lost money.³⁷ This and similar views stem from an Aristotelian conception of justice concerned with the maintenance of an equilibrium of goods between members of a society.³⁸ A third party's benefiting from the unjust transaction is a disturbance of that equilibrium and as such the equilibrium needs to be restored.

Having established remedial responsibility for the descendant generation of A, the question now is how C, D, E, F, and G can come to bear remedial responsibility. As already noted, the current generation of A is incapable of discharging its remedial responsibility. So, although we may identify them as remedially responsible on account of their benefiting from the past injustice, it will be wrong to assign them remedial responsibility. It is simply impossible for any entity to remedy a situation if the entity does not have the capacity to do so. The primacy of capacity for discharging remedial responsibilities in the context of transactional injustice in accordance with distributive justice stems from this view. Thus, to reiterate, my claim is that nation-states C, D, E, F, and G, by virtue of possessing the capacity (as a group) should be assigned collective remedial responsibility for the suffering and deprivation currently being experienced in Nation-state B.

³⁷ Perhaps I may even have used up some of the money without noticing the increase in my credit.

³⁸ This is noted in his *Nicomachean Ethics*, Book V, [1131a 1] where he talks about corrective justice under his more "specific" or "particular" justice.

2.4. THE CAPACITY CUT

In the context of remedies for transactional historical injustice highlighted here, capacity can be interpreted in two different ways.³⁹ One interpretation renders capacity as effectiveness, while the other understands capacity in reference to the costs to be borne. The latter is thus sufficiently synonymous with the definition I have already provided. Effectiveness, on the other hand, can only be assessed after the fact. We run the risk of getting bogged down by verbal disputes if we are to consider effectiveness to be of such a contentious relevance within remedial responsibility assignments of the sort provided in the context I explore here. At most, effectiveness will be the next layer of capacity to judge once the costs to duty-bearers is assessed in line with the definition I have provided. If this is true, then surely effectiveness is not the notion of capacity that should contribute primarily to our judgments in assigning remedial responsibility. Effectiveness is a success term about how best something is done and we need not employ it when we try to understand nation-states' capacity to remedy suffering and deprivation. At best, it is an empirical matter that may serve as an evaluative tool for how well remedial responsibilities have been discharged.

Defining and interpreting capacity's role in remedial responsibility this way—as cost to an agent rather than effectiveness—has one major advantage. It underscores the merits of employing a collective of nation-states. As a group, capacity is easier to attain as the costs are to be shared. Moreover, the idea of a collective should allay concerns about effectiveness if we accept that the

³⁹ The capacity criterion can be employed in different senses and in many different contexts of justice considerations. For instance, Collins (2016, p. 361) construes it in one context as the ability to restore a relationship marred by historical injustice.

best means available will be employed as a result of the group's deliberation.⁴⁰ This previous point might present a worry that we will end up with a problem of over-determinacy since it suggests that any number of nation-states can randomly be grouped and thus come to have "capacity" in the sense used here. Note however that there is a two-stage approach which relies on other factors to narrow down the membership of the group of nation-states which can be assigned remedial responsibility. Capacity, it must be conceded, still remains only necessary but not sufficient for remedial responsibility assignments.

What can be concluded from this discussion about remedial responsibility is that remedial responsibility, as discussed here, can operate under the rubric of either a backward-looking theory or a forward-looking theory. As noted with the transfer of remedial responsibility intergenerationally, for a backward-looking theory historical considerations are highly relevant for how we identify and assign remedial responsibility. However, a narrow focus on this will not always attend to the injustice we are interested in remedying. In particular, victims of injustice who are in a situation of deprivation and suffering will be left with no or inadequate remedy because of a blind adherence to a backward-looking theory only. Additionally, the demands of a purely backward-looking theory would require us to at all costs hold some agents responsible for the deprivation we are concerned about. We run the risk of imposing unreasonable and impossible costs on potential duty-bearers as we have seen in the case of Nation-state A without capacity.

