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Moral Agency and the Politics of Responsibility

Edited by
Cornelia Ulbert, Peter Finkenbusch,
Elena Sondermann and
Tobias Debiel



Moral Agency and the Politics of Responsibility

At a time when globalisation has sidelined many of the traditional, state-based addressees of legal accountability, assigning responsibility is contested in many transnational fields. There, political, economic and social actors struggle to define the collectively binding rules of moral conduct. It is still unclear how blame is allocated in the new, highly differentiated, multi-actor governance arrangements by which today's world is characterised.

Moral Agency and the Politics of Responsibility investigates how actors in complex governance arrangements negotiate, delegate and distribute responsibility. This book asks how moral duties can be defined beyond the territorial and legal confines of the nation-state, how the moral agency of individuals and collective actors can be enhanced, and how obligations and accountability mechanisms for a post-national world, in which responsibility remains vague, ambiguous and contested, can be established. Using both empirical and theoretical perspectives, the book explores the politics of responsibility that plays out as responsibility relationships emerge, develop, and change.

This book is perfect for scholars of international relations, politics, philosophy and political economy with an interest in the increasingly popular topics of moral agency and responsibility.

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“This wide-ranging, pluri-disciplinary, and insightful collection analyses the complex, frequently contested relations between moral agency, the conditions for its development; the mechanisms for holding agents accountable and responsible; and changing economic and political practices. Its authors develop different theoretical perspectives and explore diverse cases and, together, make important contributions to international relations, political economy, and governance studies.”

– *Bob Jessop, Lancaster University, UK*

“Through compelling empirical cases and sophisticated theoretical analyses, the contributors to this valuable volume demonstrate that responsibility is something that is necessarily and vigorously contested. By addressing the complex political, social, economic, and technological contexts within which the concepts of moral agency and responsibility are negotiated and renegotiated, they succeed in enhancing our understanding of both.”

– *Toni Erskine, University of New South Wales, Australia*

“What is it to be ‘responsible’ in today’s global world? Who is (made) responsible, for what, to whom, how, when, and to what purpose? The probing debates in this volume greatly clarify these issues, in particular the high-stakes ethics and politics involved.”

– *Jan Aart Scholte, University of Gothenburg, Sweden*

“This timely book investigates the politics and contestations surrounding the notion of ‘responsibility’ which has become a rather prominent topic in world politics (e.g. in the ‘responsibility to protect’). The authors approach the subject from a variety of critical perspectives, thereby taking a decidedly agency-centered perspective. A must-read for both academics interested in and practitioners of global governance.”

– *Thomas Risse, Free University Berlin, Germany*

“This excellent collection offers a compelling range of perspectives on the politics of responsibility – the conditions under which responsibility arises; who can exercise it; and the roles it plays in international relations. Highly recommended for anyone interested in the development of contemporary conceptions of moral agency and practices of responsibility.”

– *Kirsten Ainley, LSE, UK*

“Responsibility is one of the most contested notions in international relations. Unsurprisingly, I disagree with some of this first-rate team of contributors. But their provocative and thoughtful reflections must be read and pondered.”

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Abbreviations

AG	Advocate General
ANT	Actor-network theory
BRICS	Brazil, Russia, India, China and South Africa
CBDR	Common but Differentiated Responsibility
CDM	Clean Development Mechanism
CFI	European Court of First Instance
CoL	Culture of Lawfulness
COP	Conference of the Parties
CSR	Corporate social responsibility
DEA	Drug Enforcement Administration
DFID	Department for International Development (United Kingdom)
ECJ	European Court of Justice
GHG	Greenhouse gas
GPN	Garment Production Network
HPO	Hybrid political order
ICC	International Criminal Court
ICISS	International Commission on Intervention and State Sovereignty
ICJ	International Court of Justice
ICRtoP	International Coalition for the Responsibility to Protect
ILC	International Law Commission
INGO	International non-governmental organisation
IO	International organisation
IR	International relations
MDGs	Millennium Development Goals
NDC	Nationally determined contribution
NGO	Non-governmental organisation
NSA	Non-state actor
NSAG	Non-state armed group
OECD	Organisation for Economic Co-operation and Development
OECD-DAC	OECD Development Assistance Committee
P5	Permanent five members of the Security Council
PMSC	Private military and security company

PSC	Private security company
R2P	Responsibility to Protect
RwP	Responsibility while Protecting
SDGs	Sustainable Development Goals
UN	United Nations
UNFCCC	UN Framework Convention on Climate Change
UNGA	UN General Assembly
UNSC	UN Security Council
USAID	United States Agency for International Development
WRAP	Western Regional Advocacy Project

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1 Introduction

Moral agency and the politics of responsibility

Elena Sondermann, Cornelia Ulbert and Peter Finkenbusch

Introduction

Responsibility has become a relevant topic in world politics as the rising number of publications shows. Many of them deal with the Responsibility to Protect (R2P),¹ but debates on responsibility are not only restricted to security issues. Other prominent examples include the discussion on corporate social responsibility (CSR)² or the principle of Common but Differentiated Responsibilities (CBDR)³ in international (environmental) law. As far as the actors of world politics are concerned, responsibility is attributed specifically to powerful states (e.g. Bukovansky *et al.* 2012). Although there is much talk about responsibility, beyond the formal jurisdiction of the nation-state, however, responsibility is contested in transnational fields where political, economic, and social actors struggle to define the collectively binding rules of moral conduct. There, responsibility is negotiated, delegated and distributed. Since responsibility and acting responsibly are never uncontested, we are interested in the ‘politics of responsibility’. The politics of responsibility plays out in how and why responsibility relationships emerge, develop, and change. Moreover, not only the powerful bear responsibility. Power can also be a result of taking over responsibility.

The authors assembled in this volume discuss this contestedness and the interactions of various actors on different levels from a multi-disciplinary perspective, both through empirical case studies as well as theoretical analyses. When dealing with responsibility the crucial questions are: who is responsible, for what and to whom? In other words: how can responsibility be claimed, and by whom and how can we understand the act of claiming responsibility? How can responsibility be practised, how is it practised and by whom? And above all: for what object or action should responsibility be taken? These questions point to the relevance of agency in several respects. At stake is not only the agency of the ‘bearers’ of responsibility, but also of those who claim and contest existing relationships, hierarchies, and positions. Therefore, we will start with a discussion of (moral) agency and how it can be enhanced, before we turn to unfolding the many meanings of responsibility and its relationship with different forms of agency, and how this affects the politics of responsibility. On this basis, we introduce the chapters of the book and sketch out how they link to our conceptual reflections.

Agency and moral agency: common terms and core critique

Very generally speaking, agency is about acting and the ability to act.⁴ In conventional thinking agency is regarded as a property of the individual, which is mirrored by the common (and mostly unproblematised) equation of agent and actor.⁵ In this understanding, agency relates to events which have been enacted by an individual and that would not have happened otherwise. Agency is then on the one hand associated with an individual being able to formulate preferences and to develop strategies for their realisation, referring to an “internal conversation” (Archer 2003). Second and importantly, it is about the capability to enact these strategies or to refrain from actions. In the following paragraphs, we will touch upon the broad theoretical discussions referring to agency under the headings of intentionality and capability and introduce how they inform our conventional understanding of moral agency, before we turn to a more recent critique of this notion.

Intentionality, broadly understood, involves the abilities to reflect upon potential activities and their consequences, to monitor and potentially adapt behaviour. Anthony Giddens refers to the knowledge that enables individuals to reflect upon their own and others’ practices as much as the context of those practices as “knowledgeability” (Giddens 1984: 3). The degree to which the social and normative background of an individual informs or even constitutes these processes, a core question of the ‘agency–structure debate’, is problematised and answered very differently depending on the theoretical stance one takes. Mainstream modern positivist theory—which dominates economic theory and has informed much of North American political science literature on interests and behaviour as well—regards the individual as mostly autonomous and rational, thereby neglecting or excluding the role norms and other social institutions play in meaning-making processes. These, on the other hand, have been emphasised by constructivist social scientists and critical theory.⁶ Agents rely on their individual experiences on the one hand, but also on the cultural and normative practices that set their “terms of engagement” (see Antje Wiener, Chapter 6). Individual agency is then always to be seen in its broader social (and also organisational) context. It can be increased by belonging to an institution or constrained by the same structures (see Neta Crawford, Chapter 3). In this line of thinking, agency is to a large degree conditioned by social practices and/or an expression of habit, not a result of free choice. Epistemologically, intentionality is called into question by asking how much individuals can know about the effects of their actions. These limits can refer to temporal and local dimensions or to unintended consequences of actions, all of which might not have been foreseeable at the time of decision-making and action-taking (see David Chandler, Chapter 12). Also, situations might arise in which the contribution of a single individual to a certain outcome (generated for instance by a group or organisation, see Crawford, Chapter 3) is very small or even seemingly indistinguishable (the ‘problem of many hands’). With these important limitations in mind, agency is often still linked to a ‘thin’ notion of intentionality as having an understanding (even if inaccurate) of actions,

and of being able to explain, defend, or adapt those (see Sebastian Köhler, Neil Roughley and Hanno Sauer, Chapter 4). Regarding moral agency, this implies the knowledge of social norms and of morally right behaviour as well as the ability to evaluate and adapt one's own actions against these standards, and therefore to know about the 'morally correct actions' in a given situation (Joe Hoover discusses this notion of moral agency as well, Chapter 2).

Yet, agency is not only about intentionality but about actions, hence, the enactment of those intentions. Herewith, another relevant aspect comes to the fore: the capability (not) to act, which is dependent on the freedom and resources an individual has to realise her ideas. Regarding moral agency, much of modern liberal thinking simply assumes individuals to have the capacity to freely choose their actions, and Western modern culture rests on this understanding of the individual as the autonomous actor and the construction of the modern actor as an "authorized agent" (Meyer and Jepperson 2000). It forms the basis for our Kantian understanding of accountability/responsibility as liability because only in light of this 'double autonomy in agency' (regarding both, intentionality and capability) individuals can be convincingly praised or blamed for their actions. However, growing critique of the understanding of agency as a human property and of individuals as rational and autonomous agents has stressed that capability rests on resources which involve the social position and social role an individual holds and are dependent on social context. This leads new approaches to regard agency as a social phenomenon and to take a relational perspective. By asking how agency becomes possible and is being produced, they move from 'individual' to 'social agency'. Agency is then "inextricably linked to social contexts through the relations in which it is embedded" and is about becoming "an agent of something" (Wight 2006: 212). Agency is then not a 'natural' and given property of individuals shared by all but instead unequally distributed and depending on the "power agents accumulate by virtue of their positioning in a social context" (Wight 2006: 212). Research in this tradition investigates the mechanisms and relationships which generate agency, asks who is assigned responsibility and what characterises agency in the given situation and context. "Access to agency" is about "critically engaging with the norms of global governance" (see Wiener, Chapter 6) in opposition to merely being in the position to receive and put them into practice. By emphasising the reality of "unequal access to agency" (again, see Wiener) this ultimately raises the issue of empowerment when thinking about agency in international politics.

A different perspective, which highlights the inextricable relationship between agency and environments, is the analytical focus on social practices (Reckwitz 2002). While practices are created by agents, they simultaneously constitute their social and meaningful environment. Hence, practices "create agents and give meaning to agency" (Adler and Pouliot 2011: 23) providing us with roles and values. Practice theory also builds a bridge to approaches that investigate the agency of things and non-human entities by emphasising that material things do have an effect on (human) practices (Bueger and Gadinger 2014). According to actor-network theory (ANT) (Latour 2005) the agency of an actor is not explained

as a property of the actor as such, but of the network of those (things) who and which enable him. In light of the increasing importance technologies and computerised programs have and will be having for our everyday lives (the reliance on devices with computing capacities in general; other examples include self-driving cars, intelligent/smart houses or internet bots) but also in highly political contexts (for instance drones being used in military interventions), non-human agency needs to be addressed. First, because those intelligent systems have the capacity to enable and influence human agency. And, second, because the evolution of artificial intelligence to act and to learn more and more independently seems unquestionable. In line with practice theory and ANT, we can think of using and installing technological devices as a social practice and part of the network enabling agency (Ahn 2016; Leander 2013). Coming back to initial remarks on agency, however, leads us to think about the intentionality of (more or less) autonomous systems and algorithms after we have already established their capacity to act. Even if we can assign a restricted notion of intentionality to those devices in the sense of (very fast and precise) goal-oriented or purposive weighing of options, they do not 'have' 'good' or 'bad' intentions, hence the core of what we associate with (moral) agency in the individualistic and traditional sense. These are still confined to the competencies of the 'humans' who use, apply and install them (see Köhler *et al.*, Chapter 4).

The following section focuses on different approaches to agency in the international system, thereby also addressing the idea of collective agency and further advancing the critique of the traditional notion of agency as a property of actors. Moreover, picking up the different perspectives raised in the previous sections we will think about the implications of enhancing moral agency.

Different perspectives on (moral) agency in world politics

Agency in the international system has traditionally been associated with states and has been closely linked with the concept of sovereignty. Schools of thought in international relations (IR), differing on most other assumptions as do international liberalism and realism, still agreed on their focus on states as (the sole) agents and moreover their often under-theorised treatment of states 'as-if' they were individuals (Wendt 2004) and hence as 'moral agents':⁷ states in this thinking are assumed to develop strategies, are judged against their fulfillment of those and deemed 'good' or 'bad'. However, different developments have challenged this simplistic treatment of international affairs. First, already with regard to states, things have become more complicated as sovereignty, originally the core source of state agency and closely linked with the norm of non-interference, has changed its meaning. While never to be confused with actual equality, today sovereignty does not preclude discussions and evaluations about to what extent a state is able or willing to attend to its citizens' security or welfare.

This falls in line with and is linked to a second development, which has brought individuals to the centre stage of international politics (Ainley 2006, 2008). Concepts such as 'human security' or 'human development' and most importantly

the human rights regime itself regard the individual as a potential or actual victim of state action who needs protection by the international community (expressed for instance in the norm of the R2P, see Aidan Hehir and Wiener, Chapters 5 and 6). This attention to individual agency in international politics can also be found in the rise of international criminal law and a tendency to individualise violence. Writing about large-scale atrocities Kirsten Ainley regards the International Criminal Court (ICC) and international criminal law as an expression of the sole focus on individuals as bearers of agency and finds that the social environment is neglected as is the process of achieving agency “through participation in social institutions and in the enactment of social roles” (Ainley 2008: 52). International politics focuses on the individual as the key (moral) agent and the ‘protagonists of evil’, and concerns itself (only) with those violent actions it can frame as acts of individuals. This approach can be found across many different fields of engagement: for example in development policies, ‘human development’ is the key goal and for long, this has been translated into strategies and goals (e.g. the Millennium Development Goals),⁸ which attended to a betterment of the health and welfare or increase of income of individuals, groups and communities. This happened without paying attention to the social structure and political context, which not only surrounded but caused and enabled the people’s situations.

Third, in light of the growing role that international organisations (IOs), non-state actors, or companies (to name just a few) are playing in international politics, it has become obvious that they have attained (or been ascribed) agency in the common sense of the word: they are now in a position to draw attention to policies, to influence agenda-setting, and carry out policies. Consequently, discussions about (moral) agency in world politics have begun to address collective actors beyond the ‘as-if’-treatment of states. They attend to formal institutions and organisations and probe whether they qualify as (moral) agents. In the tradition of the above-discussed notion of individual agency they seek to establish the conditions under which one can speak of an organisation’s intentionality and capability to act. Erskine (2003) has unfolded and defended the notion of “institutional moral agency” based on five characteristics: (1) a corporate identity which is more than the sum of the identities of its members and (2) exists over time; (3) a decision-making structure which ensures deliberation and that the group can arrive at a goal that is “more than simply the aggregate of individual aims and intentions” (Erskine 2001: 72). Closely linked, (4) an executive function, which ensures the ability to enact those decisions. Lastly, (5) a group needs a conception of itself. This definition allows us to regard a broad range of organisations as institutional (moral) agents—from universities, the Catholic Church, terrorist groups to IOs and companies. Erskine (2010: 265–266) clarifies that she does not wish to suggest that institutions are the same as individuals but that she is “simply suggesting that institutions share with individual human beings certain capacities that allow both to be considered moral agents”. Although this transfers agency to a collective actor it nevertheless remains firmly in the realm of an individualistic notion of agency. In comparison, understanding organisations as a complex setting or system leads to a different notion of intentionality

and of agency. Neta Crawford (Chapter 3) concurs with Erskine when she speaks of organisations or groups as “imperfect moral agents”. Her proposed characteristics actually do touch upon very similar conditions, which also discuss organisations’ intentionality and capacity to act: shared intentions or a common purpose, combined with the ability to reflect upon them, the existence and persistence of the organisation over time as well as institutionalised decision-making procedures linked to the capacity to act. Yet, Crawford regards organisations in international politics as complex and thus understands the actions decided upon as a “mix” of private deliberation, discussions between actors, and, importantly, as an expression of social norms, beliefs and rules of the organisation. In this perspective, organisations provide roles and are able to enforce role performance. As we have seen above, the capacity to act from this point of view is not a property of an actor any more but is conditioned by the role or position one holds in a broader structure or network. These roles provide for routines and scripted responses; and actions in complex organisations are largely structured by these routines.

A fourth perspective goes further and calls attention to the role social institutions and the partaking in social practices play in creating agency. (Unjust) international structures (for example the international economic system) allow for and even legitimate forms of violence (for example poverty) but are ignored when it comes to deciding upon political decisions (Ainley 2006, 2008). (Moral) agency in this understanding is inherently political and a product of the current (hierarchical) system and dominant rules of the game (Hoover 2012: 254).

Fifth, because of technological advances machines and computerised programs are becoming ‘actors’ in international politics; in other words: they act and their actions have consequences. For example, bots maintain fake Twitter accounts or send out fake news that frame public discourses and influence decision-making processes and political agendas; or, more dramatically, drones kill civilians in military strikes. Depending on the perspective on agency we assume, we can think quite differently about the agency of those devices and systems. In terms of individual (or collective) human agency—and restricting moral agency to individuals or collectives only—we would regard computerised programs as an expression (or extension) of human agency. However, if using and relying on them is viewed as an expression of a social norm and role expectation or a social practice then the routines and the ‘rules of the game’, hence the institutions which allow for the manner they are used, come into focus.

From conceptual thinking to political action: suggestions to enhance moral agency

No matter the perspective on agency—individualistic, collective or as a social practice—researchers have begun to sketch out how moral agency can be enhanced to provide for (more) responsible behaviour in international politics. This implies an assessment of agency as not fixed but in flux and amendable. Regarding individual agency, suggestions point to moral education and awareness-building about

the history and (unjust) structures of the world as much as how individual actions contribute to those (Crawford 2009). They could (or should) then also target an awareness about usage of technological devices. Organisations and institutions as well can be designed to enhance moral agency as Crawford (Chapter 3) argues. Along her line of thinking about agency of institutions, this would imply transparent and accountable decision-making; an awareness and openness about the normative implications of an organisation's goals and actions; an institutionalisation of respect towards normative practices in the organisational culture as well as a codification of responsible behaviour in the role expectations and role enforcement of its individual members. Coming back to social practices and agency as an expression of dominant hierarchies, agency is core to challenges to and questions of empowerment. Hoover (2012: 257) turns this assessment into a plea to deconstruct "privileged agency" and to "socially and politically" empower agents "to participate in the ongoing formation of social practices", sketching out a "democratic moral agency" (see Hoover, Chapter 2). This involves a responsiveness to the (also unintended) broader consequences of our actions and of the social practices we partake in and thereby allow for (as for instance the role autonomous systems and algorithms play in everyday life or politics). This presents a forward-looking perspective,⁹ which is an important step from the traditional ideas of agency discussed in the beginning.

The idea of responsibility which is informed by this understanding of moral agency differs significantly from notions of responsibility as answerability and liability, which rest on a mostly backward-looking understanding of individual agency as autonomous intentionality and free capability of action. We will further discuss these questions regarding different meanings of responsibility in the following sections.