On the other hand, when remedial responsibility is applied solely in a forward-looking sense, what results is that there is a focus on the victims of the injustice in question and the best

⁴⁰ I do not think this is a position that calls for extreme scepticism. There is some wisdom after all behind sayings such as "two heads are better than one". See also Goodin (1985, p. 138), *op cit.* "with the pooling of facts and resources, the group naturally has both more information and more resources for enhancing information than do any of its members. Besides, what is uncertain from one perspective is often more certain from another."

possible way to deal with it in spite of the historical circumstances under which the injustice arose and/or has persisted. The trouble with such a narrow outlook on justice is that it results in situations where perpetrators are let off the hook and the costs among burden bearers unevenly and unfairly distributed. Here, we are much more concerned about overturning a present state of affairs now or in the immediate future. A combination of the two theoretical approaches, as should be clear from my discussion here, avoids these problems noted and provides a philosophically and morally justifiable approach to remedying the effects of historical injustice. We rightly identify Nation-state A as remedially responsible based on backward-looking considerations, however, we assign remedial responsibility to the collective nation-states C, D, E, F and G based on forward-looking considerations.

Finally, the immediacy of the situation in need of a solution is built into this view of remedial responsibility. Although suffering and deprivation can persist at different levels in different societies, we are here considering extreme cases where remedial responsibilities need to be assigned and discharged urgently. Further implied in this notion of remedial responsibility is a notion of *coming to the aid of* as opposed to a notion of *correcting a harm done*. The latter primarily concerns redress owed to someone who has been harmed and the former primarily concerns assistance to someone in need or in a state of deprivation.⁴¹

We can have situations where redress and deprivation may not overlap. For instance, at time T1 when Nation-state A committed its act of injustice, it may very well be that Nation-state B was not at a level of deprivation which was especially alarming. Thus, there was outcome responsibility (also causal and moral responsibility) by A at time T1 for B's condition. As a result,

⁴¹ It is widely accepted that to repair harms one has caused is a duty of justice. It is however not so clear whether duties of assistance can qualify as duties of justice. I defend an affirmative answer to the latter in the next chapter.

redress was owed to B by A but not as a result of a state of grave deprivation, but solely as a result of the wrong done to them. Nation-state B may have still been above the sufficiency level at the time. For A's descendant generation, however, there is a moral continuity as their remedial duties—derived from the fact of their benefitting from the injustice—takes on another layer due to the current state of grave deprivation of the descendant generation of B. That deprivation overlaps with redress, and is embedded in the idea of a duty to remedy a bad situation which we ought to assign the descendant generation of A if it had the capacity. Barring this capacity, assigning remedial responsibility, I maintain, is unwarranted. My suggestion remains that we first turn to the collective of nation-states with capacity, and then apply the other five criteria in Miller's connection theory. However, for this collective, redress and deprivation are divergent in the remedial responsibility they are assigned with.

There are a number of ways the practicalities of this way of understanding remedial responsibilities may be fleshed out in accordance with the two-stage algorithm here attached to connection theory.⁴² Ultimately, there must be a move towards formalizing the process of assigning remedial responsibilities with this theoretical underpinning. International institutions may become indispensable to this way of understand remedial responsibility. In line with this, a plausible normative claim suggests that nation-states will have a duty to form international institutions enabled with resources and capacity to take up and discharge remedial responsibilities for episodic historical injustice with the accompanying deprivation and suffering mentioned here.⁴³ Alternatively, and perhaps in stronger cognizance of the immediacy of the situation of suffering and deprivation in the impoverished nation-state, capable nation-states will have to readily

⁴² See Brooks (2011, p. 200).

⁴³ See Goodin (2016, esp. pp. 9-11).

collectivize and distribute remedial responsibility among themselves. This latter strategy will be a reflection of Held's example of an informal group's collective responsibility.

3. IMPLICATIONS, OBJECTIONS AND REPLIES

This chapter explores some implications of the position presented in the previous one. I will anticipate some objections and accordingly provide replies. I also shed more light on some normative issues that may arise as a result of this way of constructing remedial responsibility. My argument in the previous chapter stems from the intuition that even when we identify remedial responsibility of an agent, we may have *pro tanto* reasons to assign remedial responsibility to yet another agent based on some other moral reasons. This may prove to be problematic in some respects and thus a number clarifications of the implications of this view are important. I will consider these implications in line with practical and theoretical concerns. In anticipating objections to my view, I offer responses in line with a number of moral principles and commonsense views on duties and obligations.

3.1. IMPLICATIONS

3.1.0. Reduction in burdens for the collective nation-states

Casting our focus onto a collective presents us with a qualified solution to deprivation and suffering in the world. My claim is not simply that we assign remedial duties to any nation-state with capacity. My employment of the capacity factor is strongly tied to a collective of nation-states. By the definition of capacity adopted here, together with a realistic assumption about the level and immediacy of the suffering and deprivation, we can have remedial responsibility—assigned for all forms of suffering and deprivation—that will inevitably prove overly burdensome

for a single nation-state.⁴⁴ This latter concern shows how a focus on individual nation-states may greatly reduce the availability of duty-bearers for global remedial responsibility. The approach I have argued for in the previous chapter remains victim-centred and seeks to ensure that a remedy is indeed provided for those who need them most.

Interestingly, there is a second-order parallel with the responsibility shortfall problem introduced in chapter one of this thesis. There are cases where a reliance on a single individual nation-state, in accordance with Miller's connection theory, will lead to a responsibility shortfall due to incapacity. Furthermore, there is a two-level responsibility shortfall: The responsibility of the inheriting generation alone, due to its lacking capacity, does not make up for what is needed to remedy the harm resulting from their forebears' actions. We must thus have additional responsibility from some other capable nation-state. But then again we can reasonably speculate that there will be shortfalls on that level also, and therefore a collective becomes normatively desirable as a final solution to this expected shortfall. Moreover, it is morally prudent to reduce burdens for duty-bearers who are not outcome responsible for the situations we are aiming for them to remedy.⁴⁵ This is a practical moral interest informed by an allegiance to a moral principle that seeks to hold agents responsible for outcomes they have caused unless this responsibility can be overridden by other moral considerations. Finally, this serves as a reminder of how a type 1 mistake should be avoided when conceptualizing a collective in our responsibility attributions.

⁴⁴ There is a further question here with regards to whether individuals like billionaire-philanthropists can be worked into this system of remedial responsibility. I remain agnostic about this and will only note that the holdings of billionaires are often intertwined with the economies of the nation-states to which they belong. When it comes to the ultimate distribution to members of a nation-state however, any such reduction in burdens for individuals in the collective is welcome.

⁴⁵ This rationale is shared by Lichtenberg (2010, p. 576). As she notes in a discussion on the demandingness of negative and positive duties to duty-bearers: "A crucial condition of keeping the costs—whether material or psychic—to individuals low is that they act, or refrain from acting, as part of a collective effort rather than as isolated individuals."

There are a number of methods for discharging these remedial duties. One way is to hold that nation-states may have an obligation to establish institutions to address injustice. This is essentially a suggestion that nation-states have a duty to collectivize in the long-term. One reason to hold onto this suggestion is the advantage an institutionalized approach to remedial responsibility offers. It serves as a way to formalize remedial responsibilities with the level of coordination that ensures that duty-bearers are not adversely inconvenienced and victims are not left uncertain about their fate.⁴⁶

For a second method, a return to my earlier analysis of collective responsibility is in order. This method is reflected in Virginia Held's example employed to illustrate how an informal group or random collection of persons can come to have collective responsibility. It is motivated by the ability of these individual agents to collectivize for a one-time event. In Held's subway example, we reasonably expect the other passengers to organize, deliberate and take action to prevent a bad state of affairs from happening. If this is true, we see then that in the interim, and taking into account the immediacy of the suffering and deprivation, capable nation-states ought to collectivize to discharge this one-time remedial responsibility. As a result of these two methods, the relative weights and demandingness of the different notions of responsibility assessed here can increase and decrease.

If capable nation-states fail to collectivize either informally for a one-time event or in formal institutions, their responsibility for the continuing deprivation is no longer remedial but can become outcome and moral. To see why this is so, note that once they have been assigned remedial responsibility, their refusal to discharge it now becomes the central reason why there is continued

⁴⁶ In a different but related context, Robert Goodin embraces this view by considering institutionalization as a means of "consolidating imperfect duties." In both Goodin's and my employment of institutionalization, the motivation is to bring clarity to victims as to what they can expect to be done about their situation, and to solidify duty-bearers duties beyond a mere exercise of discretion. (Goodin 2016, esp. pp. 7-9.)

suffering and deprivation. There is a secondary harm being committed against the suffering Bs by these capable nation-states. The assignment of remedial responsibility sets the hand of the moral meter swinging from liability to culpability. It is possible then for us to judge this non-arbitrarily by appealing to the lives that are lost daily, for instance by this refusal of the capable nation-states to provide remedy.⁴⁷

3.1.1. A question of appearing and disappearing remedial responsibilities

Can these remedial duties be turned on and off like a switch, or do they expire with the ending of the suffering and deprivation? Once the remedial responsibility has been passed on to a collective of nation-states, is the business done? Or is there an outstanding particular moral or outcome responsibility as well as a particular remedial responsibility (from descendants) which is left hanging in moral space, so to speak? For instance, if at a later time T2 a descendant generation of A comes to possess capacity, will they have disinherited the remedial responsibility that their ancestors who did not have capacity should have had? I provide answers to these questions in the following paragraphs.