The many meanings of responsibility: from causal connections to interactions

Defining responsibility analytically is challenging, given the academic unease with the concept. As Miller (2001: 455) pointed out, "few concepts in moral and political philosophy are more slippery than that of responsibility". Nevertheless, or especially because of this, responsibility as a concept is widely debated in philosophy, law or the social sciences. The basic meaning of responsibility is inferred from its Latin origin (*respondere*) as 'to answer to', in the sense of justifying one's behaviour. Our everyday usage of the term reveals further dimensions, which are implied in expressions like 'to take responsibility' and 'to hold responsible'. Taking over responsibility is an act of self-attribution and attribution by others, whereas holding responsible is an act of accountability with respect to actions and events that lie in the past, which implies sanctioning behaviour.¹⁰ Therefore, responsibility is about the praise and blameworthiness of certain actions, but not only in the sense that others judge the behaviour of a person. The person in question also has to answer actively to the judgements of others. This evokes pictures of a trial in which the accused has to answer to the charges raised against her.

The recourse to the image of a trial leads us to the discussion of legal conceptions of responsibility, which often refer to the British legal philosopher Herbert L. A. Hart, who tried to capture the manifold meanings of responsibility in the following story, which is widely cited:

(1) As captain of the ship, Smith was responsible for the safety of his passengers and crew. (2) But he drank himself into a stupor on his last voyage and was responsible for the loss of the ship and many of its passengers. (3) The doctors initially thought his drinking might have been the product of a paralytic depression, but later concluded that he had, in fact, been fully responsible at the time he became drunk. Smith initially maintained that the exceptional winter storms were responsible for the loss of the ship, but at trial, (4) after he was found criminally responsible for his negligent conduct and sentenced to ten years' imprisonment, (5) he declared that no legal penalty could alleviate his guilt, for which he sought to atone. (6) Some of the survivors of the wreck, however, declared that they wished to put their nightmare behind them, and forgave Smith. (7, 8) Meanwhile, the president of the cruise line issued the following statement: "Although the company must accept its legal responsibility of the loss of life and property, we bear no culpability for the disaster, since Smith fraudulently concealed from us his earlier employment problems, and our alcohol screens turned up no evidence of his drinking".

(Hart 1968: 211, quoted in Kutz 2004: 548)

From this quote, Christopher Kutz derives various notions of responsibility (Kutz 2004: 549): first of all, the captain had specific obligations, which characterise his role responsibility (1). But since his insobriety caused the vessel's loss, he was causally responsible (2). As far as the temporal dimension is concerned, the first two types mark responsibility as prospective—pointing to specific duties in the case of role responsibility—and retrospective—referring to actions or events in the past in the case of causal responsibility. The third feature of responsibility cited above relates to the capacity or agency of the captain, since he self-deterministically chose to drink (3). Because of this agency, the captain is confronted with individual liability responsibility and therefore accountable to criminal law, tort law, and standards of morality (4, 5, 6, 7). Moreover, the company, which had employed the captain, also had to face claims of collective responsibility (8).

This debate on the meanings of responsibility reflects the basic understanding of responsibility as a relational concept. Almost all definitions of responsibility imply at least the relationship between a subject who is responsible *for* something, that is to say an object, implying a traditional notion of individual agency. Very often, this relationship is established on causal terms, from which the *liability* of the subject towards the object is inferred. If we only looked at that two-dimensional relationship, responsibility would be a property of the agent "grounded in robust metaphysical facts about responsible agency" (see Köhler *et al.*, Chapter 4). This relationship, however, also entails being responsible *to* someone, a body or

another person, for what the subject has done. In addition, responsibility claims always rest on specific normative grounds, which are embedded in a specific structural and ideational context. Therefore, according to Kutz “the contextual and relation-dependent nature of responsibility claims means that, fundamentally, responsibility is a *social practice* and not the neutral registration of independent moral facts. Thus, [. . .] making responsibility claims, of ourselves or others both constitutes and transforms our agency and our relations to one another” (Kutz 2004: 551; emphasis added).

For what object or action should (or even can) responsibility be taken? In our modern world, very often, we have difficulties to assign responsibility and to make someone accountable, or to decide on the degree to which a person can be held accountable. In these cases, we speak of ‘responsibility gaps’ (for a critical discussion, see Köhler *et al.*, Chapter 4). These responsibility gaps might occur because in a collectively generated outcome there may exist problems to identify who is responsible and to what degree each individual may be causally responsible, the so-called problem of ‘many hands’ introduced above. To overcome this problem you may “hold a large number of individuals to account to a relatively small degree each” (Köhler *et al.*, Chapter 4). If you take the institutional context in which individuals act into account, however, for removing responsibility gaps you might ask, as Neta Crawford does in her chapter, how you have “to set the conditions so that individuals and organisations in world politics can act more responsibly” (Crawford, Chapter 3).

Assigning responsibility and holding somebody accountable often starts with the assumption of a rational autonomous actor having control over her behaviour and freedom to act, informing the traditional individualistic notion of agency we discussed earlier. This understanding is being applied to individual and collective actors likewise, especially in legal accounts of world politics, which aim to establish who is liable for specific acts (backward-looking responsibility) or who has to follow specific duties (forward-looking responsibility). The different ways by which the authors in this volume approach unintended consequences and the problem of many hands, however, reflect the disagreement on the degree of intentionality and control or autonomy actors might actually exercise. Ontologically speaking, you can think of the world as one identified by causality and intentionality or, at the other end of the spectrum, as one marked by complexity and unintended consequences (see Figure 1.1). In the latter world—compared to rational autonomy—the emphasis is on the social embeddedness of actors and thus on responsibility as a social practice (see Chandler, Chapter 12). Consequently, from the latter perspective individual (moral) agency cannot be understood outside the institutional context within each individual acts, for this context is characterised by culturally diverse and criss-crossing normative orders, which shape a space that forms a “geography of responsibility” (see Ulbert, Chapter 7). Consequently, as Tobias Debiel shows in his chapter with reference to hybrid political orders, different normative frameworks lead to different forms and assignments of responsibility (shared, blurred or contested) (Chapter 9). Our modern world is characterised by complex problems that are due to collective

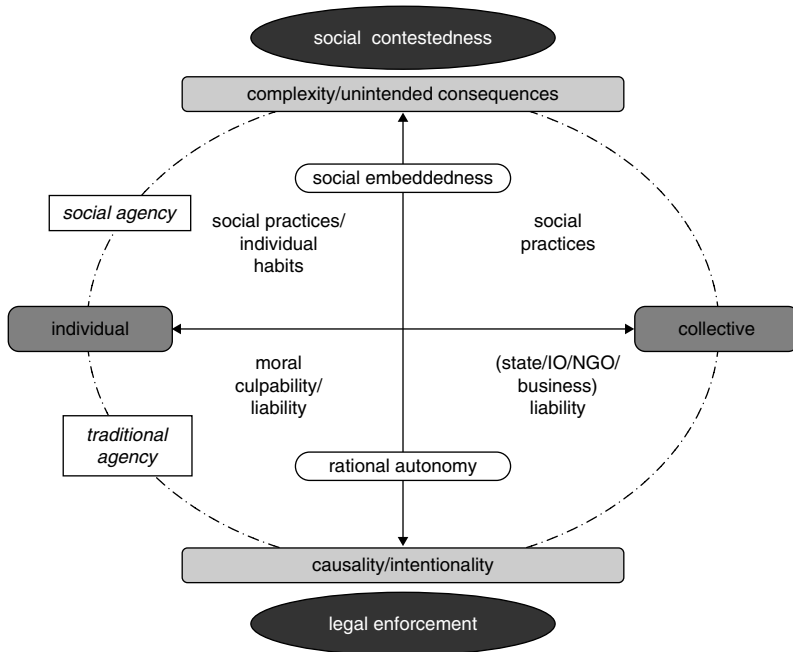


Figure 1.1 The spectrum of different notions of agency and meanings of responsibility
 Source: Authors' own illustration.

agency, both in having been created and in solving them. Ultimately, as the two chapters in this volume dealing with the R2P show, the assignment and exertion of responsibility can either be understood in terms of *social contestedness* (Wiener) or in terms of *legal enforcement* (Hehir). Legal enforcement is based on the idea that you can hold an individual or a collective liable reflecting the notion of retrospective (backward-looking) responsibility. The idea of prospective (forward-looking) responsibility, however, is emphasised when you look at the duties and obligations that prescribe how actors should behave in future. The exertion of both responsibility as liability and responsibility as a social practice reflects the distribution of power and resources within different communities, and rests on making decisions that apply to members of a collective. Hence, both meanings of responsibility testify to the significance of scrutinising the underlying politics of responsibility.

Uncovering the politics of responsibility

Interestingly, the growing engagement with responsibility in world politics is due to the diagnosis of a lack of responsibility. Therefore, the crucial questions are how to assign retrospective responsibility and how to frame forward-looking

responsibility in a way that, ultimately, the ones who are to be held responsible are able to act accordingly. Obviously, there are difficulties to foresee the consequences of one's action, and there may also be some indeterminacy in holding individuals and collectives accountable. As Köhler *et al.* point out rightly, this indeterminacy can be avoided through an "element of stipulation" or, in other words, agreement on social practices —and this is the outcome of a profoundly political process.

Indeterminacy, for instance, is reflected in the discussions on who is responsible for the human-made greenhouse effect. Take the example of the invention of the combustion engine, which Köhler *et al.* refer to in their chapter. From an analytical point of view, it would be hard to hold the inventors of the combustion engine responsible, since they could not know that their invention would lead to an increase of carbon dioxide emissions in the atmosphere, and thus may have contributed to climate change. More than a century later, however, because of moral reasons of justice, industrialised countries were assigned responsibility for actions that happened in the past, although in terms of causality none of the original polluters was alive any more. However, in the United Nations Framework Convention on Climate Change (UNFCCC), the obligation to reduce the current level of greenhouse gas emissions was imposed on industrialised countries only. Moreover, the agreement also conferred on states the duty to obey the precautionary principle in putting new technologies to use (see Ulbert, Chapter 7). The precautionary principle is a norm that is reflected in social practices, but has also been translated into a legal requirement in many countries in the form of Environmental Impact Assessments.

Similarly, as Joe Hoover demonstrates in his chapter, human rights abuses related to housing cannot only be attributed to individuals, but to collective actors and the interactions of communities of individuals. This forward-looking responsibility, which for Hoover rests on "democratic moral agency", "is fundamentally political as it entails a duty to seek the redistribution of political power and material resources to those affected by unjust social interactions, in the case of housing it entails a shift in the economic and political order, specifically in how we relate through practices of home ownership" (Hoover, Chapter 2). Sometimes, political power may also be redistributed in an unexpected way, as Christian Scheper shows by examining business responsibility as a political phenomenon, which leads him to conclude that social relations of production are rather made permanent than changed (Chapter 8). Therefore, assigning responsibility does not necessarily entail an element of empowerment of underprivileged groups. In fact, it may also be eroded or "distributed" (Chandler, Chapter 12), and it can also lead to dominance when used as a governance technique, as Jonathan Joseph and Peter Finkenbusch demonstrate in their respective contributions with reference to discourses on resilience and the drug problem in the Americas.

The chapters in this volume uncover how the politics of responsibility plays out in relationships that emerge, develop and change, and ultimately show that there is no responsibility 'as such'. Instead, each investigation rests on a distinct perspective of moral agency and responsibility and therefore carries out the

analysis from a different position as the following outline of the book reveals. It summarises the chapters highlighting their theoretical stance and conceptual contribution and unfolds the logic of the volume's structure.

Outline of the book

The volume starts with a chapter by Joe Hoover who discusses the shortcomings of individualistic understandings of moral agency emphasising unintended and wider consequences. Accordingly, rather than being an undertaking of autonomous and rational agents, Hoover understands responsibility as a social practice. For him, responsibility is a practice “through which we hold each other accountable to social standards in order to influence the behaviour of individuals and communities”. Building on Deweyan practice theory, Hoover argues in favour of enhancing democratic moral agency and transforming the moral ends that guide our social practices of responsibility. Turning to Marion Young's social-connection model, Hoover suggests that we need to be much more “responsive to the wider consequences of actions we contribute to but may not have taken ourselves, as well as those which we may have taken with no intention of causing harm”. Hoover uses the case of grassroots activism in favour of the human right to housing in the context of the US real estate crisis in 2006 and 2007 to show how this moral transformation may be pursued practically.

Neta Crawford deals with the question of how we can improve responsibility in world politics, both in the form of backward-looking responsibility and forward-looking responsibility in the sense of duties assigned to roles. This focus allows her to think about individual and collective actors alike and consequently she argues that we need to enhance individual and (imperfect) institutional moral agency, which she defines as the capacity to act responsibly. To her, “individual agency is constituted [. . .] and constrained by organisational structures” and social context while on the other hand organisations are not simply the aggregation of individual agency. Instead, they “have emergent properties that are both related to, and different from, the responsibility of individuals.” She discusses those properties (as a shared organisational goal, capacity to deliberate, and mechanisms to enforce role performance), before she addresses ways to enhance moral agency and responsible behaviour. For her, as for Hoover, responsiveness is the key.

In contrast to Hoover's and Crawford's notion of moral agency and responsibility, the contribution by Sebastian Köhler, Neil Roughley and Hanno Sauer follows a thoroughly individualistic understanding of agency that entails a strong voluntarist, rationalist view of the subject as controlling both the forming of attitudes and actions as well as the ability to calculate (potential) consequences correctly. Here, responsibility is conceived along concepts such as individual legal liability and accountability. With this conceptualisation in the background, Köhler, Roughley and Sauer argue that the increasing role of computational technologies does not produce problems challenging “our ordinary conception of responsibility”. They discuss different arguments and problems such as that of

many hands or nudging but conclude that they push us to “develop[ing] better tools for holding accountable”, not to questioning the underlying model. The introduction of modern technology has not in principle done away with the liability model of responsibility as conditions of “sufficient causality” and “sufficient knowledge” still obtain.

The second set of chapters discusses instances of “Demanding and contesting responsibility in the international community”. Aidan Hehir’s contribution is concerned with the effectiveness of the R2P and can be read as a plea for stronger mechanisms to enforce responsibility. He finds that, although R2P has enjoyed “increased currency” in international relations, the effectiveness of R2P solely depends on its normative appeal because R2P does not involve responsibility in the legal sense of the word. Hehir argues that social shaming strategies hold very little potential of influencing state behaviour in cases relevant to R2P. Where regime survival is at stake, governments are highly unlikely to give in to international pressure and refrain from human rights violations. Hence, it remains “practical[ly] impoten[t]” and has made R2P more of an “encouragement to protect”. For a more effective implementation of R2P it would be necessary to “engage more with the true meaning of responsibility”. To Hehir, this would entail a proper international legal framework and a set of robust instruments for punishing derelictions, thus mechanisms of enforcement.

Antje Wiener discusses two instances in which responsibility norms and thereby the moral authority of the UN Security Council (UNSC) have been contested. She analyses the encounter of distinct national and regional normative orders with the UNSC’s attempt to exercise global moral authority. To her, “agency depends on the terms of engagement. It is never practised in a vacuum”. For the UNSC, this means that its ability to exercise moral authority hinges on the “normative structure that constrains or enables agency in global IR” and which is constantly contested and in flux. Her first example, the *Kadi* case, illustrates how the UNSC’s failure to safeguard the fundamental rights of blacklisted international travellers has prompted the European Court of Justice (ECJ) to act. The second case of norm contestation is the debate on the so-called Responsibility while Protecting (RwP), which was promoted by Brazil (and other BRICS countries). It highlights how the R2P norm “brings agents to the table who share a broad moral claim of human rights protection, yet who prefer distinct means of implementation”—the proponents of RwP were concerned about sovereignty implications in this regard—and thereby defied the “moral authority of the UNSC as a representative body”. According to Wiener, RwP represents “the most notable and forward-looking output” of norm contestation.

Part three of the volume looks at how the politics of responsibility is practised in different areas of global governance. Cornelia Ulbert starts with a chapter on the principle of CBDR in global climate governance. She traces the evolution of the CBDR principle in the climate change regime from a simple bifurcation between developed and developing countries under the Kyoto Protocol to a more “bottom-up process of self-differentiation” as part of the Paris Agreement. Interestingly, by interpreting and operationalising the CBDR over time, legal obligations

(in the sense of binding commitments) focusing on ‘technical’ standards were supplemented by references to moral principles and human rights norms, bringing the individual to the fore and changing the norms by which states are held accountable and to whom they are held accountable. Moreover, the reconstruction of the evolution of the CBDR within the climate regime shows how agency is constituted in very specific ways with crucial consequences for the nature of the climate regime. To retrace the complex interactions based on specific meanings of responsibility and differentiation, Ulbert applies the notion of a ‘geography of responsibility’. By doing this, she not only seeks to capture the (changing) ‘nature’ of responsibility, but also explores responsibility in terms of a space or constraint of action.

Taking up the view of responsibility as a social practice, Christian Scheper investigates how the discourse of CSR “reflects dominant social relations of production rather than conflicting with [them]”. Specifically, he uses the example of the Bangladesh Accord on Fire and Building Safety to critically analyse the notion of moral lead firm in global garment production networks (GPN). The chapter draws out how the corporate ability to act morally is predicated on sufficient possibilities to make profit: “ethics ‘start’ only where economic goals are fulfilled”. What comes out in the analysis is that the call for CSR reproduces the economic power position of large buying companies, while increasing their reputation as moral agents: “the lead firm is blamed but in the process becomes a moral leader, while relations of power and constitutive economic conditions of profit making are bracketed from the responsibility practice”. In the process, the very meaning of responsibility is corporatised. The limits of what is morally right are determined by “what is economically possible.” In sum, corporate responsibility as a social practice produces an ambivalent situation. While it has helped improve working conditions and safety standards, it has done so by “privileg[ing] the economically dominant firm”. In this way, CSR has helped merge economic power and moral standing.

Subsequently, the chapter by Tobias Debiel on post-conflict peacebuilding describes how the commercialisation of security functions and the growing reliance of international, regional, and state actors on non-state armed groups (NSAGs) and traditional authorities has led to a pluralisation of authority, which goes beyond a devolution of responsibilities from the public to the private realm. Instead, spheres of regulation have emerged, creating a variety of competing and complementary ‘legalities’ in which responsibilities are permanently negotiated and contested in these transnational arenas and often evade established mechanisms of accountability, in particular with regard to human rights issues. Debiel uses Vincent and Elinor Ostrom’s concept of polycentric governance to shed light on different modes of interaction (synergic, cooperative and conflictive) in a number of different local contexts, which lead to specific forms and assignments of responsibility (shared, blurred, contested). To deal with this pluralisation of authority, he discusses “vertical endorsement” and “horizontal experimentalisation” as two distinct strategies to cope with the normative implications international actors have to face. While the former strategy aims at a re-invention of public

authority, the latter focuses on strengthening the bargaining power of marginalised groups, bringing to bear their “critical-experimental intelligence” as well as their “social and local embeddedness”.

In the final part of the book “De-constructing responsibility in an interconnected world” Jonathan Joseph, Peter Finkenbusch and David Chandler look at the way discourses of global interrelatedness and complex causation change international policy thinking about responsibility and strategies of responsabilisation. Jonathan Joseph analyses how notions of complex causation have transformed the global governance discourse. He argues that the contemporary policy discourse works by denying the idea that “we can adequately comprehend the world” and that, consequently, attempts to intervene at the macro level are bound to fail. In particular, the increasingly dominant resilience discourse has promoted the belief that large-scale policy intervention is unlikely to achieve liberal goals of democracy and development. Paradoxically, recognising new limits of outside knowability and top-down intervention has reinforced the responsabilisation at the micro level in form of regulation of individual subjects and local communities through ‘responsible’ self-governance. Yet, in face of an inability or unwillingness to reach all the way down, there is a “double failure”—“of liberal universalism at the macro level and neoliberalism at the micro level” followed by a “return to the macro and a concentration on the conduct of states”, which are once again regarded as the responsibility-holders. In sum, contrary to the commonplace understanding that resilience and other social or human-centred modes of governance have shifted attention away from formal frameworks, they have in fact served to “better discipline the state”.