To begin to factor in the descendant generation of the As at time T2, it first of all has to be shown that this new generation has benefitted in some way from the unjust transactions of their forbears. We will have to identify the fruits of the expropriation in their possession. Because the generation at T1 did not have capacity, my hunch is that it will be difficult to show how this

⁴⁷ A detailed treatment of this idea of coming to be morally responsible by one's failure to act to remedy a situation when it is within one's capacity to do so can be found in Singer (1972). For a notion of secondary harms in the context of historical injustice, see Butt (2013, pp. 253-254).

generation at T2 has benefitted from the past injustice at time T. Secondly, perhaps the concern here can be extended in that, even if we ignore the benefit factor, I run the risk of being inconsistent since I put forth a view that the identity of the nation-state can survive across generations. My response however, is to point out that the difference here is that the deprivation and suffering hopefully would have been remedied already. At best, the As ought to pay some compensation to the collective nation-states who stepped in to help in acknowledgment of their taking up remedial responsibilities. As the reasons I provided for the collective's duty to discharge remedial responsibilities were motivated by the deprivation of the Bs and not the failings of the As, there will have to be a separate argument for what exact duty the descendants of the As owe to the collective.

Perhaps for reasons of solidarity and to preserve a good relationship between the various involved nation-states, the As at time T2 ought to render an official apology to the Bs and also an official appreciation of the actions of the collective nation-states if this has not been done already by the generation at T1. As far as remedial responsibility goes however, there is no further obligation to be satisfied. All of these reasons must be subsumed under what type of injustice is under consideration here and why the injustice bothers us in the first place. (Recall that I am here dealing with episodic transactional injustice and that I furthermore maintain the explicit victim-centered motivations of Miller's connection theory.)

Admittedly, I have somewhat set aside the responsibility of nation-states without capacity. Essentially, what I have done is to treat the descendant generation of A as if it were a force of nature. It is almost as if the harms of their predecessors as well as theirs (by virtue of their benefitting) were simply a natural disaster that hit Nation-state B. This may be particularly objectionable to many people. There is a real historical injustice with presumably identifiable

perpetrators and this ought not to be treated as if it was the result of a force of nature. While this point has some appeal, recall the motivations for thinking about remedial responsibilities in the first place as well as the distinction I make between identifying responsibility and assigning responsibility. It is the dire situation of the Bs that concern us primarily. As we rightly turn a blind eye to the moral significance of the role of natural disasters in our assignment of responsibilities to agents to cater for victims, descendant generation A's inherited responsibility ought to be treated in a similar fashion as a result of their lacking capacity. Also, we rightly identify the As remedially responsible for the situation of the Bs, but rightly assign remedial responsibility to the collective nation-states.

This however opens up a related concern with regards to how duties ought to be distributed amongst members of the collective of nation-states assigned remedial responsibilities. Specifically, the issue of potential non-compliance and a duty to pick up the slack needs analysis. I do this as I consider objections in subsequent sections.

3.1.2. A question of justice duties or humanitarian duties

What does the imaginary case study employed here imply for global justice? Situated within a number of debates about principles of global justice, one might wonder if collective remedial responsibility so construed is a proper justice duty or may be better considered under the demands of humanitarianism. Robert Goodin (1985, p. 126), has noted that in different contexts, "backward-looking notions of causal responsibility are only related imperfectly at best to the forward-looking problem of task-responsibility." This has been made clear in this thesis. Whilst I have shown a backward-looking consideration of the outcome of the actions of the As for the

current situation of the Bs, the assignment of remedial responsibilities to Nation-state A(at a later date and to a succeeding generation) in line with forward-looking motivations to alleviate the situation in Nation-state B is affected by Nation-state A's lacking capacity. As a result, I have turned to capable nation-states C, D, E, F and G. The sources for the collective nation-states' responsibilities have arisen from the bare fact of the suffering and deprivation in B. Is this then not simply supererogatory on the part of the collective to remedy the situation in B?

I believe there are enough reasons to disagree with the intuition that all the collective nation-states owe to the Bs is a duty of assistance or mere humanitarianism. Such intuitions stem from a narrow understanding of justice that believes that one's duties become a matter of justice when it is as a result of actions that have affected some other person. An opposite intuition, I believe, guides how issues of social justice are usually thought about and discussed. When we typically think of social justice within nation-states, we find it unjust that people are left without adequate food, shelter, clothing or healthcare. Since this is how many people think of justice, it cannot be an indisputable truth that justice can only come into consideration in cases where there are impacts on some agents as a result of some other agents' actions.

The intuition from the humanitarianism position may also be a result of a view that a situation may be considered unjust if there is some measure of a morally significant difference in the conditions of two associated agents. This latter view is tied closely to issues of global poverty and posits that absolute poverty of a nation-state—that is poverty below a stipulated minimal poverty line—is not the same as relative poverty, which is poverty as a comparison between two nation-states. For this view then eradicating absolute poverty is a matter of humanitarianism, whereas eradicating relative poverty is a matter of justice insofar as it is demonstrated that the

relations between two entities have unjustifiably created the disparity in wealth.⁴⁸ Furthermore, this view appears to be dismissive of other ways of understanding the demands and principles of justice. Particularly, it ignores the thrust of a principle of sufficiency which has been employed here in highlighting that it is morally wrong that some people are left to suffer extreme deprivation when something can possibly be done. A better way to see justice in relation to poverty then is to see it as central both to our concerns about absolute levels of poverty and then also about relative levels that show morally significant inequalities.

3.2. OBJECTIONS AND REPLIES

3.2.0. Insufficiency of the victim-centred approach

One objection may allude to the fact that victims of historical injustice ought to be noted as such, and not simply hidden in the broad bracket of the poor and destitute. This objection may stem from my distinction between “correcting a harm done” and “coming to the assistance of”. The objection points out for instance that the claims of the Bs are very specific—justice-claims for redress for the cause of their present situations and should not be treated with the same broad stroke used for remedial justice generally.⁴⁹

Recall that the responsibility of the collective nation-states is not as a result of outcome or

⁴⁸ This is the “associative view” of Justice found in scholars like Thomas Nagel (2006). An opposing “non-associative view” may point out various facts about our shared humanity as grounds for the scope of justice to be extended. Here, I stress the fact of human suffering and deprivation.

⁴⁹ See Collins (2016, p. 361)

moral responsibility. The claims of the Bs on them cannot proceed along the lines of outcome or moral responsibility, at least initially. The only way I see such a claim having purchase is in the unfortunate situation where the collective refuses to discharge their remedial duties and thus exacerbate the deprivation and suffering in Nation-state B. Unfortunately, I do not see what more can be done in relation to this objection without assigning costs to innocent third parties and thereby creating further distributive injustices which will then need redress. Such a cycle does not bode well for our quest for a more just world in the present and future. Ultimately, I believe an advantage of my approach is that I trace how the responsibility for the state of the Bs is theoretically more complex than the situation of deprivation and suffering caused by brute luck, for instance. We may need an independent argument to fully concentrate on how a richer notion of justice will move a step beyond finding agents to remedy a situation. Such an argument may make stronger attempts to theorize on how corrective justice will encompass a way to make perpetrators and their descendants bear the burdens of the harms they have caused or benefitted from. There is however no space here to consider what the analyses in direct relation to this might be.

3.2.1. Discriminatory responsibility assignments

Another objection to collective remedial responsibility as outlined here is that it seems strongly predisposed to a discriminatory system of responsibility assignment. This particularly stems from the definition of capacity adopted through this analysis. The possible objection is that the application of this methodology in international public policy implementation would inevitably mean that rich nation-states will almost always be the duty-bearers for remedying the deprivation

and suffering created by such transactional injustices. It is most likely that rich nation-states in the West will be readily picked out by their capacity, as construed here. This, in at least one sense, is a concern not just for these rich nation-states but also for people who worry about the multiple burdens placed on the capable simply because they are capable.

While this worry may be legitimate, a closer look at how capacity is defined in terms of the collective should dispel such a worry. I believe a group of middle-income nation-states, working together at minimal costs individually, may be in a position to reach the capacity needed for remedying much of the suffering and deprivation in our world today. Moreover, I believe another reason why the feared discrimination is not inevitable is because of the work being done by the other five factors in the connection theory. We see that there is a role for community, for instance. So, filling my earlier illustration with real nation-states, we may have a situation where the state of deprivation and suffering in a poor nation-state like Niger, for instance, can be catered for by a collective of middle-income nation-states in the African region who are able to collectivize at small costs to their economies and remedy the situation.