The chapter by Peter Finkenbusch formulates a governmentality critique of how contemporary policy discourse responsabilises the individual. Turning to the case of the Merida Initiative, a US–Mexican security cooperation agreement signed in 2007, the chapter argues that discourses of global interconnectedness further entrench neoliberal policy thinking in the Global North. Specifically, US policy discourse on the drug problem in the Americas increasingly acknowledges the central role that US drug demand plays in sustaining profitable illegal markets and the governance problems they cause in transit countries like Mexico. Importantly, by framing drug consumption as a dysfunctional behavioural pattern, the demand discourse inserts the drug problem into a therapeutic governance logic. The key policy concern becomes one of improving the enabling environment within which subjects make choices; and fostering international security and development becomes an issue of enabling better choice-making at home.

David Chandler’s chapter explores how the increasingly influential understanding of the world as entangled and interconnected is impacting on liberal modernist notions of political and ethical responsibility. The analysis starts by reflecting on how international linear interventions in the 1990s framed the addressees as “isolated actors” and human rights abuses, which were to be prevented, as the acts of autonomous ‘others’. Chandler then discusses neo-institutionalism towards the end of the 1990s and refers to the work of Paul Collier to demonstrate how, from this perspective, the subject was regarded as socially and materially

embedded and how problems of conflict and underdevelopment in the Global South became understood as partly caused by the structures and policies which powerful Western states had created at the international level. The chapter shows how “Western powers can claim responsibility for the world” through a discourse of global interconnectedness and the unintended side-effects of their institutional creations. However, instead of these claims inviting “moral opprobrium or demands for political accountability”, as in the overt interventions of the 1990s, the discourse helps cohere “new, reflexive forms of ethico-political authority”. Western states are always already ‘interfering’ (Collier) abroad—without this being an issue of intervention “undermining formal legal and political rights”. The consequence is that responsibility is more and more eroded. In neo-institutional framings, the non-Western ‘others’ cannot be blamed for “the contexts in which choices are made” and external actors avoid responsibility “as direct intervention shifts to indirect ‘interference’”.

Finally, in the conclusion, we highlight the interrelatedness of practices of responsibility and the constitution of moral agency, and the relevance of conceptualising responsibility as a space that leads to different forms of assigning responsibility.

Notes

- 1 There is such a vast number of publications on the R2P that it is impossible to select a limited number for an overview. For the debate on the R2P see Chapters 5 and 6 in this volume.
- 2 For details on the CSR concept, see Chapter 8.
- 3 For further discussions on the CBDR, see Chapter 7.
- 4 Not part of our discussions are the different strands of ‘agency theory’ which focus on the social relation of a principal and an agent and involve the delegation of authority towards this agent (Hawkins *et al.* 2006; Miller 2005).
- 5 See Kärger *et al.* (2014) for a broader discussion of the current state of research on agency and agency in IR.
- 6 In IR theory, Alexander Wendt brought new attention to the relationship between actors and social structures and conceived of them as interrelated entities and mutually constitutive based on Anthony Giddens’ structuration concept (Wendt 1987). Many others followed in their effort to understand how structures constitute actors and their interests on the one hand and how actors constantly reproduce or change structures through their actions: e.g. Hollis and Smith (1990, 1991) and later Doty (1997), Suganami (1999) and Herborth (2004) to name just a few.
- 7 Compare Wight (2004, 2006) for a critical discussion.
- 8 However, at the time when this focus was translated into official policy strategy it marked a decisive change and improvement from the up to then state-centred practice in development cooperation.
- 9 See Mustafa Emirbayer and Ann Mische for an in-depth discussion of agency “as a temporally embedded process of social engagement” (Emirbayer and Mische 1998: 963).
- 10 Please note that the way ‘attribution’ and ‘accountability’ are used here does not correspond exactly to how the terms are defined in the philosophical debate on ‘responsibility as attributability’ and ‘responsibility as accountability’, which was instigated by Gary Watson’s seminal article on “Two Faces of Responsibility” (Watson 1996), see also Smith (2015).

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Part I

**Challenging traditional
notions of moral agency
and responsibility**



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2 Democratic moral agency

Altering unjust conditions in practices of responsibility

Joe Hoover

When we consider international wrongs, such as war crimes, systemic human rights abuses or global inequality, assigning responsibility is complex. Collective harms by their nature defy an individualistic understanding of moral accountability, as determining clean lines of causality is practically impossible and great numbers of people are implicated through their participation in harmful collective acts (Ainley 2008). Further, the attempt to assign responsibility to culpable individuals becomes deeply political, as identifying some agents as distinctly responsible over others is an exertion of power that excuses and blames for reasons exterior to the issue of strict causal accountability (Connolly 1995: 47–48). In light of this, I argue that we should understand the assignation of responsibility as a social practice, such that it is not a quality of individual actors but rather a quality of our social relationships (Hoover 2012). This means that responsibility is a practice through which we hold each other accountable to social norms to further specific customary moral ends. Therefore, I contend that we should develop a more *democratic* practice of responsibility, not solely focused on the causal responsibility and moral culpability of individuals, but also concerned with how social interactions enable injustice, both by empowering some individuals to cause harm and through social structures that cause harm even when no individual intends to do harm (Young 2011: 73). This alternative approach to responsibility is characterised as democratic because it requires a shift in how we understand moral agency from a focus on individuals acting freely to a focus on how communities of individuals are implicated in collective harms, as well as to what extent social relations might be reformed to limit the capacity of individuals to cause harms to others and empower those who experience injustice to alter harmful social practices. This alternative is then illustrated by looking at how grassroots human rights groups in the US have attributed human rights abuses related to housing not only to individuals, but to collective actors and the interactions of communities of individuals. In response, they claim that understanding human rights abuses as a collective harm requires holding both individuals and social practices accountable. This forward-looking responsibility is fundamentally political as it entails a duty to seek the redistribution of political power and material resources to those affected by unjust social interactions. In the case of housing it entails a shift in the economic and political order, specifically in how we relate through practices of home ownership.

To make these matters less abstract, I want to consider the dramatised story of the US housing crisis presented in the film *99 Homes* (2015). In the film, a young father, Dennis Nash, who works in the construction industry in Florida, loses his home after he falls behind on his mortgage. The Nash family's lender has started foreclosure proceedings on their home and Dennis goes to the local court but receives no assistance in slowing down or reversing the process, despite legally questionable practices by the lender. Shortly after his court appearance, Dennis' home is repossessed by Rick Carver, who is contracted by the mortgage lender to carry out evictions. As the Nash family settles uneasily into a cheap motel, Dennis struggles to find employment as he has been laid off due to the slow-down in new home construction. While looking for work, he is hired by Rick, moving quickly from doing manual labour to helping Rick repossess foreclosed homes. The story dramatises events that have affected millions in the US and provides an insight into the problem of how we think about responsibility for injustices that take place on a mass scale with global causes and consequences.

A conventional narrative of individual responsibility, what Iris Marion Young has called the "liability model" (Young 2006: 116–118, 2011: 3–25), might place the blame for the Nash family's misfortune on their actions, their lack of responsibility. Yet, what the film makes clear is that Dennis loses his job not because of irresponsibility on his part but because of changes in the economy that limit his ability to pay his mortgage. Even though the Nash family has taken out a second mortgage to fund Dennis' mother's in-home hair salon, we see that this is an unexceptional act and one that many home owners were encouraged to take by aggressive mortgage lenders. A more critical reading might place the blame on Rick, as an agent of the mortgage lenders willing to bend the rules to get ahead. Again, the film does not allow for easy or comfortable assertions of blame, as we see that Rick is responding to incentives from the mortgage lenders to pursue aggressive repossessions, while also following other incentives from the government that reward him for taking actions that harm individuals and communities. The film shows how both men are caught within social structures that are driving their actions, limiting their choices, and holding them accountable to rules that result in destructive behaviour and social injustice. In the end, the film gives us no villains to blame for the calamity of the housing crisis, and the discomfort of this moral dissonance hints at the difficulty we encounter when our thinking about responsibility based on individual accountability is inadequate to address mass social injustice.

What then are the prospects for accountability in the context of injustices that are global in their scope? Conventional practices of responsibility individualise accountability and encourage us to think in terms of villains, or at least criminals: irresponsible home owners living beyond their means, greedy lenders bending the law and taking advantage of people, incompetent government regulators failing to do their job. These forms of accountability are useful, but only to a point. While individualised understandings of accountability identify real elements in the housing crisis, they do not give us a full picture of how widespread social injustices come about, nor do they offer effective means of responding to such

injustices. Structural accounts of the causes of the housing crisis are common, but these accounts fail to provide an understanding of what moral responsibility means in the context of widespread injustices with complex lines of causation. We have narratives centred on policy failure (McLean and Nocera 2010; Ritholtz 2009), the excessive power of financial institutions (Johnson and Kwak 2010; Sorkin 2009), or structural imperatives within global capitalism that lead to repeated crises (Harvey 2012; Rajan 2010). Yet, these accounts do not give us a sense of how moral responsibility works in relation to these structural causes of injustice, as they remain separate from individualised narratives of responsibility. Policy failures are presented as errors of judgment, not crimes or injustices; the excessive power and greed of financial bodies is put down to an almost natural instinct that was improperly constrained; and the causal responsibility of capitalism perhaps gives us reason to seek political change, but it does not give us an account of culpability within unjust social structures. Are we left with the tragedy of injustice for which there is no one to blame?

If we change scene and look back to the real world, in particular to the response of grassroots political organisations responding to the housing crisis, we see another way of understanding accountability. Groups across the US have responded to the housing crisis by framing the issue as a systemic violation of the human right to housing (Hoover 2015). How does this help us? Is it not yet another individualised narrative? In what follows I will show that the political movement for a human right to housing draws on a counter-narrative that starts with a recognition of the systemic quality of injustice and demands accountability not only as individual legal punishment but political responsibility as a call for social change. The demand of political responsibility gives us strong moral reasons for collective action in pursuit of changes to the social practices that enable individuals and institutions to perpetuate harms, in particular shifting political and economic power so that those suffering from the injustices of displacement, impoverishment and homelessness have the capacity to oppose and change the social practices and institutions that harm them. In what follows, I sketch out an account of responsibility as a social practice in more depth; I then argue that this should lead us to embrace a practice of responsibility that develops democratic moral agency, which requires changing institutions and empowering individuals and communities. These ideas are then elaborated by returning to the US housing crisis in the final section.

The social practice of responsibility

While much academic work and public discourse focuses on the liability model of responsibility, there has been substantial progress in conceiving of an alternative account of responsibility. Much of this has focused on whether collective actors can be held responsible (Erskine 2001; Lang 2007; May 2005),¹ but another strand has explicitly tried to rethink the nature and purposes of the act of assigning responsibility (Ainley 2008; Crawford 2007; Frost 2003; Hoover 2012; Young 2006). Broadly speaking, this alternative conceptualises responsibility as a

practice, through which we hold each other accountable to social standards to influence the behaviour of individuals and communities. This understanding leaves room for practices that assign individual legal and moral responsibility based on the liability model, while also opening up space to think about the role that broader social interactions have in causing injustices and in upholding unjust structures. As Young (2006: 123) notes, this wider account of responsibility is concerned with making future-oriented political claims, calling on individuals to act collectively to change harmful social practices. Further, she suggests that this way of thinking better corresponds with our moral intuitions about what we mean when we claim that large numbers of individuals are responsible for widespread injustices (Young 2006: 119).

Young's account provides a useful starting point for considering how thinking about responsibility as a social practice helps us understand complex and global injustices. She begins by suggesting that relationships of responsibility are not best defined by nationalist or cosmopolitan ideals of moral community, but rather in terms of the practical social relationships that we participate in, which create benefits and harms in society (Young 2006: 119; 2011: 75–91). The social practices we are concerned with, then, are specific to the various social endeavours that we are engaged in, but are not limited by a pre-given notion of either a bounded or universal moral community. Young develops a 'social-connection' model of responsibility, through which we are able to consider the broader responsibilities individuals have based on their participation in specific social activities that are harmful. As a consequence, this form of responsibility is not concerned with assigning individual causal liability or offering reparations to specific victims, but rather with how institutions we participate in perpetuate and cause injustice. Identifying responsibility of this kind does not result in criminal punishment, instead, responsibility is discharged collectively through political actions that alter the ways we associate and the background conditions that lead to injustices. This in turn requires that we challenge the distribution of power, including both material resources and institutional privileges, which keep unjust institutional arrangements in place (Young 2011: 142–151). Young's social-connection model gives moral specificity and political bite to structural analyses of widespread injustices, by identifying shared but indirect causal responsibility that gives us strong reasons for action based on an obligation to take action to cease contributing to injustices. There are, however, two aspects of Young's account that are underdeveloped. First, she does not sufficiently consider how existing practices of responsibility act to construct specific individuals as distinctly culpable, which can act as a barrier to the kind of collective political action that is necessary to discharge shared responsibilities for injustice. Second, her account does not fully address how the moral intuitions that inspire her social-connection model require the development of a politicised collective moral agency.

While Young's work is concerned with the unfair burden the liability model places upon individuals and communities that are socially vulnerable, as their actions under unjust conditions are unfairly judged in isolation from the wider social context, she does not take full account of the way our practices of responsibility

have already constructed us as particular types of agents, even before we act. If responsibility is a social activity, though which individuals express praise and blame in response to each other's acts, then this opens up a vital political question: Who is entitled to set the terms of this activity? Responsibility as a social practice entails norms of behaviour that identify appropriate means and ends for our social activities, as well as authorities charged with upholding these norms. This means that responsibility is a means of constructing and regulating social identity through the disciplining of behaviour, thus producing disparities of power within society. Further, the practice itself is defined by existing disparities of power within society.

Keeping the political aspect of this practice at the forefront, it is clear that the focus of the liability model on the intentional and overt actions of individuals is not simply myopic, rather we need to understand the political function it serves. Young underemphasises the conflict between a liability and social-connection model of responsibility, as the move to a social-connection model challenges the distribution of power favoured by a liability model. William Connolly's work is helpful for drawing this out (Connolly 1995: 41–74). The desire to hold individuals accountable to social norms, which entails enforcing adherence to specific social roles, is a complex desire about more than pursuing justice or ensuring social stability—it is also a way of expressing feelings of resentment and exerting political power over socially devalued individuals and communities (Connolly 1995: 64–65). Young is right that the liability model ignores structural injustice created through social activities and that it presumes background conditions are not unjust. Connolly, however, encourages us to see that the liability model also enables us to set up a hierarchy between the responsible agent (able to police their actions, succeed within existing social orders, flourish under the rules) and the irresponsible agent (who is lazy, undisciplined, or at worst, evil). The liability model, considered as a social practice, engages dense webs of feeling to naturalise the complex arrangement of social norms and roles that holding individuals culpable depends upon. This means that the social-connection model Young advocates (whatever its greater descriptive accuracy) must also challenge social convention and the habituated emotional responses it inculcates as individuals are rendered as either responsible or irresponsible agents.

The social-connection model requires that individuals learn to see themselves as responsible for actions that they did not intend or directly carry out, but for which they can be held accountable because of their participation in institutionalised social relationships (Young 2006: 114). This is a profound demand that asks individuals to take responsibility for their positions within structures that they have had little direct responsibility for creating or maintaining. Further, it asks some individuals to give up their privileges, which they have learned to see as earned, while also recognising that the unequal distribution of capabilities and vulnerabilities within society has led to the marginalisation and victimisation of others, who must now be recognised as the victims of the socially privileged. It asks privileged individuals to see themselves as agents of injustice and to see those that were previously constructed as villains as the victims. Speaking of the difficulty that white Americans had facing up to the injustice of slavery, Frederick

Douglass wrote that “we may easily forgive those who injure us, but it is hard to forgive those whom we injure” (Douglass 1881: 572). Douglass’ sentiment identifies the central challenge Young’s social-connection model must overcome, as she asks those who benefit from injustice to admit their complicity to their victims, and then to serve in the cause of justice with them (Young 2011: 153–170). The shift required involves not only a change in how individuals think, but also a change in how individuals relate to one another, as a change in our social interactions is also a change in the power dynamics within society. If the social-connection model requires individuals to engage in collective political action to discharge their responsibility for injustices, then there is much work to be done in addressing the social identities and emotional habits inculcated by the liability model before such collective action is possible.

A related problem for the social-connection model is that it begins with an appeal to our intuition that we need a better moral response to widespread injustice. I do not want to criticise the claim that we have such an intuition, but rather the role that this intuition plays in motivating the social-connection model. Social practices of responsibility are structured by the ends that they are intended to uphold—the purposes for which we socialise individuals into particular kinds of agents through assignation of praise and blame—and these ends are deeply rooted. Young’s account does not take sufficient measure of the moral ends that motivate the liability model, and in turn her intuition about collective forms of responsibility is insufficient on its own to inculcate the alternate practice of responsibility she seeks. Turning to John Dewey, whose ethical theory anticipates aspects of the social practice account of responsibility, provides us with a resource here (Dewey 1991: 88–96). For Dewey, moral ends are central to social life, as they provide a habituated justification for individual acts, as well as customary reasons for collective actions performed through social institutions (Dewey 2002: 58–69). These moral ends, however, are never wholly consistent nor static, and Dewey’s account of the social development of morality provides a superior account of the psychological motivations for the moral transformation to a social-connection model.

The liability model is based on an ideal of personal accountability, which privileges individual autonomy as a virtue. This ideal, however, is a generalisation, an imprecise abstraction by which a particular good is set up as an idealised moral end that then structures social practices; it lacks independent extra-social authority.² Moral ends, on Dewey’s account, are political in the sense that adherence to them is not guaranteed by reason but dependent upon social convention (Hildreth 2009; Hoover 2016: 103–136). This means we have powerful motivations to insulate moral ends from contestation when we benefit from others’ adherence to them. Young is right that the ideal of individual accountability, and the liability model it justifies, is unconvincing in the face of widespread injustices, but she does not take sufficient measure of what is involved in altering our moral ends, and the social identities they justify.

There are, however, a multitude of experiences that damage the liability model’s credibility. Dewey characterises such experiences as arising from problematic

situations, which are moments when lived experience shows that the customary moral ends that structure social interactions and institutions do not work in some way (Dewey 2004: 93–98). The experience of Dennis Nash in *99 Homes* illustrates this idea. As Dennis loses his job and his home, then finds himself working for the man who took his home, it becomes apparent that neither he nor Rick Carver are really free. Their actions are driven and constrained by outside forces, such that Dennis is not solely responsible for losing his home, nor is Rick responsible for taking away that home. The liability model of responsibility simply does not work and Dennis cannot make sense of what has happened to him within those confines. Further, Dennis sees that he and Rick are both responsible for injustice. Dennis finds himself working in the margins of the law, bending the rules for his own gain. Initially he is seduced by this experience. His ambition is interrupted when Rick asks him to file illegal paperwork to evict a family that Dennis knows, forcing him to confront his own complicity in the injustices he has struggled to escape. For Dewey, experiences like this enable individuals to take a critical stance to customary moral ends and create space for the political action needed to alter problematic situations by revising social practices and positing new moral ends. Young has touched upon but not explored this moment of transformation. The intuition she invokes can be seen as arising out of problematic situations, an emerging sense that the liability model of responsibility is not getting at the reality of injustice.

Making this experience explicit enables us to see how much is at stake in altering the social practice of responsibility. The social-connection model rests on a different moral end, namely one of interconnectedness, in which the ideal is not individual autonomy but collective reciprocity. Dewey illustrates how the work of moral transformation is fundamentally practical: responding to problematic situations requires a reconstruction of the moral ends that guide social practices, along with action that tests the consequences of newly posited ends. Further, he emphasises that this work is dependent on the reconstruction of both individual and social habit, such that new ends need to become part of the subjectivity of individuals and the common sense of communities. This clarifies what Young is seeking to do in shifting the ends that motivate practices of responsibility; it also highlights the radical nature of the social-connection model. The liability model, grounded in autonomy, is structured by the ideal of accountability to the law, of the individual's willing submission to legitimate authority. Fulfilling the liability model's moral end at a social level involves habituating the desire to be law abiding; rational obedience is the virtue of the liability model. In contrast, the social-connection model's moral end is accountability for the social consequences of our activity and it demands critical scepticism towards customary law, along with collective political action to reform the law. Democratic activism is the virtue of the social-connection model.

These criticisms of Young's work are not intended to discount the social-connection model as an alternative, rather they highlight vital lines of development. Addressing these limitations depends upon developing an account of moral agency that challenges the constellation of affective responses entailed by the

liability model, while consciously cultivating the habits of thought and action required for a model of responsibility grounded in democratic activism.

Democratic moral agency

Conventionally, moral agency involves bringing together the ability to know the morally correct action and the capacity to freely choose one's actions, such that an individual can be praised for doing the right action or blamed for performing the wrong one. On this liberal model, which is broadly Kantian (Smiley 1992: 85–92), we are free to choose but should constrain our choices to morally permissible actions. The social-connection model requires that we rethink moral agency, as it suggests that an individual must be responsive to the wider consequences of actions we contribute to but may not have taken ourselves, as well as those which we may have taken with no intention of causing harm. Its central moral ideal is not autonomy but responsiveness. On this model, we are still free to choose our actions but not the wider consequences of those actions, both as they contribute to collective acts and result in unintended consequences. Further, our actions are not made in light of an objective set of rational moral rules but in terms of social practices of responsibility—social practices that we must also reflect upon.

The responsiveness required is both a sensitivity to the far-reaching and unintended consequences of actions taken in complex social contexts, as well as a concern for the unequal effect that background conditions have on different participants in our social interaction. It requires openness to the experience of others and willingness to have one's sense of self disrupted, as our interactions have various effects on differently placed individuals and communities. The social-connection model requires an understanding of the moral agent as a connected and responsive agent, both influenced by and influencing others, which contrasts with the autonomous and rational agent of liberal moral agency. Beyond connection, however, the social-connection model also suggests that cooperative and creative practical action is needed, as doing the right thing is not a matter of acting in accordance with moral principle or established law as an individual, but of acting in concert with others in pursuit of an emergent end, defined collectively, and intended to alter the terms and background conditions of social interaction.

The profound nature of the shift required is made even clearer because within the terms of the social-connection model our moral agency is a result of social conditioning, not an artefact of an inherent human nature. Thus, moral agency is not an ontological matter related to what kind of agent we are at an essential level, but a political one, as we must reflect on what kind of agency our social practices inculcate. It is for this reason I attach political identifiers to the different models, moving from *liberal* to *democratic* moral agency.³ We must learn to be a different kind of moral agent for Young's social-connection model to function, and do so under conditions that are often antithetical to the required learning, meaning we also need to think about the barriers to the socialisation of democratic moral agency.

How then do we learn to be responsive, cooperative, and creative moral agents? In the space available here, I can only point to three vital requirements of democratic moral agency. First, democratic moral agency needs to cultivate a different affect in our practices of responsibility. The desire for privileges based on our ability to obey the rules, and the related resentment against those who do not, needs to be mediated by greater generosity for, and attentiveness to, difference—including the different situations of individuals and communities that make following the rules difficult, or may in fact highlight the unjustness of the existing rules. Generosity and attentiveness enable moral agency that expresses care, in the sense of being careful in our own actions and extending care for others (Dewey 1929: 215). A social-connection model of responsibility motivated by feelings of care softens the harshness of the demands made upon individuals to be responsible, demanding obedience to the law and vigilance against its transgression both in ourselves and others. In place of this, care favours a response that seeks to take responsibility for the consequences of the law, and other social rules, especially by those privileged within the existing order. An affective change opens up space for, and supports, alterations of individual habit and social custom, reconstructing the individual responsible agent and the method of that agent's construction. Yet, this affective shift also requires practical changes in our social interactions and institutions, as without these practical changes the care expressed in democratic moral agency would be ineffectual.

Second, along with altering the habitual affective responses in our practices of responsibility, democratic moral agency requires social spaces in which such agency can be taught and exercised. We need institutions that hold individuals responsible within communities, while also allowing them to contribute to the making of rules. To borrow a favourite example of Dewey's, schools provide an important space for such learning; rather than systems of discipline that focus on an individual child's success or failure in following rules or passing tests, democratic moral agency would require teaching children they have a role to play in helping each other follow the rules, as well as in evaluating and making the rules. If we see all social institutions as spaces for learning, the number of spaces in which democratic moral agency might be encouraged increases: workplaces, courtrooms, and lending institutions are all spaces where collective responsibility could be integrated to inculcate responsiveness and cooperative rule-making. This is, however, undeniably utopian as existing institutions in which we learn to be responsible are designed to inculcate an individualised liberal moral agency and structured by deep social inequalities. Existing inequalities not only present obstacles to the reconstruction of the institutions through which we learn to be responsible, but they also raise worries that even where practices could be rendered more democratic they would still be dominated by those with greater resources and social privileges.

As a third requirement, democratic moral agency depends upon addressing actually existing inequality, particularly the unequal distribution of resources and privileges granting some individuals greater capacities to harm others and determine the form of our social interactions. The concern here is both material inequality,

which can be translated into social power, and ideational inequality, which results from the social privileges attached to some identities in relation to denigrated and marginalised ones.

The analysis thus far suggests that developing the democratic moral agency required for a social-connection model of responsibility is very demanding. Without downplaying the difficulty of the shift outlined, it is important to recognise that any social practice of holding responsible functions by developing moral agency through socialisation (Barnes 2000). The democratic moral agency I am advocating can be built within existing intuitions and upon latent moral ends that may not be upheld within many social institutions but are still valued by individuals and communities. As a way of examining both the potential for such changes and considering the possible positive consequences of this revised practice of responsibility, I turn to the work of grassroots political campaigns addressing the US housing crisis as a collective harm perpetuated through our social interactions.

Human right to housing: democratic activism as social-connection model of responsibility

The central commitment that sets radical political organising for the human right to housing apart is their distinctive use of the language of human rights (Hoover 2015). Rather than framing human rights abuses within the liability model, they consciously identify the violation of the human right to housing as a collective harm caused by the complex interactions of individuals, communities, and formal institutions. Further, because they understand human rights abuses as more than wilful acts, their response focuses on altering the context that allows violations to occur. In a sense their work picks up where the film *99 Homes* leaves off. In the film, Dennis is left wondering how to deal with his simultaneous culpability and victimisation within a wider structure of damaging social interactions. Activists defending the human right to housing offer one response. Rather than seeking responsibility strictly as accountability for the past actions of culpable individuals, they focus on identifying the social interactions that cause collective harms and the political work necessary to prevent future harms, in particular by identifying: collective actors, harmful patterns of individual interaction causing harm, and the social practices delimiting our interactions, often through powerful formal institutions (Aitchison 2015; Camp and Heatherton 2011; Foscarinis 2007; Gottesdiener 2013; Hoover 2015, 2016; Rameau 2008; Roy 2017).

The reconstruction of human rights abuses in this way is an example of the social-connection model in practice. Malignant individuals are still a factor, as individual landlords, police and security officers, the employees of lenders, and incompetent regulators can all cause harm. The harm they do, however, is dependent upon their placement within social practices with global scope and relatively minor in comparison to those caused by collective actors knowingly causing harm—such as when mortgage lenders expressly target minority borrowers for sub-prime mortgages (Swarns 2015)—and the countless acts of individuals engaging in the housing markets (developers, property speculators, home buyers, renters, and

public housing tenants) that cause harm without intent. By including our seemingly benign social interactions and the background conditions of those interactions, activists reveal that it is the way we create and distribute housing that is the fundamental problem. From the treatment of housing as a commodity rather than a need, such that access is determined by one's capacity to enter the market, to the focus on the individual and private ownership of housing as investment, which has justified not only the financialisation of housing but also the abandonment of public housing, the everyday manner in which we produce housing leads to displacement, homelessness, and even death. Given these developments are relatively recent and involve the marginalisation of other models of property ownership, the deeper background conditions to our practices of interaction in the housing market are central. The inability to secure housing is a human rights abuse caused, at root, by global processes of urbanisation, growing inequality between individuals within states and globally, the racialisation and criminalisation of poverty, and the construction of a hyper-individualised subject privileged in neoliberal policy reforms. This brief analysis makes clear that addressing housing as a human right requires, as Young points out, collective political action—and not just from those who are suffering abuse but from individuals obliged to engage because of their contribution to collective harms. This political action must seek to change the terms of our social interaction and the background conditions that enable injustice.

The work of these groups usefully augments Young's social-connection model by responding to the challenges identified in the previous section: how to inculcate a caring and responsive affective disposition; the need to address institutional requirements for a cooperative and creative democratic moral agency; and challenging the material and ideational inequalities that enable collective harms through our social interactions. First, these groups seek to alter the affective disposition in our practices of responsibility by undermining the guilt that individual tenants and home owners feel when faced with losing their homes. This work involves putting the decisions individuals make in a broader social context to draw out both the questionable actions of other actors and institutions, as well as challenging the commodification of housing, which links the ability to pay to the entitlement to have a home. The change in disposition is both for those facing homelessness or eviction, as well as those still secure in their homes—it is a Deweyan work of problematisation, which seeks to make those contributing indirectly and non-intentionally to injustice aware of the consequences of their actions. As an example, activists engage in public education to reframe processes of urban development, or gentrification, as a human rights abuse that displaces people and communities, leading to social cleansing (ONE DC 2017).

Second, these groups are not simply advocating for fairer markets for housing or a renewed commitment from government to provide public housing, but rather they are seeking to alter the fundamental practices of property ownership, and with that to redistribute the power associated with having control of land and housing (Rameau 2008). Control is sought through new practices of communal self-determination over land use and property development strategies. The fundamental change is to secure direct democratic control over decisions about

how communal land is developed and of the costs and terms of home ownership or tenancy. As an example, groups have occupied abandoned homes, using them to house members of the community in need of housing, while also using these occupations as political acts that prefigure community control over existing housing stock (Trice 2013). Beyond these pre-figurative and overtly political actions, a key component of housing rights activism has been the development of alternative models based on cooperative ownership and community land banks that enable communities to make decisions about housing through securing collective ownership of the land on which housing is built (Loh 2015; Nembhard 2014). These actions make space for, and in fact, require forms of association that are responsive and creative, which is fundamental for inculcating democratic moral agency.

Third, these groups recognise that material and ideational inequalities are a barrier to political action and to creating solidarity between those suffering human rights abuses and those perpetrating them unintentionally. As those who suffer abuses have fewer resources, changing social practices of home ownership is a task that cannot be accomplished in isolation or from a position of deprivation. For this reason, the groups addressing housing rights abuses explicitly link actions that address the welfare needs of individuals and communities as inseparable from the work of political change. This entails seeing the needs and vulnerabilities caused by poverty and discrimination in a relational context, so that providing for immediate needs is insufficient, a further step is required to alter the social conditions of those suffering abuse: political organising. This work links in with Dewey's idea that a public, a political community, must come to recognise itself and its needs in a social context in which it can become an agent of political reform (Dewey 2012). An example of this type of work can be seen in the organisation of homeless individuals into a political community that is expressly aware of their shared condition of vulnerability and capable of organising to both meet their own needs and also develop a collective political voice (Rameau 2008: 95–101; WRAP 2017). The social-connection model of responsibility, in its call for collective political action across different political and social communities, must take account of how solidarity is built within contexts of inequality, making the achievement of greater equality both a condition for, and goal of, such a reconstruction of responsibility for collective harms.

What has been offered here only highlights some of the ways the social-connection model of responsibility might be achieved within existing alternative practices, while at the same time acknowledging how strongly opposed dominant practices of ownership and responsibility are to this work. Along with clarifying the social-connection model, and its prospects, this brief example serves as a reminder that small changes in our everyday practices are the only place to begin making utopian moral changes.

Conclusion

In clarifying some aspects of the social-connection model of responsibility, I have also highlighted its radical nature and tried to take the measure of what it requires.

By way of conclusion, I think we must confront the degree to which we are not yet democratic, while also finding specific ways we might reconstruct our ideas and practices of responsibility. I do not want to suggest that the social-connection model should replace the liability model, but rather that where the liability model is more concerned with backward-looking questions of individual responsibility, such that it tends to be order preserving, the social-connection model is forward-looking and political. This orientation intends to prevent rather than punish harm and actively contests the existing social order, as it seeks to problematise established law and custom—in light of experiences of injustice that are not adequately addressed by the liability model. Not enough has been said here to bring these two models together, but that should not be taken to suggest that they are inherently opposed. Finally, my emphasis here that the social-connection model requires democratic moral agency is a move to politicise moral agency in the sense that it should be seen as socially constructed and, thus, a social-connection model requires us to become more democratic. Democracy, on my account, is understood in a radical and social way, such that it is not simply about representation or voting in the political sphere, but a mode of interaction between individuals, communities, and the social institutions that mediate our interactions. If democracy is to be a way of life, we must learn how to be democratic ourselves.

Notes

- 1 Often the move to consider collective actors as responsible actors draws on applying the liability model rather than suggesting a distinctive type of responsibility for the consequence of our social interactions shared by many individuals.
- 2 For Dewey, the ‘good’ is found in particular valuations of states, actions, or consequences, such that there is no guarantee of more universal moral authority to our values, even as the necessity of social life mean that some ends have to function as ideals. Dewey seeks to undermine the incontestable authority of ideals, not do away with them.
- 3 I use ‘democratic’ here in a Deweyan sense, suggesting that democracy is more than representative institutions or the exercise of the franchise. I intend democratic in a radical sense suggesting that every individual has a role to play in making decisions and participating in the social activities that define their lives. This notion of democracy extends beyond the formal institutions of governance to include wider social institutions, including but not limited to the school, the workplace, and cultural institutions.

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3 Promoting responsible moral agency

Enhancing institutional and individual capacities

Neta C. Crawford

Introduction¹

World politics is embedded in and constructed by relationships of causal and moral responsibility; assertions about responsibility are ubiquitous, most explicitly in the language of treaty obligations but also in the form of organisational goals, commitments, and institutional design. The source and nature of any entities' new responsibilities to one another are established by ethical arguments and maintained through institutional commitments and practices. For instance, the International Criminal Court (ICC), a criminal liability framework, evaluates the retrospective moral responsibility of individuals—what someone did or did not do to cause an outcome—with respect to the laws of war. Forward-looking responsibility is about what we should or should not do to meet our current and future obligations. A well-known example is the United Nations Framework Convention on Climate Change and the 2015 Paris Agreement, which address the obligations of states to reduce their future greenhouse gas emissions (see Ulbert, Chapter 7). Responsible individuals and organisations, including states, fulfil their assigned roles, meet their explicit obligations, and conform to larger social norms while taking care to avoid deliberate or inadvertent harm; if and when they cause harm, responsible agents take care to make repair. A responsible individual or institution is able to do all that if they are competent moral agents, aware of their current circumstances and relevant information, capable of learning new information, and revising their decision-making procedures and standard operating procedures.

I am most concerned here with the nature of responsible moral agents, how they are made, and the relationship between responsible moral agents, in particular, between individual and collective responsibility. If individual and collective responsibility “do not exclude one another, but rather integrate and cohabit in the current international system” (Meloni 2010: 8) how can one sort of responsibility be enhanced so that it reinforces the other? Although my focus is on the constitution of responsible moral agents, an exploration of that concern entails some discussion of the substance of moral responsibilities and how responsible agents are judged and reformed, specifically, how responsibilities are assigned, performance is assessed, and shortcomings in either the moral agents or their actions are repaired.

This focus on enhancing the capacities of moral agents is motivated by a deeper concern, specifically, the question of how to improve moral responsibility in world politics. An actor can have moral agency, be responsible for a task, and behave more or less well with better or worse outcomes. One can have responsibility for something but behave irresponsibly—because of ill intention, a lack of attention or negligence, or an insufficiently developed capacity to deliberate and behave responsibly. As Tracy Isaacs notes, it is sometimes important that we link the analysis of causal responsibility for a state of affairs with the duty or obligation to act in future to make repair because our understanding of causes can help us assess the fairness of the distribution of the costs or burdens of making repair (Isaacs 2014). The link is often direct; e.g. it would make sense that a polluter should be responsible for halting the acts causing pollution and pay for remediation. Thus, the assignment and enactment of moral responsibility requires that those deemed responsible are moral agents with direct or indirect causal responsibility for an action, condition, or outcome. On the other hand, although it is usually the case that we think that agents with retrospective causal responsibility (for a failure to behave responsibly) should have forward-looking or future responsibility for making repair, the actor responsible for how we got to a situation (who we blame) does not necessarily line up with those who should (or can) be responsible to motivate responsible behaviour or make repair. The task is to design forward-looking responsibility so that the division of roles and labour is fair and so that the twin dangers of paternalism and insufficient publicity and inclusiveness in the deliberative process are avoided.

Fiona Robinson argues that responsibilities “are qualitatively different from the minimal duty to respect others’ rights” (Robinson 1999: 63). Specifically, “[w]hile rights intrinsically belong to individual units—persons or states—responsibilities, including very important ones such as those to future generations or to poor and distant strangers, must be addressed collectively through co-operation” (Robinson 1999: 63). These webs of responsibility are mutually supporting. “Rights, then, must be supported by responsibilities that we may cooperatively discharge and by the individual responsibilities that we recognize, including the responsibilities to co-operate in order to maintain common goods, such as civilized speech and civilized ways for settling disputes” (Robinson 1999: 63–64).

My argument proceeds in several steps. First, relations of responsibility are ubiquitous in world politics; the assertion of responsibility and responsible relationships is common. Responsibility can mean many things and it appears in many places. Second, individual moral agency may be both enhanced and constrained within organisations. While we tend to think that individuals give up some of their moral agency to gain the advantages of operating within institutions, this need not be the case. Individual moral agency may be enhanced within institutions. Third, and more controversially, institutions should be considered moral agents because they act as if, and have the features of (imperfect) moral agents. And just as with individuals, the moral agency of collectives or organisations can be enhanced in a well-designed institution. Fourth, while there is an urgent need to continue to specify the notion of state responsibility, and to develop mechanisms

to assign responsibility to individuals and institutions after the fact (if only so that those who fail to act responsibly can be called to account), it is also important to think through how to set the conditions so that individuals and organisations in world politics can act more responsibly. Competent moral agency is the prerequisite of responsibility. But moral agency for individuals and collectives cannot be taken for granted as already and always in existence. Conditions for the exercise of individual and collective moral agency and moral responsibility can and must be created, maintained, and enhanced. Responsible moral agency is thus reflective and can be improved. The improvement of the capacities to exercise individual and institutional moral agency is possible at all levels of political life—even in international politics—when we focus on developing the beliefs and practices of responsible deliberation and if organisations and individuals clearly understand their *roles* as responsible moral agents, which in turn may require a change in both individual attitudes and organisational beliefs and structures. Indeed, any effort to increase responsibility and accountability is more likely to succeed if it attends to developing the capacities of individual moral agents, the capacity of individuals within institutions, and the capacities of *institutions* themselves to act as responsible moral agents.

Relationships of responsibility are ubiquitous: what does it mean to be responsible?

The explicit language of responsibility is ubiquitous in world politics and has been for at least two decades. Before that, arguments about responsibility were implicit in the structure of institutions and the pattern of relations among states, specifically in formal treaties, norms, and the practices of sovereignty and colonialism. Backward-looking responsibility can assign criminal liability for harm. Most of international criminal law, such as was developed in the post-World War II war crimes tribunals and much later in the Rome Statutes of the ICC, attends to individual legal responsibility that simultaneously reflect our judgement about an individual's moral responsibility. Relations of causal responsibility, questions of who is responsible for what in both the backward- and forward-looking senses, will determine future responses to the most difficult challenges in the contemporary world—namely global warming and climate change, war, poverty and inequality, and human rights. World politics does not work well without the acknowledgement and enactment of responsibility which provides for the stability of expectations, the potential for coordination, trust, and a fair division of labour.