That notwithstanding, rich nation-states may be further motivated to extend their sense of community and solidarity with victim nation-states of global injustices by collectivizing in order to remedy such episodic injustices. As such, perhaps the discriminatory responsibility-ascriptions may not be as troubling as we might be tempted to think. There are significant symbolic benefits for individual nation-states and for global justice when such corporations are fostered for the eradication of such injustices. There is nothing in the way I have conceptualized collective remedial responsibility here which suggests that remedial responsibility attribution has to favour one class of nation-states over others.

3.2.3. Non-compliance and Duty to pick up the slack

When remedial duties are to be shared by a collective on such an international scope, there is always the prospect of some individual nation-states failing to do their fair share. We thus need to consider what to do in situations where some nation-states renege on their remedial duties. Closely related to this is the idea that where the assignment of responsibility is too broad, there is a stronger tendency that no one will actually act. How can this feature be checked by narrowing down our responsibility ascriptions to clearly identifiable agents who can be held accountable? This is what the factors proposed in the connection theory set out to do. If this is a problem faced at the first stage marked by the capacity factor, then we turn to the second stage and work with the other five factors.

I adopt Miller's theory with the hope that once the approach is institutionalized or strongly accepted and agreed to by cooperating nation-states, there will be a stronger feeling of responsibility which will culminate in action that rightly eradicates suffering and deprivation. The first part of the objection about some nation-states failing to do their fair share highlights the prospect of nation-states having to take up the slack of others. This is something that needs to be justified. For if our motivation is to tackle suffering and deprivation, then we must be ready to provide a more comprehensive view that addresses such a major predictable practical problem.

A principle of fairness is at the heart of objections to agents taking up the slack of others. There is an assumption in this principle that the "duty of individual agents is determined by what their fair shares vis-à-vis their fellow duty bearers amount to" (Karnein 2014, p. 596). What this points to is the obvious truth that the duties of individual agents can be affected by the actions or

inactions of their fellow agents. Another agent's actions may change the content of one's pre-existing duty. Also, where beforehand there was no duty, the presence of another agent may create new duties for one. What is to be done about this if our quest is not only to assign remedial responsibilities but also to ensure that there are no overly burdensome costs to be borne?

First of all, note that there are a couple of complexities in the notion of fairness used here. To understand the different ways this may come about, consider two cases by Karnein (2014, pp. 596-597):

(1) "You are a not very competent swimmer on the beach and see two children drowning far off shore. You could not save any of these children by yourself. Another, equally unskilled person comes along. Together you could pull a boat into the water and, with concerted effort, easily save both children."

And

(2) "You are an able swimmer on a beach and see two children drowning. You could save these children with a reasonable amount of effort. One other able swimmer comes along who could also save these children with a reasonable amount of effort."

In the first case, you have no duty to save the child. This is clear as you are not sufficiently capable due to your being an incompetent swimmer. However, this changes with the presence of the other swimmer. In spite of her incompetence in swimming, the two of you now come to have capacity to rescue the child and consequently your duty, beforehand non-existent, is now made real. Because of your lacking capacity when you are the only one on the scene, the duty in question

is only in relation to this other agent, and the existence of this duty is set in motion by the appearance of the other agent.

This consideration segues into what happens with the second case when it is desirable for a number of agents to cooperate to discharge a duty. In the second case, there is at least one way of conceiving an equal distribution of duties for the two agents. This simply means that they both ought to jump in and each save one child. Crucially, their capacity is augmented in their collaboration to save the children. The costs to each of them is considerably reduced and both children are rescued. It is thus clear that an agent's duty is greatly dynamic with regards to it being able to come into existence, be reduced, or made non-existent because of another agent's presence or absence. What remains of this understanding then is to show whether one's duty, once it has come into existence, can be increased as a result of another agent's reneging on his duties.