The attention to individual responsibility, at for instance the ICC, maps onto our sense, at least in contemporary Western culture, that individuals are responsible for what they do. As Michael Walzer argues, “Soldiers are attacked and forced to fight, but neither aggression nor enemy onslaught forces them to kill innocent people. [. . .] But constricted and frightening as their situation is, we still say that they choose freely and are responsible for what they do. Only a man with a gun to his head is not responsible” (Walzer 2000: 314). Yet, Walzer

recognises that soldiers operate in a command structure. Indeed, Walzer wants to make commanders responsible too, at an individual level.

While I think this is right, I also believe that it is not as complete to be useful for our understanding of responsibility in world politics. Specifically, because much of what we do in public and through politics is done by individuals acting inside and among cultures, organisations, and social systems, individual moral agency usually cannot be understood outside the institutional contexts within which individuals act. Individual capacities to do both good and ill or even to deliberate in a morally responsible way are enabled, enhanced, and constrained by the features of the organisations and institutions to which they belong or work. Conversely, *organisations* will be more or less likely to perform as responsible moral agents depending on the competence of the individuals who originally set the rules and currently comprise the institution and the deliberated structure of the organisation.

Thus, in world politics there is also, appropriately, a sense that *states* and other organisations, such as educational institutions, multinational corporations, and international organisations can be morally responsible. For example, the text of the Draft Articles on the Responsibility of States for Internationally Wrongful Acts (Draft Articles), adopted by the International Law Commission (ILC) in 2001, rests on explicit and implicit assumptions about the law and its relation to the moral agency of states. The Draft Articles narrowly focus on identifying retrospective legal responsibility in the sense of culpability of states for violations of their obligations under international law. Specifically, the Draft Articles clearly name “states” as the responsible actors. Chapter I, on general principles, asserts that “[e]very internationally wrongful act of a State entails the international responsibility of that State.” It defines the elements of an internationally wrongful act as consisting of an action or omission that is attributable to the state under international law, and which “constitutes a breach of an international obligation” (ILC 2001: Articles 1 and 2). Chapter III defines a breach of an international obligation as occurring when “an act of that State is not in conformity with what is required of it by that obligation, regardless of its origin or character”. The state is responsible for meeting only pre-existing legal obligations: “an act of a State does not constitute a breach of an international obligation unless the State is bound by the obligation in question at the time the act occurs” (ILC 2001: Articles 12 and 13). The Draft Articles also specify how individuals acting in an official capacity can make that state responsible for their actions: “The conduct of a person or entity which is not an organ of the State under article 4 but which is empowered by the law of that State to exercise elements of the governmental authority shall be considered an act of the State under international law, provided the person or entity is acting in that capacity in the particular instance” (ILC 2001: Article 15). The Draft Articles also specify circumstances that preclude the attribution of wrongfulness (such as self-defence, *force majeure*, distress, and necessity) and outlines the remedies that might be applied for the reparation of an injury (such as compensation and restitution).

In sum, the Draft Articles are a revolution in world politics, enlarging the sense of causal and legal responsibility from the individual to the collective, turning us

back toward thinking of states as responsible actors. However, they are also rather narrow, suggesting that the state is only responsible for what it has agreed it will do under its treaty obligations. It does not outline ways to promote responsible action, nor does it define responsibility as a moral duty.

Much broader in scope, including an understanding of moral responsibility as well as causal responsibility, is the concept and doctrine of the Responsibility to Protect. The 2001 report of the International Commission on Intervention and State Sovereignty (ICISS), titled “The Responsibility to Protect (R2P)”, articulated a view of responsibility where sovereignty as control yields to sovereignty as responsibility for human rights and human security. Thus, “sovereignty implies a dual responsibility: externally—to respect the sovereignty of other states, and internally, to respect the dignity and basic rights of all the people within the state. In international human rights covenants, in UN practice, and in state practice itself, sovereignty is now understood as embracing this dual responsibility. Sovereignty as responsibility has become the minimum content of good international citizenship” (ICISS 2001: 8). The UN General Assembly (UNGA) (2005) further specified these responsibilities in 2005 in its “World Summit Outcome” document:

138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.

(UNGA 2005)

In these two examples, we can see that responsibility is a broad concept, encompassing the obligation to keep explicit agreements (e.g. the Draft Articles) and the substance of those agreements (e.g. R2P) which may include specific obligations as well as the means and methods of addressing a breach of responsibility when actors have behaved irresponsibly (through institutions, e.g. the United Nations Security Council or the International Court of Justice). Both examples include the naming of the actors who are responsible and the assignment of their roles for violations and repair. The doctrine of the R2P asserts a *moral* responsibility, duties of sovereign states to their people, and a moral obligation of bystanders (e.g. states) to act responsibly to prevent, protect, and repair harms caused by an irresponsible state.² The act of naming the responsible and the specification of their roles informs us *before* an act about the identity of the responsible actor(s) and specifies their obligations. If and when things go wrong, we have criteria for judging who did what in a causal sense and whether a responsible party's actions deserve blame and should be punished or sanctioned somehow, or if they had some reasonable excuse for not acting in a way that makes them responsible for a harm or a wrong.

One of the crucial differences between the Draft Articles and R2P is the latter's more radical assertion that those who behave irresponsibly can and should have their autonomy—in a sense, their agency—judged to be faulty and, if a justified intervention occurs, curtailed. By contrast, in the Draft Articles, the sovereign legal and moral agency of the state is not so much judged as reacted to as states punish a state for failures to act irresponsibly. The focus on judging behaviours and outcomes brings us back to questions of the qualities of moral agency.

These two examples do not exhaust the universe of relationships of causal and moral responsibility in world politics. Rather, they focus on direct causal responsibility for actions or omissions that lead to immediate harm. There are relations of indirect responsibility—instances when our small individual actions add up to an enormous consequence—or there are instances when organisations that have nothing to do with why something is the way it is nonetheless have the capacity to make an important intervention that would make a situation better. Moreover, the focus of these two examples is on states and international organisations, yet we know that there are other relevant actors who might have causal or moral responsibility, namely *ad hoc* collectives or social movement organisations, bureaucracies, corporations or other transnational actors.

All these situations and actors share a need for a conceptualisation of actors who are capable of exercising moral agency and thus acting responsibly. In the next section, I begin to unpack the nature of moral agents, what it means for them to be responsible, and the relationships between individual and institutional capacity.

Belonging to organisations empowers and constrains individual agency

With some exceptions, the paradigm of responsibility in world politics (and domestic politics is no different) is rooted in individual moral and legal responsibility.

This is even the case when individuals are in charge of large organisations with internal chains of authority, for instance in the case of command responsibility and international criminal responsibility for war crimes in International Humanitarian Law. In the case of command responsibility, the individual commander is charged with acts of culpable omission—they failed to prevent a crime that they should have or could have known about and prevented. Similarly, in the Statutes of the ICC, the individual soldier may be charged with intentional harm to civilians. In the 1977 Additional Protocol I of the Geneva Conventions, “those who plan or decide upon an attack” may be essentially excused for collateral damage (i.e. unintended harm to civilians) if “constant care” is taken to “spare the civilian population, civilians and civilian objects” (International Committee for the Red Cross 1977: Article 57).

By definition an *autonomous moral* agent is ‘free’ with the capacity to make decisions, including relevant knowledge, and to act voluntarily. They must have both causal and moral clarity about the nature of the situations and their options for action (Held 1991: 90). Of course, as social scientists (and anyone who has ever had a job) know, even if one is at the top of a hierarchy, institutions *constrain* individual moral agency. It often seems as if individual moral agency tends to be in inverse proportion to the degree of an individual’s incorporation in an organisation. We follow the rules and norms of our institutions and professions because we want to belong to the group, have imbibed its beliefs, or fear sanctions if we step outside our prescribed role or question authority. All of these are old and fairly well understood phenomena. We describe the loss of individual agency with phrases like “I was just following orders” or the individuals suffering from excessive conformity with “groupthink” and applaud the individual who is able to stand against group pressure. For example, in extremely hierarchic organisations such as the military, where a premium is placed on individual obedience and, potentially, sacrifice for the group, the fact of obedience is an artefact of processes of military socialisation for the habit of (normally) unquestioned rule following. Further, organisations coordinate action and institutionalise knowledge. An individual might change their behaviour, but the organisation—the attitudes and beliefs of a majority of its members, the standard operating procedures of the institution, and the resources and tools available for action—tends to reduce the effectiveness of individual action unless it is in concert with the organisation.

Politics is also both an individual and a collective activity, with the collective aspect of politics necessarily affecting individual agency and vice versa. Organisations enable and enact the aim of many individuals functioning in structured routines bound together by common purposes and by their knowledge of particular beliefs. Humans form and join organisations to achieve a significant goal because organisations can almost always do more than a single individual or many uncoordinated individuals. This is Hobbes’ essential insight in *Leviathan*—we cannot do everything by ourselves, including the essential function of providing for our own security or our own prosperity. Individual agency is constituted (individuals gain some power by belonging to an organisation) and constrained by organisational structures and choices made at the collective level; it can be enhanced or

diminished through their participation in organisations or because those organisations provide or withhold the knowledge and resources that are necessary for the exercise of moral agency.

Organisations as moral agents

Complex collectives—organisations and institutions—are more than a collection of individuals independently moving in the same direction for private reasons to the extent that their members communicate and coordinate their action to achieve specific outcomes. They are also more than an aggregation or magnification of individual power and material resources. Organisations constrain and enable individuals and magnify the resources available to individuals.

Collectives can function as moral agents in world politics. Specifically, even though organisations may not be moral persons in the same sense that it is possible for individuals to be moral persons and moral agents, it may nevertheless be useful to think of collectives as imperfect moral agents with moral responsibility (see Crawford 2013; Erskine 2003: 26). In other words, organisations are *collective* or *corporate moral agents* in the sense that they have the capacity to act, albeit under constraints, and because they have the capacity to deliberate about both the ends and the means of action. As Virginia Held says, “the possession of such a decision method, by a collection of individuals [. . .] transforms a collection of persons into an organized group or collectivity” (1991: 97).

Large and complex organisations thus have emergent properties that are both related to and different from the responsibility of individuals. The first emergent property is the difficulty for individuals to make anything happen by themselves—which yields what has been called the problem of “many hands” (see Thompson 1980). Individual moral responsibility may be diffused in a large bureaucracy where the chain of beliefs and actions may be both so long and complex that it is often difficult to isolate particular individuals who could be held responsible for either identifying or causing a problem, and no single individual who can fix the problem. If many hands make light work, as the proverb goes, they also make for diffuse moral responsibility. As much as we might want in every case to say that a particular individual has sole responsibility for an outcome, it is often the case that many individuals, working under the constraints of their roles and resources, are involved (see Köhler *et al.*, Chapter 4).

The second emergent property is imperfect moral agency when organisational structures enable the organisation to deliberate and act in ways that are analogous to individual moral agents and which both enhance and constrain individual moral agency. Specifically, complex organisations are imperfect moral agents to the extent that they have five capacities or functions which they may perform more or less effectively.³ First, members have articulated shared intentions or a common purpose for which they agree to coordinate their actions. The normative implications of the intentions and purposes may or may not be explicit. The next four capacities of institutions as imperfect moral agents parallel the capacities of individual moral agents in five respects.

Second, the entity is a persistent organisation with persistent roles. Individual members may come and go, but the institution remains functional over time because members' behaviour is prescribed by rules and roles, and the organisation has the ability to enforce the members' role performance. So also, the civil society to which civilians belong is a persistent entity and citizens have persistent beliefs and roles within that system—roles that will involve and implicate them in making and executing decisions. Role violators may be re-educated, removed from their position, or potentially face legal sanctions.

Third, like autonomous individuals, collective moral agents have a capacity to make decisions. The organisation has knowledge resources, the ability to process information, decision-making rules and roles, and deliberative capacity.⁴ *Ad hoc* procedures may be utilised in crises or among actors new to their roles. The decision-making process of both groups and individuals can improve over time. It is difficult to overemphasise the importance of ensuring that high quality, reliable, and truthful information be fed into the decision-making procedure. Well-functioning organisations have mechanisms for acquiring, vetting, evaluating, updating, and challenging the information that is used in decision-making.

Fourth, the organisation has the capacity to act: the organisation has mobilised the coordinated efforts of its members, and mobilised and deployed pre-existing or new resources. The actions in complex organisations are often based on routines, standard operating procedures, and scripted responses to expected scenarios. Organisations also have knowledge resources, 'organisational frames'. These are the way an organisation knows "what counts as a problem, how problems are represented, the strategies to be used to solve those problems, and the constraints and requirements placed on possible solutions" (Eden 2004: 50). Organisational frames shape all these aspects (purpose, persistent roles, decision-making resources and procedures, and capacity to act) of the organisation. Complex organisations demonstrate this feature of imperfect moral agency when they coordinate the efforts of members, deploy pre-existing resources, or mobilise new resources.

Fifth, the organisation *should* have an institutionalised capacity to reflect upon and evaluate its purposes, rules and roles, knowledge-production, and decision-making procedures, and the quality of its actions and their consequences. A responsible organisation must be able to critically reflect on its normative beliefs and the consequences of its beliefs, decisions, and actions. Reflection and evaluation by both individuals and organisations may lead to the revision of intentions or changes in structure or the rules for action.

For institutions or collectives to operate as *effective*, albeit imperfect, moral agents they must be able to critically reflect on their normative beliefs and the consequences of their beliefs, decisions, and actions. With regard to intended and unintended harm, this means that each collective must have the potential to foresee the consequences of its actions and the ways the causal chains linking its beliefs and actions are likely to produce specific outcomes—whether intended or unintended.

It is important to resist any impulse to reify the imperfect moral agency of institutions. Organisations, including states, are obviously complex entities that exist

because they have those characteristics described above—meta-institutional goals/purposes, roles, decision-making structures and processes, and capacities to act as well as the ability to evaluate any of those operations and revise their goals, decision-making procedures, and standard operating procedures. But these entities are not unitary, nor are they always acting on one purpose alone. Complex organisations are enabled by larger social processes and structures and are themselves part of those larger structures. Hence, in world politics, we think in terms of levels of analysis that include individuals, bureaucracies, and governments. The ‘decisions’ made by organisations are most often the result of a mix of careful private deliberation, persuasive argumentation among actors, and cultural norms and include adherence to the rules the organisation has set for making decisions as well as less public though not necessarily less influential processes such as bargaining and negotiation within the organisation.

Enhancing collective responsibility in world politics

I have argued (Crawford 2009, 2014) that individual capacities for moral vision and action are not fixed and can be enhanced. It is also possible to enhance the moral agency and responsibility of institutions. Indeed, the US military behaved as a moral agent and demonstrated the capacity to enhance its moral responsibility with respect to reducing civilian casualties during its wars in Afghanistan and Iraq (Crawford 2013). How is it that the moral agency of a collective or institution can be enhanced so that institutions act more responsibly? The mechanisms for increasing the capacity for moral agency and responsibility may seem like common sense but it is remarkable how often institutions do not put them into practice.

When a state does wrong, international law specifies tools—economic and diplomatic sanctions to constrain the capacities of the state to act as well as retaliation and reprisal to socialise the leaders of a state into better behaviour. For example, the Draft Articles specify ways that states can be made to ‘pay’ for acting irresponsibly. While these tools may or may not work in response to past harm—reprisals against actors who for example violate the prohibition on deliberately harming civilians may get that state to stop that behaviour—these tools seem less well suited to the problem when one wants a state to act responsibly before the fact or after the fact, when we want to promote cooperation and repair. In these instances, it may be important to reform the institution and redesign its functions.

First, general principles of institutional design for moral responsibility include the need to recognise moral agency and moral responsibilities as an important and explicit attribute of the institution. The moral responsibilities and normative implications of the intentions and purposes of the organisation should be explicit. Explicit attention must be paid at this stage to articulating how an institution’s stated goals may have both intended and unintended consequences. The fact that a consequence was unintended does not mean that the organisation is not necessarily morally responsible for the outcome.

Second, the moral agency and capacity of the *individuals* who make up the organisation must be enhanced and reinforced. It is essential that actors *who act on behalf of others* take care to do so in a way that is responsive to those others. In other words, it is not that the already capable or powerful can and should have responsibility for the weak and the less capable. Our responsibility to others should be bounded by a respect for their moral agency. Individual moral agency in an institutional context can be enhanced by fostering moral education, including the development of a capacity for empathy and by educating individuals in the substance and procedures of the basics of morality and ethical reasoning and in the history of the world in a way that is attentive to how relationships of inequality were created and persist. Institutions may also help individuals become better deliberators by making sure that their basic needs are provided. And institutions should be structured so that it is possible for individuals to do more in them than vote. Individuals inside and outside organisations should be able to introduce new information, provide testimony, and offer new perspectives through different modes of expression such as art, music and storytelling.

Third, collective moral agents' capacity to make decisions in organisations can also be enhanced. Organisations often have decision-making procedures that are weak in terms of the features that make for more responsible and careful decision-making. An organisation's decision-making procedures may be secretive, exclusive, or unaccountable. To enhance moral agency, the decision-making procedures of the organisation must be made more inclusive, transparent and accountable. Institutions could be better structured to facilitate individual moral agency and group deliberation by being organised to provide relevant information and by opening decision-making to wide and diverse participation. This may include inviting outsiders to contribute to deliberations.

Fourth, because the actions of complex organisations are often based on routines, standard operating procedures, and scripted responses to expected scenarios, moral responsibility must not be an accidental or incidental result of improvisation or *ad hoc* procedures but should be institutionalised and made part of the routine and the organisational culture of the institution.

Fifth, the organisation should have the institutionalised capacity to reflect upon and evaluate its purposes, the organisation of its rules and roles, its knowledge-production and decision-making procedures, and the quality of its actions and their intended and unintended consequences. The openness of an individual or organisation to reflection and revision is often a function of its pre-existing normative and causal belief system. Such evaluations may lead to revisions of the intentions, structure, or rules of the organisation although the openness of the organisation to reflection and revision is again often a function of the content of its organisational frames. This may mean institutionalising a lessons-learned and whistle-blowing function.

Like many individuals, institutions often lack incentives to analyse how it is they have knowingly or unintentionally harmed others or even group members in the past. Few seek out information that may provoke feelings of guilt or shame or raise questions of legal liability. Further, collective actors will be unable to

exercise either prospective or retrospective responsibility, unless there is a venue and mechanism for reflecting and arguing about what is happening. Some professions and institutions have such mechanisms (such as medical review boards for understanding the causes of mortality in hospitals) but many lack these procedures.

These general principles of institutional design that enhance both individual and collective moral agency and responsibility are broad guidelines; each issue area and set of institutions may require different designs for moral agency. These individual and collective capacities should reinforce each other and, ideally, the procedures should be open to revision.

Motivating responsibility and moral backstops

What happens if an organisation is not morally responsible or not open to revision when it is in need of reform? Organisations can and often do lack adequate mechanisms for exercising either prospective or retrospective responsibility. If for self-interest or political reasons a well-designed institution is not behaving in a morally responsible way, there must be a mechanism or a set of mechanisms to encourage other collectives to either encourage the organisation to be responsible or to take over its obligations. A responsible system includes layers of moral responsibility and what might be called relationships of moral backstopping fulfilled by appropriately motivated outsiders or bystanders.

In domestic politics, the chain of responsibility ultimately depends on the rule of law. In international politics, the chain can include other states or an international organisation. The R2P doctrine articulates such a chain of responsibility in world politics: states are responsible to their citizens and they are encouraged to behave well in part because they may face external interventions if they do not do so; the international community is the next link in the R2P chain. A state that has failed in its responsibility to protect loses elements of the presumption of sovereignty (their agency) and the international community steps in to make repair (see Hehir, Chapter 5). But taking responsibility is not something we do for others as if they could not do it themselves. We must take care to avoid enhancing one entity's moral agency at the expense of failing to recognise another's capacity to think and act for themselves (paternalism). After all, the elements of colonialism were not simply about stealing the other's land, raw materials and labour but were understood in terms of a duty for the responsible paternalistic development of the other to a standard of civilisation.

More generally however, it is up to individuals, as Henry Shue argues, to make our domestic and international institutions more responsible: "among the most important duties of individual persons will be indirect duties for the design and creation of positive-duty-performing institutions that do not yet exist and for the modification and transformation of existing institutions that now ignore rights and the positive duties that all rights involve" (Shue 1988: 703). How do individuals get institutions to act more responsibly? The first way to do so is for individuals to recognise that they have moral responsibility and then to believe that it is

possible to exercise their individual moral agency. Consider the chain of responsibility in relation to the problem of citizens' moral responsibility for going to war and for the military's conduct in war. Civilian citizens tend to defer their judgments on war to leaders and "go along". As Walzer argues, "[w]hen a state [. . .] commits itself to a campaign of aggression, its citizens (or many of them) are likely to go along, as Americans did during the Vietnam war, arguing that the war may after all be just; that it is not possible for them to be sure whether it is just or not; that their leaders know best and tell them this or that, which sounds plausible enough; and that nothing they can do will make much difference anyway." He says that "[t]hese are not immoral arguments, though they reflect badly on the society within which they are made" (2000: 301).

I do not know whether these are immoral arguments, but they certainly have the potential to allow for immoral acts to occur. I have thus argued (Crawford 2014) that bad citizenship is not, nor should it be, an international crime of war, although bad citizenship can enable war crimes, and so, when citizens "go along", the people's retrospective responsibility for wars of aggression may be asserted. It was this line of thinking that led the philosopher Karl Jaspers in late 1945 to argue to fellow Germans that, in addition to individual criminal guilt for specific crimes committed in World War II, "a people answers for its polity". The people, he argued, are "collectively liable" for the "acts committed by their state" (Jaspers 2000: 55). Jaspers asserted that "[w]e are politically responsible for our regime, for the acts of the regime, for the start of the war in this world-historical situation" (Jaspers 2000: 72). But, it is possible for individuals to become informed and deliberate upon decisions about war and, if they find that a war is unjust, I argue, they have a responsibility to protest (Crawford 2014).

Similarly, institutions such as slavery, forced labour, and colonialism were once considered normal and legal. They were state sanctioned. But individuals, acting through existing religious and political institutions or forming new organisations, mobilised to regulate and then eventually abolish those institutions (see Crawford 2002). Social movements can call institutions to account and force them to act more responsibly. During the anti-apartheid movement, which sought to end the laws in South Africa that kept the majority black population from voting, living where they desired, and from working in any occupation they chose, institutions and individuals outside South Africa pressured international businesses to act to divest from South African businesses and industries. Thus, a corporate social responsibility movement was begun, fostered by an emergent global civil society (see Voorhes 1999; Mangaliso 1999; Thörn 2006). This may also have indirectly led to challenging some of the main tenets of what might be called a business school model of corporate responsibility which puts shareholder profit ahead of wider social responsibility (see McDonald 2017).

Further, as Shue argues, working through institutions helps us discharge our duties to others and we are thus less likely to burn out. "[W]e are all entitled to some off-duty time whether it improves performance on the job or not. I am only invoking the familiar point that the duties of ordinary people must be less demanding than the performance of saints and heroes because duty bearers are

themselves rights-bearers too and may justifiably choose not to be heroes” (Shue 1988: 697). But, of course, it is not only institutions, such as Oxfam, Human Rights Watch, the Red Cross or Greenpeace, which make a difference in the world. Many organisations that we are a part of, where individuals work, worship, or volunteer—institutions that are the infrastructure of everyday life—have direct, indirect, and perhaps unintended responsibility for the quality of our lives. Some think it is simply easier or more efficient to turn over authority and responsibility in these organisations to a few individuals. Individuals may not see the need for change or may perhaps even benefit from unaccountable procedures and a lack of transparency. Yet, individuals and collectives can and should act to make institutional designs more responsible. The assignment of moral responsibility is an ethical problem, and ethical analysis unfolds at the intersection of moral guidelines and particular situations, individual and collective responsibility, and, over time, attending to past responsibility and future obligations.

Conclusion

World politics is constructed and embedded in relationships of responsibility, whether or not we are aware of those chains of cause and effect, conscious of our moral obligations and relations to others, and whether or not we choose to take up the duties that arise from those responsibilities. Enormous changes in world politics—such as the emergence of human rights as a challenge to state sovereignty—demonstrate human embeddedness in chains of responsibility and how individuals can and do enact their understanding of responsibility. Implicit and unarticulated causal chains of responsibility can be articulated through ethical arguments, and moral agency, through which we act more responsibly, can be and should be enhanced.

Notes

- 1 I thank Henry Shue and Nathan Phillips for helpful suggestions and Cornelia Ulbert, Elena Sondermann, and Peter Finkenbusch for comments on the first draft of this chapter.
- 2 Indeed, many responsibilities are outlined in the World Summit Outcome document for various actors in world politics besides those associated with R2P.
- 3 For a similar list of characteristics see Erskine (2003: 23–24).
- 4 Peter French calls this a “corporate internal decision structure” (French 1979; also see Eden 2004).

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4 Technologically blurred accountability?

Technology, responsibility gaps and the robustness of our everyday conceptual scheme

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Modern technologies and institutions have reached a level of complexity that frequently makes the attribution of moral responsibility difficult. This has led some philosophers to suggest that our ordinary conception of responsibility is no longer applicable to modern conditions and needs to be rethought, due to modern technologies and institutions ‘blurring’ responsibility. Sometimes the claim that responsibility is thus blurred is formulated more precisely as the claim that modern technology creates so-called responsibility gaps (see Matthias 2004; Grübler 2011).

Such claims target that part of our responsibility practice concerned with the criteria for holding agents to account for some past event. They are thus concerned with responsibility in the sense of accountability. We argue that, although there are indeed restricted kinds of cases in which modern technologies introduce a level of indeterminacy into accountability that can only be removed by stipulation, there are no cases in which they generate responsibility gaps. The cases, which have been claimed to exhibit such gaps, are instead characterised by a variety of epistemic or pragmatic problems in the ordinary attribution of responsibility.

Our chapter has three sections. In the first, we clarify what we mean by responsibility, the concept of a responsibility gap and the claim that responsibility might be ‘blurred’. In the following two sections, we discuss arguments for the existence of technologically determined responsibility gaps. In the second, we consider arguments according to which certain technologies undermine the *causal* contribution of agents to outcomes sufficiently to undermine their accountability. We argue that none of them successfully demonstrate the existence of genuine responsibility gaps. Rather, they establish that agents’ level of control is altered, postponed or diminished, leading to perfectly unsurprising changes in responsibility. In a third section, we look at arguments according to which certain technologies undermine the ability of agents to *foresee* outcomes in a way that diminishes their accountability. Here, too, we claim that none of these arguments establish that new technologies generate responsibility gaps. Instead, they again merely point to epistemic difficulties, i.e. difficulties in figuring out who is responsible and to what extent. However, we do indicate two challenges for our everyday

conception of responsibility that can arise in technological contexts. One, ‘moral luck’—the fact that (at least) sometimes whether someone did the right or wrong thing depends significantly on factors beyond her control—has nothing specifically to do with technology, but may appear particularly striking in some forms of technologically structured action. The other concerns the norms for the degree of ascription of negligence in certain cases of technologically structured multiple agency. Although there is no responsibility gap here, there is a level of indeterminacy that might be colourfully characterised as a blurring of responsibility.

Clarifications: responsibility, responsibility gaps, blurred responsibility

We begin by clarifying four things: first, what ‘responsibility’ means; second, what our ordinary conception of responsibility is; third, what the ‘blurring’ of responsibility might consist in; and fourth, how we understand the specific form of blurring that has been described as the creation of a ‘responsibility gap’.

Before we turn to these clarifications, one restricting note. There are at least two potential sources of responsibility gaps: technology and institutions. We will focus here on technology and leave the question open whether analogous arguments might be applicable to institutions as well. However, we will see that particular cases of the interaction between multiple agency and technology pose special challenges for the standard conception of responsibility.

What kinds of technologies do we have in mind? The simple answer is: any kind that might impact responsibility. In most cases, these will be devices that in some way allow the *offloading* of certain kinds of capacities relevant for responsibility. In particular, these will be devices with computing capacities.

Turning now to our clarification of the thesis, the first thing we need to be clear about is that the responsibility in question is *retrospective*, rather than *prospective* responsibility. To have *prospective* responsibility for something is to have a duty. In this sense of responsibility, for example, the police are responsible for citizens’ safety and we are responsible for the wellbeing of future generations. *Retrospective* responsibility, on the other hand, is something one has for something that has already happened. In this sense of responsibility, for example, Mark David Chapman is responsible for John Lennon’s death.

With regard to retrospective responsibility, we can distinguish at least three different things that could be meant by saying that A is responsible for some ϕ .¹ First, it might mean that ϕ is *attributable* to A, which means that A *owns* ϕ in a way that makes moral evaluation of A’s character based on ϕ appropriate. Second, it might mean that ϕ is *answerable* for A, which means that it is fitting to ask A for justification or reasons for ϕ . Third, it might mean that ϕ is *accountable* for A, which means that it is fitting to *hold A to account* for ϕ , where holding to account consists in certain kinds of sanctioning behaviour.² It seems plausible that the worry about responsibility becoming blurred is mostly about *accountability*: what people are worried about is that due to modern technologies situations might arise in which it seems like someone ought to be held accountable for some ϕ to

a greater or lesser extent, but where there is either no fitting candidate or no non-arbitrary distribution of blame among candidates (see Nissenbaum 1997; Sparrow 2007). Hence, this is how we will understand ‘responsibility’ in what follows.

According to our current everyday practice of attributing accountability, there are standards that settle what is relevant both for the question of who it is fitting to hold to account for some relevant action, occurrence or state of affairs, and to what extent it is fitting to hold them to account for that item. Although the precise analysis of these factors is controversial, our everyday practice grounds in widespread agreement that the *intentional* bringing about of some state of affairs is under most conditions sufficient for accountability, as is the agent’s *foreseeing* or their *ability to foresee* that their action will have such consequences, as well as the moral relevance of these consequences. We tend to believe that an agent’s intending, rather than merely foreseeing the relevant consequences may increase the degree of their accountability.

Further, if an action clearly brings with it significant risk of certain consequences, or the person undertaking it reasonably takes it to bring such risk with it, the agent is generally accountable for its consequences. Where we blame agents in cases with this structure, our blaming grounds in judgements of *recklessness*. Moreover, we also take it that blame is appropriate where agents are *negligent*, that is, where they have failed to inform themselves sufficiently of the risks associated with their behaviour or not paid due attention to the information thus garnered in setting out to act. Again, moving from the reckless bringing about of some ϕ to the negligent bringing about of ϕ , the degree of accountability for ϕ decreases. This, of course, does not mean that blame for negligent harm may not be strong, just that it is likely to be weaker than if the same harm had been brought about recklessly. Finally, all the above categories depend on the agent in question having some degree of *control* over her relevant behaviour: if someone is brainwashed into intending some action independently of her beliefs about its probable consequences or if someone is subject to such a degree of internal compulsion or external coercion that they cannot reasonably be expected to refrain from some action, that will frequently be sufficient for us to mitigate our assignment of accountability.³

There are different models of the precise way in which each of the elements of our everyday conceptual scheme should be analysed, and of which component is pertinent in which context. What is clearly at the basis of our everyday conception, however, is the idea that accountability essentially involves both *causal* elements—in the generation of action-controlling attitudes and in the controlling of actions (or omissions) by those attitudes—and *epistemic* elements concerning the consequences or probable consequences of actions or omissions. Challenges to the everyday conception thus take as their starting point the effects on one or other of these dimensions of the way persons interact with their environment.

What, then, might it mean that accountability is *blurred* or that there are accountability *gaps* and how would this threaten our ordinary conception of responsibility? Begin with the concept of a responsibility gap, which was first

introduced in the context of programmers' responsibility—or lack thereof—for outcomes brought about by learning computers operating on the basis of algorithms developed by the programmers:

it can be shown that there is an increasing class of machine actions, where the traditional ways of responsibility ascription are not compatible with our sense of justice and the moral framework of society because nobody has enough *control* over the machine's actions to be able to assume the responsibility for them. These cases constitute what we will call the *responsibility gap*.
(Matthias 2004: 177)

'Machine actions', it is claimed, reveal our traditional everyday practice of responsibility ascription to come up short. It comes up short *normatively*, that is, it lacks the resources needed to say what should appropriately be said about accountability for the actions in question. In particular, because of its insistence on some kind of control condition, it is at a loss to say who should be made accountable, although we have a clear sense that the consequences of the relevant action demand an attribution of responsibility. It is, then, such a purported mismatch between the demand of accountability attribution, on the one hand, and the traditional account's inability to specify an object of such attribution, on the other, that is characterised as a 'responsibility gap'.

We find this same claim of a systematic mismatch between the need for an appropriate attribution of accountability and the resources of our everyday conception in Robert Sparrow's ethical assessment of so-called "killer robots" (Sparrow 2007). When artificial intelligence (AI) such as drones or other devices are deployed for the purpose of war, it can and often will happen that these (semi-)autonomous machines create outcomes that would normally be characterised as war crimes. However, due to their (semi-)autonomous nature, a human bearer of responsibility is often nowhere to be found. This, too, creates a mismatch between the considerable level of responsibility it is surely appropriate to assign, in line with the moral *jus ad bellum* principles, and our inability to specify individuals it would be reasonable or fair to hold to account. Or so it is claimed.⁴

Responsibility gap claims, then, have the following structure: to claim that we are faced with a responsibility gap is to claim that we are faced with a situation with two features: first, (1) it seems fitting to hold some person(s) to account for some ϕ to some degree D . Second, in such situations either (2.1) there is no candidate who it is fitting to hold to account for ϕ or (2.2) there are candidates who appear accountable for ϕ , but the *extent* to which it is, according to our everyday understanding, fitting to hold them individually to account does not match D .

The concept of a responsibility gap presupposes the truth of the basic everyday assumption that there are facts of the matter concerning the accountability of agents. However, its applicability would entail that our ordinary conceptual scheme for assigning responsibility, including degrees of responsibility, is seriously inadequate. If such gaps exist, they reveal that there is a mismatch between the

normatively required distribution of accountability and the distribution assumed by our everyday understanding. What responsibility gaps would show, then, is that the criteria provided by the ordinary conception of accountability do not identify candidates for accountability to a sufficient degree in certain kinds of cases. This would clearly force us to seriously rethink our everyday conception of responsibility. In this context, then, we are interested in the question as to whether certain developments of modern technology should lead us to affirm either (2.1) or (2.2).

It is important to note, though, that if there is to be a problem, the issue cannot be merely that modern technologies make it more difficult to *know* who is accountable or the extent to which they are accountable. This would not require us to abandon our ordinary conception in favour of one that makes it easier for us to know who is, or to what extent they are accountable. Rather, the proper response should be to seek better ways of discovering the subject and degree of accountability. Even more clearly, the worry cannot be that it has become more difficult to hold the relevant individuals to account to the appropriate degree. That problem would not justify transforming our conception of responsibility to make it easier to hold individuals to account, but would rather speak for us aiming to develop better tools for holding accountable.

Responsibility gaps, then, are not merely epistemic or pragmatic problems, but problems concerning the appropriateness of our everyday conceptual scheme to the facts of accountability. However, there is another sense in which responsibility might appear to be 'blurred'. This would involve the claim that there is simply no fact of the matter in at least some contexts as to who is responsible or how responsible specific agents are. In such cases, the first feature of situations taken to involve responsibility gaps would be missing, i.e. claim (1) would be false. If this were to be the case as a result of technological developments, then we might be justified in talking of blurred responsibility in spite of there being no responsibility gaps.

In what follows, we sort the arguments that have been taken to show the existence of responsibility gaps into two kinds. We will argue that neither of them justify this conclusion, but suggest towards the end of the article that there are certain kinds of cases where talk of 'blurred responsibility' may nevertheless be justified. The arguments discussed claim that specific kinds of features of our interaction with new technologies reveal the inadequacy of our everyday conceptual scheme for assigning responsibility. First, certain technologically structured environments have looked to some authors to *involve agents causally* in ways not catered for by the everyday conceptual scheme. Secondly, their *epistemic capacities* are, so it has been claimed, challenged by such technologies in ways that overstrain the resources of our standard conception.

Causal arguments

Causal arguments for the existence of responsibility gaps present different ways in which the control condition of our everyday conception may appear incompatible with accountability's appropriate assignment where we are faced with new,

technologically generated forms of the blameworthy production of harms. The first argument focuses on certain technologically effected transitions in the conditions of action-guiding choice. The second sees the key innovation in the existence of new types of technologically created autonomous agents. The third locates the problem for our everyday conceptual scheme in new forms of complexity in the technologically mediated interaction of human agents.

Framing

According to the first type of causal argument, modern technologies somehow shape people's circumstances in ways that have a debilitating effect on what people can be held accountable for. The primary kind of case at issue here involves the so-called *nudging* effect of technologies. Human beings have limited rationality and self-control, and are susceptible to the influence of all sorts of environmental features. Such influences are typically exerted by subtle external cues of which the agent need not be consciously aware. Some technologies, however, have an explicitly 'persuasive' character, their purpose being to influence people's actions by suggestion. For example, a health control app might make suggestions about what type of behaviour its user should display, based on data that it is fed about her lifestyle; or websites might make suggestions about what products to buy, based on a user's search history.

If people act on such suggestions, it might be thought that the specific kind of technological input excuses them or at least mitigates their accountability. The claim would be that this is comparable to cases where people's behaviour can be excused or where their accountability is mitigated because they were persuaded or even manipulated by another person to perform the action in question. There is, however, a decisive difference to such cases, a difference which generates the claim that we are dealing here with a responsibility gap. In these comparable cases, there is another person who it will *also* be fitting to hold fully or partially accountable for the outcome in question, namely the person who persuaded or manipulated the agent. Hence, in such cases the degree of accountability we deduct from the agent is taken up by the person who, in some relevant way, convinced or constrained the person to act in the way she did. Such a person is absent in a case of nudging. This has been taken to show that we are dealing here with a genuine responsibility gap: there is no plausible candidate to take up the missing accountability of the manipulating person (Alfano and Robichaud 2017).

However, the argument is unconvincing. The first, obvious point to note is that not every kind of influence exerted by other factors on one's actions genuinely undermines accountability. If you ask me for advice on a course of action, it is still you who is fully accountable for that action, even if I persuaded you to perform it. And if you give in easily to social pressure, this does not undermine your accountability, even if other people's suggestions strongly influenced your behaving in the relevant manner. Indeed, in such cases *you* are at fault for letting yourself be influenced by these kinds of factors: being easily influenced is *not* an excusing condition, but rather a *fault* that one can be held to account for. In fact,

even *manipulation* and *coercion* only undermine accountability in as far as, and because, they undermine *control*. Hence, nudging devices *only* give rise to a genuine problem if they plausibly undermine the agent's control. Where this is so, we would be justified in describing them as manipulative or coercive. However, while this is unlikely to be the case for every nudging device, it seems that a device that is genuinely manipulative or coercive in nature must have been designed by someone to have these properties. But if a device is designed to manipulate or coerce people into morally questionable behaviour, there is a clear candidate to take up the 'missing' accountability: the persons who designed the device in question. Hence, no accountability gap exists.

Causal gaps

Where responsibility is impugned because control is undermined, we are dealing with cases for which the standard conception possesses explanatory resources. The above framing argument relies on the—false—claim that the reduction of responsibility of the human agent is unaccompanied by another agent's taking up the slack. Another type of argument focuses not on the conditions of an agent's choice, but on the causal structure by means of which the relevant state of affairs is brought about. There are cases, it is claimed, in which the harm is caused by technologically created entities that, on the one hand, cannot be appropriately made accountable, and on the other hand, are so independent of personal agents that their precise behaviour is not determined by relevant persons and thus not something for which any such persons can be accountable, or fully accountable.