When we think that some condition is unfair, it is typically in light of the costs or burdens we bear. However, in the case of group action, there is also a strong symbolic element reflected in idea that there are relative disadvantages we would incur if we went ahead to take up the slack of others. My decision to take up the burden of discharging your duty may seem to undermine our standing as equals and ultimately may suggest symbolically that I am inferior to you. Thus, in line with considerations about slack-tacking, we are likely to think that these two notions of unfairness can sometimes trump the moral significance of the situation of the third parties to whom a duty is owed. I however subscribe to Karnein's view that "the moral value of fairness between fellow duty bearers does not conflict with the value of the lives to be saved in a way that would present agents with a choice of one over the other." (Karnein, p. 599)

I believe that agents who choose to comply with whatever duties assigned them as part of a group are not responsible for ensuring that there is fairness in discharging these duties relative

to how others in the group discharge them. Theirs is to ensure that a situation in need of remedy is taken care of. There is a situation that calls for immediate action and that should overwhelmingly inform nation-states' compliance with their remedial duties, even if that unfortunately means they may have to pick up the slack of non-compliant nation-states. The suffering nation-states need for a remedy has lexical priority over considerations of fairness within the collective.⁵⁰ Returning to the context of collective responsibilities, we need only imagine a response from compliant nation-states to the effect that going ahead to take up the slack of their reneging counterparts would mean that they are not upholding fairness among the collective. This response should be strongly resisted. We should not perceive a moral conflict here. The moral duty to discharge remedial duties should not be thought to weigh equally with a contrived duty not to undermine fairness amongst individual group members. Though we may want to pay strong attention to what seems to be unfair in the act of taking up the slack of others, I maintain that the situation of the victims places limitations on how we may aim to ensure fairness amongst duty-bearers. The only form of unfairness we should reject is the unfairness of nation-states being pushed below the sufficiency level as result of picking up the slack of others.

⁵⁰ See Kutz (2000, esp. pp. 200-203).

CONCLUSION

In this thesis, I have discussed David Miller's (2007) connection theory of remedial responsibility and how it relates to collectives. By tracing one way of developing collective responsibility from individual responsibility, I subscribed to the responsibility of formal collectives argued for by Anna Stilz (2011) and the responsibility of informal collectives put forth by Virginia Held (1991). I did this through my rejection of Miller's non-agential models of collective responsibility, particularly the like-minded model. A claim for the moral desirability of holding collectives responsible was thus made and delineated in the subsequent chapters.

In chapter two I established how historical injustice can create a transfer of responsibility intergenerationally and intragenerationally. I briefly made a case for the persisting identity of a nation-state through its formal institutions and also analysed the fact of descendant generations' benefitting from the fruits of injustices carried out by their forbears. Following Miller's connection theory, I argued that third-party nation-states, can come to have responsibility for absolute suffering and deprivation caused by historical injustice primarily by their possession of capacity. This primacy of capacity was motivated by a revision to Miller's theory suggested by Thom Brooks (2011) and which leads to a two-stage algorithm for assigning remedial responsibility in accordance with the connection model.

If a nation-state does not have the capacity to discharge remedial duties, we cannot assign it remedial responsibility. Thus, in accordance with this, I defined a nation-state as having capacity if we can assign it remedial responsibility, the discharge of which will not place it below a stipulated sufficiency level. This view was motivated by a common sense practical view as well as an appreciation of a sufficiency principle which considers it morally bad for people to be left at

a level where their basic needs cannot be met. I have built this idea of capacity within a collective of nation-states, for practical moral reasons, and with the aim to make sure the situations of suffering and deprivation can in fact be rectified. I have shown that this way of understanding nation-states' capacity has implications for how we can assign them remedial responsibility for eradicating pervasive suffering and deprivation in our world today as a matter of justice.

This brought up a number of resulting issues which I addressed in chapter three. I showed that my victim-centred approach proceeds on the lines of remedial responsibility and not causal or moral or outcome responsibility and as such cannot serve the purposes of redress, strictly construed. This point was shown to be relevant in order to understand the pull of the argument I made for collective remedial responsibility. The objection that collective remedial responsibility on the modified connection model inevitably leads to discriminatory responsibility assignments to wealthy western nation-states was also fended off by showing how middle-income non-western nation-states may be take up remedial responsibilities and discharge them accordingly on the community factor in Miller's theory. Also, I defended a duty to pick up the slack of their reneging counterparts. The upshot of this argument pertaining to that was that there is a lexical priority of the situation of need and suffering over any attempts to ensure fairness amongst nation-states who have been assigned remedial responsibility.

I hope to have established that an adoption of a modified version of Miller's connection theory in addressing historical injustice sheds more light on the theory's conceptual strengths. My contribution has been to show that there are normative strengths of a modified version of Miller's connection theory that come to the fore when its application in particular contexts of global justice are explored.

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