This is the core of an argument advanced by Robert Sparrow, which we might call the *causal gaps argument*: there are possible and, maybe even actually existing technological entities that are autonomous agents (Sparrow 2007; Champagne and Tonkens 2015). This means, at the very least, that no one *controls* their actions, i.e. that they act on their own decisions, formed on the basis of (proto) mental states that are not fully under the control of someone else (for example, because machines are fitted out with autonomous learning mechanisms). Such entities, however, can create outcomes that are such that we would normally think someone ought to be accountable for them. For example, autonomous military robots could create outcomes that we would normally characterise as war crimes. Because no one except these entities has control over their actions, there will be no one else who could be a fitting candidate to hold to account for these outcomes—the appropriate causal chain for accountability from everyone else to the outcome is broken by the autonomy of these entities. The problem, however, is that many of these entities themselves will not be fitting candidates for holding accountable, thus creating a responsibility gap.

However, it simply is not true that *A*'s lack of control over *B*'s actions entails that *A* cannot be accountable for the outcomes of those actions. First, it is not even true where *B* is a responsible agent herself. It can, for example, be fitting to hold superiors to account for the actions of their subordinates (Schulzke 2013). Second, it is important to distinguish two ways in which a person might have

control over the actions of an agent: first, she might have control over what that agent does. This is the control we lack in the case of autonomous robotic agents. Second, though, there is also the control involved in putting an agent in certain kinds of circumstances in which one knows it will act autonomously. This is a form of control we clearly do not lack at all in the case of autonomous robotic agents. But control of this kind is fully sufficient for being accountable, *especially* in the case in which the agent is autonomous, but not capable of accountability.

Compare the case of trained animals used for certain tasks. Dogs are autonomous agents: no one *controls* their actions; they act on their own on beliefs and desires in ways over which no other agent has anything like full control. They can be trained to do certain tasks relatively independently, but they are not fitting targets for accountability. However, if, because you set a dog to some task, the dog creates an outcome for which someone ought to be held to account, that person is you. Hence, the mere fact that there are autonomous agents that can create outcomes for which someone ought to be held accountable, even though these agents themselves cannot be this someone, does not create a responsibility gap. Our ordinary conception of responsibility can deal with such cases.

The categories under which such cases are often subsumed—negligence or recklessness—are, as we mentioned in our first section, key concepts of our everyday conceptual scheme. Moreover, in the case of drones used for military purposes, the fact that their specific job is to kill means that their users are subject to specific moral norms of diligence. How to spell out these norms is a moral and political issue we will not address further.

Many hands

According to the *argument from many hands*, there are cases in which modern technologies create terrible outcomes, but in which the causal contribution of each individual to a collectively generated outcome is very small (see Friedman 1990; Jonas 1979; Nissenbaum 1997). In fact, the causal contribution of each individual will be so small that there will simply be no one whom it is fitting to hold to account (to the required degree D). Nissenbaum, who advances a worry along these lines, mentions the case of the Therac-25, a radiation treatment machine controlled by a computer, which severely overdosed at least six patients in the period between 1985 and 1987. This seems like a clear case in which someone should be held accountable for the malfunctioning of the machine. However,

[a]fter many months of study and trial-and-error testing, the origin of the malfunction was traced not to a single source, but to numerous faults [. . .]. The impact of these faults was exacerbated by the absence of hardware interlocks, obscure error messages, inadequate testing and quality assurance, exaggerated claims about the reliability of the system in AECL's [Atomic Energy of Canada Limited] safety analysis, and in at least two cases, negligence on the parts of the hospitals where treatment was administered. Aside from the

important lessons in safety engineering that the Therac-25 case provides, it offers a lesson in accountability—or rather, the breakdown of accountability due to ‘many hands’.

In cases like Therac-25, instead of identifying a single individual whose faulty actions caused the injuries, we find we must systematically unravel a messy web of interrelated causes and decisions. Even when we may safely rule out intentional wrongdoing it is not easy to pinpoint causal agents who were, at the same time, negligent or reckless. As a result, we might be forced to conclude that the mishaps were merely accidental in the sense that no one can reasonably be held responsible, or to blame, for them.

(Nissenbaum 1997: 48–49)

While this argument might show that finding out who it is fitting to hold to account will sometimes be very difficult, because many people made relevant causal contributions, it, too, fails to show that there are real responsibility gaps. First, it should be noted that the ordinary conception allows us to hold more than one person to account for some ϕ . Hence, the fact that many people contributed to something that is morally significant is not as such a problem for the ordinary conception. Second, even if it is hard to find out who causally contributed to what extent in cases of many hands, and even if each contribution is significantly small, this just implies that it is fitting to hold to account very many individuals in such cases. This, however, does not create a responsibility gap, but rather makes it appropriate to hold a large number of individuals to account to a relatively small degree each. In the case of the Therac-25, there are individuals who it is appropriate to hold to account for the overdoses. It is just that there are very many of them and it is fitting to hold each to account only to a relatively small degree.

We should, however, note that the distribution of accountability in a way that leaves many people only carrying a small degree of responsibility may appear unsatisfactory where the overall consequence, severe radiation overdoses, are so serious. The existence of the kind of case where so many small contributions can lead to such serious consequences is a result of the development of certain kinds of technologies and does raise the challenge of thinking through how to understand the import of different kinds of contribution. Nevertheless, despite the increased complexity and the increase in the import of small actions and omissions, these cases do not provide reasons to doubt that our standard resources for the assignation of responsibility, including particularly negligence and duties of care, come up short here.

In many hands cases, as in cases of nudging and of the employment of autonomous agents, causal arguments cannot show that there are genuine responsibility gaps. At most, they can highlight epistemic and practical problems when it comes to holding accountable, problems that exist due to the complexity of causal interactions created by modern technologies. This, however, does not suffice to threaten the ordinary conception.

Epistemic arguments

Epistemic arguments target the ordinary conception based on one of its key conditions for accountability. According to this condition, it is only fitting to hold an agent to account for their contribution to bringing about some relevant states of affairs, if the resulting state of affairs, its moral relevance, and its connection with their own behaviour is something they can foresee, or whose probability is discernible. Arguments based on this condition press the claim that modern technologies make it harder for people to foresee the consequences of their actions, thereby creating responsibility gaps. In what follows, we distinguish four versions of this claim. The first starts from the simple fact that the sheer novelty of a technological innovation means that we have a reduced inductive basis for our expectations as to where its use is likely to lead. A second argument grounds in the empirical claim that certain kinds of technology tend to have creeping psychological effects on their users that are detrimental to their grasp of the probable effects of their actions (Coeckelbergh 2013). The third and the fourth arguments involve epistemic variations of the causal arguments we discussed in the previous section (p. 55–59). According to the third, the employment of autonomous technological devices brings about epistemic gaps that are inimical to the correct assignment of responsibility. According to the last argument, the many hands involved in the use of certain kinds of technology themselves generate epistemically opaque situations relative to the outcomes of the technology's use. We shall argue that none of these arguments are able to establish the existence of responsibility gaps. However, we conjecture that some of the cases discussed may well provide grounds for the claim that responsibility is 'blurred' in certain restricted contexts, contexts in which the norms that provide the background for negligence claims may involve a certain level of stipulation.

Novelty

One way to shake the epistemic pillar of the everyday conception of responsibility involves pointing out that, when dealing with newly developed technological devices, it is often impossible to foresee potentially relevant consequences. For example, it is plausible that the invention and widespread use of the combustion engine contributed significantly to global warming, which will likely have dire consequences. However, clearly the inventors and the many users of the combustion engine who were in no position to foresee these consequences are not potential candidates to be held to account for these circumstances. Still, is it not the case that someone *ought* to be accountable for these outcomes and, hence, is there not an accountability gap here?

In responding to this concern it is decisive to distinguish between, on the one hand, states of affairs that are bad and whose prevention or rectification would have been good and, on the other hand, states of affairs that someone is accountable for. Not everything that is regrettable, indeed, not even everything that is the justified object of agent regret, is something it would be appropriate to hold

someone to account for.⁵ And it seems clear that the example of the combustion engine in at least the early stages of its development and use is a case of the former, rather than the latter kind: if there was simply *no way* for the people involved to recognise that there was any *risk* of potentially disastrous consequences, then it is regrettable that they acted as they did, but there simply is no one it would be fitting to hold to account. Of course, this does not mean that it is OK for people in contemporary societies to use novel technologies without necessary precautions and sufficient testing. After all, *we* know that novel technologies come with certain very significant risks, so inability to foresee potential consequences is no excuse for us. There do, however, appear to be better candidate arguments against the adequacy of the everyday epistemic conditions on accountability.

Psychological shaping

Just as some authors have argued that technological devices may frame our decisions in ways that undermine the causal condition of everyday accountability (see above “Framing”, p. 56), there have also been claims that such devices impinge on our epistemic capacities in ways that cannot be integrated in the standard conception. The use of certain kinds of complex devices can have creeping psychological effects that with time lead to either overreliance on the machine or to a form of epistemic capitulation in the face of information output that overstrains the user. In other words, the use of certain forms of complex technological devices can activate a psychological tendency to rely either too much or not enough on the accuracy of the relevant automated systems.

For example, in

the Therac 25 case, one of the machine’s operators testified that she had become used to the many cryptic error messages the machine gave and most did not involve patient safety. She tended to ignore them and therefore failed to notice when the machine was set to overdose a patient.

(Noorman 2012)

And, in another case the

missile cruiser U.S.S. Vincennes shot down an Iranian civilian jet airliner, killing all 290 passengers onboard, after it mistakenly identified the airliner as an attacking military aircraft. The cruiser was equipped with an Aegis defensive system that could automatically track and target incoming missiles and enemy aircrafts. Analyses of the events leading up to incident showed that overconfidence in the abilities of the Aegis system prevented others from intervening when they could have.

(Noorman 2012)

It seems that in both cases the technological device shapes the expectations of individuals in a way that makes it difficult for them to consider the consequences

of their behaviour. This leads, so the argument goes, to a reduced level of responsibility for the outcomes in question according to the standard conception. However, those outcomes are at least sometimes such that we would normally think that someone *ought* to be accountable for them. Hence, a responsibility gap is created.

Arguments of this structure, however, are unconvincing as attempts to create a problem for the standard conception. In neither of the above examples do the factors that undermine the ability of the agents to foresee the consequences of their behaviour thereby undermine their accountability. This is because both cases are clear examples of negligence, that is, of failure to consider, or to consider sufficiently, the morally relevant consequences of their behaviour. In the first case, this neglect of epistemic duties results from insufficient reliance on the deliverances of the machine; in the second it is results from overreliance on the machine's functioning. Just because there might be good reasons to rely on technological devices for information in many cases, it does not follow that you cease to have a duty to consider the consequences of your behaviour in cases where there is good evidence that one should mistrust the device. And, just because a technological device often misfires, this does not mean that one ceases to have a duty to take the information given seriously, *if* the potential consequences are disastrous. Consequently, the above line of argument fails to establish anything troubling for the standard conception.

There are, however, two features of these cases that may justify worries as to how determinate the degree of negligence and, in consequence, the degree of accountability of the agents involved are. We will come to the second feature in the section "Many hands revisited" below (p. 63). The first can be pointed out by noting that in these cases the relevant agents are accountable for two reasons: first, because they neglected an epistemic duty to consider potential harmful consequences of their behaviour; and second, because people turned out to be harmed due to this negligent behaviour. Whether or not people are harmed as a result of negligence or of the contravention of specific duties of care can be a matter of "moral luck" (see Statman 1993). That is, one agent can be negligent, for instance in her use of a technological device and be lucky that no one is harmed as a result, whereas another agent may be negligent in the same way and be less lucky. We tend to believe that the latter agent should be blamed more strongly than the first, although there is a clear sense in which both have behaved in the same way—a fact that suggests that there is something unjust in this everyday way of assigning accountability.

These kinds of cases do raise serious difficulties for specific details of the standard conception. Whether those difficulties should be solved by simply accepting the unavoidability of luck's role, by shifting our conceptual scheme to eliminate it or play it down or whether we should accept that there is an unavoidable element of stipulation in our practices here are questions that go beyond the scope of this article. What is, however, clear is that these difficulties are not the result of the development of new technologies. Indeed, they have no intrinsic connection to technology, whether old or new.

Epistemic gaps

Return now to the use of drones in military contexts. We have argued that such cases introduce no pertinent gap in the causation of harms. However, the worry that has been expressed about accountability could be reinterpreted as an epistemic concern. On this interpretation, the problem with autonomous technological entities that creates responsibility gaps is not the lack of a relevant causal connection, but the lack of foreseeability: given that the technological entity is *autonomous*, it is impossible for the operator to *foresee* how it will behave.⁶ However, if the operator cannot foresee that the device will, or is likely to, create a certain kind of outcome, it seems that it cannot be fitting to hold the operator to account for that outcome. But there might be outcomes of this kind, for which there *ought to be* someone whom it is fitting to hold to account. Hence, a responsibility gap exists.

It is a mistake, though, to think that it would be inappropriate to hold the operator to account. If you let an autonomous device that carries deadly weapons loose in a certain environment in which there is a *risk* of it doing something harmful, even though you do not intend that harm, you are still accountable. After all, *you* are putting an agent in circumstances in which you know it will act autonomously, in full knowledge that you are risking harmful consequences. Compare again the case of trained animals used for certain tasks: everyone using dogs for certain purposes knows that there is a risk of harmful consequences. Here again, if, because you set a dog to some task, the dog creates an outcome for which someone ought to be held to account, that person is you. You have both done enough and you know enough. Depending on the precise details of the case, you may be negligent, you may be reckless or you may be contravening specific prohibitions concerning the use of dangerous animals. Whichever category you fall into, the lack of foreseeability at issue in these cases is not sufficient to create an accountability gap.

Many hands revisited

Finally, let us turn to an epistemic interpretation of the *argument from many hands*. On this interpretation, the problem in cases in which many different people contribute to an outcome through their behaviour is not that the causal contribution of each individual is too small to ground accountability. Instead, the problem is that, because so many people were involved in the process that generated the relevant outcome, none of these individuals could *foresee* the outcome of their behaviour: neither the programmers, the technicians, nor the users can foresee that *their* interaction with some technical device will have dangerous consequences, given the contributions of all others. This creates a responsibility gap, because lack of foreseeability makes it inappropriate to hold anyone to account for the outcome, even though the situation is such that there ought to be a fitting candidate for accountability.

For this to be a different objection from the one discussed in the section “Novelty” (p. 60) there must be a difference between cases of many hands and cases where it is

simply impossible to foresee the long-term outcome of the use of some piece of technology. And indeed, there *are* cases of many hands that *are* distinctively different from such cases. These are cases in which people are aware that there are potential outcomes of their collective endeavour that would be very bad, but might not be able to foresee the occurrence of these outcomes in particular instances, given that it depends on the behaviour of other people. In fact, the Therac-25 case is a case in point: a person participating in the design or use of a machine that dispenses radiation to treat medical conditions is *of course* aware that, if things go badly in the design and use of such a machine, people will get hurt. However, she might be unable to foresee the harm that turns out to be caused in particular instances, given that many other people's actions are involved in bringing about the outcome.

A closer look at the description of this case, though, shows why it is unproblematic for the ordinary conception. Remember that, as quoted above, the malfunction could be traced to "numerous faults", including "obscure error messages", "inadequate testing", and "negligence on the parts of the hospitals where treatment was administered" (Nissenbaum 1997: 48). This suggests that in the Therac-25 case many people did things they *knew* would increase the risk of an outcome that was bad: if you design a system such that it gives out obscure error messages, for example, you can foresee that people will make mistakes as a result of considering those messages. Here, as in the case of military drones, doing something you know increases the risk of a bad outcome makes it fitting to hold you, at least partially, to account for any such bad outcome that occurs. The negligence explicitly mentioned with reference to the hospitals is presumably equally applicable to the designers and testers of the machine.

It follows, then, that everyone who was involved in such negligent behaviour bears at least part of the blame for the harmful outcome. None of these individuals is fully accountable for it, but in order for there be no responsibility gap, the full accountability that appears required, particularly in the face of such harmful outcomes, would need to result from the compounding of the lesser degrees of accountability attaching to the various negligent actors involved. It may, of course, be in practice difficult to ascertain the relevant degrees of accountability, but do we have any reason to assume that attempts to do so should not proceed in line with our everyday conceptual scheme? It seems not. If this is true, there is no epistemically generated responsibility gap here.

Nevertheless, cases of this complex structure involving multiple actors at various levels of interaction with technological devices (designing, testing, using) do raise the question of whether the first condition of the existence of a responsibility gap is true with respect to the *degree* of accountability of each negligent individual. How confident can we be that the appropriate degree of blame for each individual is something that is there to be discovered? How far do the duties to inform on the part of the manufacturers go and how far do the duties of the users go? There may be difficulties in believing that there is a fact of the matter about the appropriate distribution of duties here, although we also feel that we need standards in order to be able to make unambiguous judgements. This in turn may be one source of the sense that responsibility is 'blurred'.

In such mixed cases of negligence, it may be difficult to escape the feeling that the standards could be set in one way or another without there being any clear normative reasons for any precise distribution adopted. If this were to be the case, then there would be at least some level of indeterminacy to the appropriate degree of accountability in such complex many hands cases of interaction between persons and technological devices. This would clearly not justify talk of a responsibility gap, but might deliver a sense in which we could say that, in certain contexts, there is a 'blurring' of responsibility. In such cases, assigning degrees of accountability would, for reasons of indeterminacy, involve a stipulative element or a component of social convention. It may happen that in some special cases in which the allocation of responsibility remains genuinely unclear, the issue of responsibility has to be settled, for instance, by establishing publicly known conventions for responsibility's assignation, conventions which are not grounded in robust metaphysical facts about responsible agency.

Conclusion

We have argued that there are no cases in which action in the context of new technologies generates a responsibility gap. Most cases of alleged responsibility gaps are unthreatening to the ordinary conception of accountability. However, our everyday conceptual scheme for assigning accountability is not without its problems. One concerns the gap between the duties to avoid or be aware of the risks of one's action, on the one hand, and the degrees of accountability we assign when risky behaviour happens to either result in, or not result in harmful consequences, on the other. This problem of moral luck may appear particularly forceful relative to certain technologically enabled forms of action. Nevertheless, even if it should lead us to concede that there is a gap here between our everyday conception and the facts of moral accountability, such a gap is no product of technological development. The second problem concerns cases in which multiple actors are involved at various levels in the technologically structured production of some harmful outcome. Here it is plausible that the epistemic norms on the basis of which degrees of accountability are assigned to the various actors involve a certain level of indeterminacy. Such indeterminacy may, in turn, only be avoidable through an element of stipulation, i.e. through the generation of conventions that are to some degree arbitrary.

Notes

- 1 Watson (1996) first recognised that we can at least distinguish attributability and accountability, while Shoemaker (2011) recently argued that we also need to distinguish answerability from these two. Note that there is some disagreement on the question whether these different things can be unified into a single account of responsibility or not. Watson and Shoemaker argue that they cannot, while Scanlon (2008) and Smith (2012) argue that they can. Because everyone recognises the kind of responsibility we are talking about, though, this debate does not matter for our purposes, and so we can leave it open where we stand on this.

- 2 What exactly such sanctioning behaviour consists in is subject to debate (see the differing positions in Strawson 1962; Scanlon 1998). Here we do not need to take a stand on this issue. Importantly, the concept of sanctioning entails no a priori restriction to deliberate or conscious forms of punishment or criticism.
- 3 Does the everyday practice (or do our arguments here), because of this control condition, presuppose the idea that people are free, autonomous, and rational agents in some very strong sense, e.g. in the sense that their decisions are not made in, and strongly influenced by, a socially embedded context? We do not think that it does. First, our ordinary practice clearly does not presuppose the idea that responsible agents cannot be strongly *influenced* in their actions by environmental factors, such as social institutions, but still be responsible for their actions. Indeed, in the current philosophical debate, even most libertarians about free will would probably accept this much (see Robert Kane's account, which explicitly allows for significant amounts of determination (Kane 1998)). Second, though, it is arguable, whether our ordinary practice is not even compatible with very strong, i.e. *determining*, influences (see Fischer and Ravizza 1998; Frankfurt 1969, 1971; McKenna 2012; Strawson 1962; Wallace 1994). Of course, which, if any, of these views are successful is still an open question.
- 4 In their recently published anthology on drones and responsibility, Ezio Di Nucci and Filippo Santoni de Sio claim that the term 'responsibility gap' refers to cases where there is "a risk that no human will be responsible for what [...] autonomous or semi-autonomous technology will do" (Di Nucci and Santoni de Sio 2016: 2).
- 5 On agent regret and its distinction from remorse, where the latter, but not the former, involves accepting blame see Williams 1973.
- 6 A similar problem will, of course, already come into existence if the system is not autonomous, but just so incredibly complex that foreseeing certain results becomes impossible.

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Part II

**Demanding and contesting
responsibility in the
international community**



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5 The lack of ‘responsibility’ in the responsibility to protect

Aidan Hehir

Introduction

The Responsibility to Protect (R2P) was created to improve the international community’s capacity to respond to looming and/or actual intra-state mass atrocity crimes. Given the recent precipitous decline in global respect for human rights, the rise in the occurrence of mass atrocity crimes, and the growing unwillingness of states to take action to ‘save strangers’, it has clearly failed.

In this chapter I argue that this failure stems from the fact that the term R2P contains within itself its central weakness; the *absence* of responsibility. While ‘responsibility’ is central to the discourse on R2P, R2P does not in fact comprise or designate a responsibility in the legal sense of the word. R2P’s efficacy is predicated on its putative status as a norm; this, it is claimed, enables the concept to circumvent the need for legal reform. By virtue of the concept constituting a norm, R2P serves as a means by which compliance can be generated through the process of rhetorical entrapment and associated societal shaming.

I argue, however, that if we take the term ‘responsibility’ seriously, then we must understand that it comprises three parts; the designation of an obligation, the objective verification of compliance with this obligation, and the means by which a dereliction of this obligation is punished. Currently only the second of these three can plausibly be said to apply with respect to R2P; in isolation, however, this is impotent.

I ultimately argue, therefore, that R2P is really no more than an ‘Encouragement to Protect’; it is a means of rhetorical advocacy which aims to *persuade* states to behave better. While this is not in itself inherently problematic, it coheres with a long-standing tradition of moral advocacy that predates R2P. The inconsistent record of such advocacy, however, was the impetus behind the emergence of R2P, and thus, that R2P today constitutes no more than a means by which states are beseeched to behave better represents the continuation of a failed policy; R2P’s inability to meaningfully alter the behaviour of states, therefore, should occasion little surprise.

This chapter begins with an overview of the origins of R2P. I note that central to the problem, which impelled the convening of the International Commission on Intervention and State Sovereignty (ICISS) in 2000, was the inability of the

Security Council to respond in a consistent way to intra-state humanitarian crises in the preceding decade. The problem was, therefore, primarily the politicised means by which international human rights law was enforced; curiously, despite being created to address this problem, ICISS studiously avoided proposing any reform to the means by which human rights law was enforced. In the second section, I examine the nature of ‘responsibility’; I argue that as a legal term it comprises three central components, namely an obligation to behave in a certain way, a process by which compliance with this obligation is objectively verified, and a means by which derogations from the obligation are punished. R2P only conceivably comprises the second of these. Thus, while ‘responsibility’ may be central to the discourse on R2P, it is actually absent from the concept in practice. In the final section, I examine the argument that as R2P comprises a norm, it does not actually need legal expression; I argue that while norms certainly *can* influence state behaviour, the literature on norms evidences that not all norms *do*. The influence exercised by a norm depends on the evolution of its meaning, the extent to which it is internalised by states, and the gravity of those countervailing incentives for norm non-compliance that the norm competes with. In the specific case of R2P, I argue that its meaning has been heavily circumscribed since its recognition at the 2005 World Summit, and that it is impotent in precisely those situations it is designed to address. Because those who commit atrocity crimes do so on the basis that they face an existential threat; the potential costs of norm non-compliance are, therefore, necessarily outweighed by the perceived costs of norm compliance.

The origins of R2P

Before analysing the efficacy of R2P, it is necessary to identify the nature of the problem it was designed to solve, or at the very least to address. ICISS published its report “The Responsibility to Protect” in December 2001 in the wake of the controversy surrounding two cases in the 1990s: the Rwandan genocide in 1994 and NATO’s intervention in Kosovo in 1999. While other cases of intervention and inaction in the 1990s also contributed to the clamour for ‘something’ to be done to improve the international community’s response to intra-state mass atrocities, these cases were particularly salient, as was repeatedly noted by ICISS (2001: 1).

Though clearly very different, both Rwanda and Kosovo highlighted the same problem; structural and procedural flaws inherent in the means by which the international community enforced human rights law. Both cases demonstrated that the ‘international’ response to a given crisis was essentially dependent on the political interests of the permanent five members of the Security Council (P5). In the case of Rwanda, a *lack of interest* among the P5 meant the genocide proceeded unabated until after some 800,000 people had been slaughtered. In Kosovo, a *clash of interests* among the P5 led to one side—NATO—undertaking a unilateral intervention which contravened international law. While for some NATO’s intervention was “illegal but legitimate” (Independent International

Commission on Kosovo 2000: 4), most supporters of the intervention were uncomfortable with the idea of unilateral military action. The existing international legal architecture, in particular the Security Council's role as the authoritative enforcer of international law, was thus widely deemed anachronistic and morally illegitimate (Kaldor 2003; Robertson 2002).

Given this context, it is, certainly in hindsight, noteworthy that ICISS did not in any way suggest altering the means—in terms of the laws and processes—by which the international community responds to intra-state atrocity crimes. The ICISS report alluded to the flaws inherent in the existing legal architecture but argued that rather than seek to find alternatives to the Security Council, the task was to make it “work much better” (ICISS 2001: 49). Likewise, while many heralded the inclusion of two paragraphs related to R2P in the 2005 World Summit Outcome Document—though certainly not all—as a breakthrough, this official recognition of R2P by states did not in any way alter the existing system. The ICISS report and the 2005 World Summit Outcome Document constituted a restatement of existing international law and at most comprised a political commitment (Stahn 2007). Few R2P enthusiasts dispute this reading, and indeed, fewer lament it. In fact, R2P's normative efficacy is premised on its status as a norm rather than a law.

What 'responsibility' to protect

In recent years, R2P's impact has been widely heralded as both profound and growing (Adams 2015; Evans 2016). Yet, while R2P does not lack enthusiastic supporters, it is difficult to reconcile the idea that R2P “has begun to change the world” (Bellamy 2015: 111) with the widely noted precipitous deterioration in global respect for human rights, the rise in atrocity crimes, and greater unwillingness on the part of the international community to respond to intra-state crises in a meaningful way (Hehir 2017: 2–3).

This downward trend had happened, curiously, at a time when R2P has—with remarkable speed—come to be firmly embedded in international political discourse. If states had been ignoring R2P since 2005, then explaining its impotence would be straightforward; but in fact, R2P's impotence has become most apparent at the very time that its profile has grown exponentially. As is often noted by R2P's proponents, it is today a term that is regularly used by the Security Council, routinely affirmed by states at the General Assembly, and central to a number of campaigns that states have eagerly signed up to (Bellamy 2015: 111; Dunne and Gelber 2014; Gifkins 2016; Weiss 2014: 10).

What explains this disjuncture between R2P's increased currency and practical impotence? It could be that norms are not in fact an influence on state behaviour and thus R2P's strategy has been built on flawed pretences. While many have always questioned the purported efficacy of norms, this would appear to be an over-reaction to R2P's failings. Rather, the failure of R2P is better understood through an analysis of the term 'responsibility'. While responsibility is of course central to R2P in a discursive sense, in actual fact, R2P does not employ the term responsibility in the true legal sense of the word.

As is the case with many terms, the popular use of ‘responsibility’ does not cohere with the legal definition, and there is an often conflicting range of ways in which ‘responsibility’—a “slippery term”—has been invoked (Glanville 2011: 483). Individuals are regularly told they have a ‘responsibility’ to stop global warming, combat racism, shop ethically etc. though in such parlance ‘responsibility’ is employed as a means by which people are *encouraged* to act in ways which may be inconvenient but which will ostensibly help achieve a greater good. Used in this context, the term is a “specifically moral responsibility” which is inherently malleable and subjective (Erskine 2016: 167).

As a legal term, however, responsibility denotes more than just the entitlement to act in a certain way or a guide to ‘good’ behaviour. It denotes both an *obligation* to behave in a certain way in particular situations, and a *liability* for failing to do so. We have a responsibility when not only *should* we do something, but we *must* or we will face censure. By way of illustration, parents are legally responsible for their children’s health. Through invoking the parlance of ‘responsibility’, parents are regularly told they should provide children with five portions of fruit and vegetables a day. This is, however, merely advisory; no parent *must* feed their children in this prescribed way, but importantly they *must* feed them. This highlights the difference between responsibility as used in an advisory sense—‘you *should* feed your children five portions of fruit and vegetables a day’—and responsibility as denoting obligation—‘you *must* feed your children’. Parental responsibility, in the legal sense, therefore, comprises the determination of an array of duties parents have to their children. These are not, crucially, discretionary or a matter of personal preference; they are obligatory.¹

If we assign responsibilities in the legal sense, therefore, we determine obligations. If we determine obligations then by definition responsibility pre-supposes two additional features, the objective verification/regulation of compliance, and the existence of a means by which the dereliction of a responsibility/obligation is punished. Thus, responsibility comprises three central components; a duty/obligation to act; a means by which the compliance of those responsible is monitored; a means by which non-compliance is punished.² Each is discussed below in the context of R2P; as will be seen, R2P can reasonably only be said to comprise one of these elements, which in isolation is rendered impotent.

Obligation

It has long been established that states have a legal obligation to protect their own people from the four crimes within R2P’s purview. While the international legal order is essentially based on the principle of self-regulation, with the highly politicised enforcement mechanisms largely impotent, this does not mean the obligation upon states does not exist; its exists, it is just not enforced (Glanville 2011: 488–489). However, states can rightly claim that they do not have an obligation to take action to prevent or halt atrocity crimes in another state; this can be asserted by appealing to both legal and moral arguments. Indeed, in both legal and moral terms, imposing an obligation on states to act to protect people suffering in other states is—within the current system—untenable.

With respect to the legal aspect, there is nothing in international law that imposes an obligation upon states to come to the aid of people suffering in other states. Even the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) merely stipulates that states aware of an ongoing genocide “may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide” (General Assembly of the United Nations 1948: Art. VIII). The use of the word “may” here points to the lack of any definitive obligation arising from the convention; in practice this means states do not *have to* “call upon the competent organs of the United Nations”. The “competent organs” referred to here denotes the Security Council; if a genocide is brought to the attention of the Security Council, however, then the matter becomes, by necessity, a matter of political preference. The Security Council is under no obligation to respond in any particular way to genocide; under Chapter VII of the United Nations (UN) Charter the Security Council certainly has the *right* to authorise action, but it does not have an *obligation* to do so (Berman 2007: 161).

There is, in essence, nothing in the Genocide Convention, which imposes an obligation on any state—or the Security Council—to behave in a particular way. This was seen in practice in 2003 when the US declared that genocide was taking place in Darfur but also noted that this did not mean the US or the Security Council had to do anything, let alone militarily intervene (Hehir 2012: 125; Mayroz 2008). The International Court of Justice’s (ICJ) judgment in the *Bosnia v Serbia* case in 2007 also illustrates the absence of any obligation; in this case, the ICJ found that Serbia was culpable for not preventing acts of genocide in Bosnia perpetrated by Bosnian Serbs (ICJ 2007). While Serbia was thus found to have violated international law by *not* acting to halt genocidal violence, this was, the ICJ noted, a function of Serbia’s very particular relationship with the perpetrators of the crimes in Bosnia. A similar judgment would not have been made, therefore, against Bosnia’s other neighbouring state Croatia, as it lacked this demonstrable link with the Bosnian Serb perpetrators.

Likewise, in the specific case of R2P, a central theme of the negotiations on the scope of R2P at the 2005 World Summit orientated around the question of whether recognition of a “responsibility to protect” would impose an obligation on states to take action. In the course of the negotiations the more powerful states—the US in particular—consistently insisted that they would not recognise R2P if this was interpreted as acceding to the imposition of obligations; there is, therefore, no basis on which to assert that R2P imposes an obligation (Bolton 2005; Reinold 2010: 67; Rotmann et al. 2014: 365; Welsh 2013: 377).

Aside from the fact that there is no legal basis for the existence of an obligation to act, such a measure would be both practically unworkable and morally questionable. In practical terms, it would be dangerous in the extreme to impose an obligation on states to take action; states may interpret the need to act upon this obligation in a variety of ways and in different contexts and thus render such a provision open to both conscious and unconscious abuse. We do not base domestic

legal/political orders on the presumption that citizens are not just subject to the law but also obliged to be its enforcers for this reason (and others).

With respect to the moral argument, while it may be widely asserted that states *should* 'do the right thing' even if they legally do not *have* to, care must be taken when asserting that in moral terms inaction is indefensible. We must consider at least two issues which challenge this notion; first, the military capability of a state, and second, the primary responsibility of all states is to protect their own citizens. By way of illustration, who would seriously argue that Cyprus should militarily intervene in Syria to stop the Assad regime from attacking civilians? To do so would clearly be foolhardy as Cyprus lacks sufficient military capacity to engage the Syrian National Army, but also arguably irresponsible as such action would greatly imperil the welfare of Cyprus' citizens. Of course, in certain contexts a particular state could conceivably engage in a military intervention confident that it would triumph against a much weaker opponent, and without exposing its citizens to danger. However, this is a context-specific argument, which cannot by definition be translated into a more general obligation binding on all states.

Regulation

If the legal understanding of responsibility denotes how one *must* act, then, this by definition denotes a punishment for not acting in this way. This requires a means by which compliance is regulated. In the case of R2P, compliance requires determining whether states have abided by their commitment to both prevent/halt the four crimes from occurring within their own state and also within other states.

While, as noted above, R2P does not comprise any obligation to act, nor—as will be discussed in the next section—does it involve a punitive mechanism by which those found to be in dereliction of their responsibility are punished, one *can* argue that regulatory mechanisms *do* exist. Indeed, an obvious feature of the international legal order—and of contemporary international politics—is that there are myriad actors engaged in monitoring compliance with international human rights law. Official bodies—such as the UN High Commissioner for Human Rights, the Special Adviser on the Prevention of Genocide, and the Human Rights Council—regularly flag up non-compliance with human rights law; there is no dearth of official reports detailing the extent to which states have complied with their commitments. Likewise, since the end of the Cold War a vast array of non-governmental organisations have emerged with a specific focus on monitoring compliance with human rights. While these organisations do not carry the same 'official' weight as UN bodies, through both their reporting and advocacy they contribute to the regulation states are subject to.

This has been particularly evident with respect to the crisis in Syria. Since 2011, literally hundreds of reports have been published detailing the scale of the human rights abuses perpetrated by the Assad regime. Of course, the disjuncture between the weight of evidence outlining the widespread violations of human

rights law perpetrated by Assad, and action taken because of the publication of this evidence, highlights the intrinsic weakness of the existing legal order. Since 2011, various UN bodies have repeatedly advanced detailed evidence that unequivocally proves that the Assad regime has violated international law and yet, very obviously, no action has resulted (Hehir 2016). Thus, while it is clear that regulatory mechanisms *do* exist, the problem is, in the absence of obligations and punitive mechanisms, these regulatory mechanisms are essentially impotent. As a result, we have the unedifying spectacle of both the UN High Commissioner for Human Rights and the UN Secretary General repeatedly publicly condemning Assad for wilfully violating human rights law, while at the same time being forced to beg the Security Council to take action, invariably to little avail (Ban 2015; Pillay 2014).

Accountability

As has long been lamented, while states have signed up to a vast array of human rights laws since 1945, compliance with these laws has often been poor (Booth 1994; Chesterman 2003; Henkin 1990). Much of the blame for this must be directed at the fundamentally weak and highly circumscribed means by which these laws are enforced. The UN was not designed to enforce human rights law within sovereign states; as a result, the system is essentially based on self-regulation (Kelsen 1945: 338; Morris 2017). Therefore, while states may overtly break laws they have committed themselves to, the consequences of this non-compliance is effectively negligible as the system does not ascribe punitive powers to a third (non-state) party. This is particularly problematic in the area of human rights because the laws here govern relations between states and their citizens; compliance with inter-state law is aided by the fact that non-compliance will likely incur the anger of another state rather than merely a 'subject'.

The only existing means by which states can be punished for committing one (or more) of the four crimes covered by R2P is Chapter VII of the UN Charter. This is, however, a provision explicitly linked to the political interests of the P5, as their consent is required before any measures taken under Chapter VII can be sanctioned. As a result, certain states can engage in atrocity crimes with impunity if they are shielded by a P5 ally. This is evident in the fact that many states that have demonstrably violated international human rights law in the last five years have escaped punishment by virtue of having an ally among the P5; examples include Syria (allied to Russia), Bahrain (allied to UK/US), North Korea (allied to China). The enforcement of international human rights law is, therefore, inherently political.

With respect to punishment for those who fail to act to prevent or halt atrocity crimes in another state the situation is even clearer; there is simply no existing mechanism by which a state can be punished for failing to abide by its 'responsibility' to protect people suffering in another state.

R2P's proponents argue, of course, that the punishment states incur for not abiding by their commitments to R2P takes the form of 'shame' and international

condemnation/isolation (Bellamy 2015: 61; Evans 2015). This theory holds that states will be reluctant to engage in atrocity crimes, or ignore it when other states do so, for fear of the criticism they will receive from other states and/or global civil society. Of course, many states are indeed mindful of their international reputations and there is, therefore, some logic to the proposition that states will act so as to avoid being perceived negatively by their peers. Unfortunately, while few states welcome bad publicity, there is ample evidence to suggest that many are certainly willing to tolerate it, and only ascribe minimal importance to their international reputation. Indicatively, Russia has come under sustained international criticism for its active support for the Assad regime in Syria since 2011, and yet it has not altered its position. In the early phase of the crisis in Syria, however, some R2P advocates confidently predicted that international outrage would indeed force Russia to take a different approach. In June 2012 Tim Dunne and Alex Bellamy wrote, “[i]n the coming weeks and months, Russia will find it more difficult to stand in the way of concerted international pressure on Syria” (Dunne and Bellamy 2012). Clearly, this prediction proved to be incorrect and Russia has essentially ignored the international condemnation it has received.

Syria is not, of course, an aberration. On numerous occasions since 2005, the Security Council has failed to respond to intra-state mass atrocities in a meaningful way as a consequence of the national interests of one or more of the P5; examples include the response to the violence in Darfur, Sri Lanka, Bahrain, and Israel. It is simply untrue to assert that the P5 are compelled to act for fear of the outrage inaction would provoke. Thus, while ‘shame’ is touted as a means by which compliance with R2P is enforced, in practice this has rarely worked.

‘Responsibility’ and the limits of norms

The preceding analysis has demonstrated that there is a lack of responsibility in the legal sense inherent in international human rights law. As R2P has not in any way altered international law, we must conclude that post-R2P the absence of responsibility remains. Yet, R2P is predicated on a particular understanding of the role of norms, which, so its proponents argue, circumvents the need for the designation of responsibility in the legally understood meaning of the term. While there is obviously a logic to this line of argument, it is only superficially attractive.

Since the end of the Cold War, research on norms within international relations has increased exponentially (Acharya 2004; Checkel 1998: 324; Kowert and Legro 1996; March and Olsen 1989; Risse 1999; Wendt 1999). In contrast to the power-orientated explanations of state behaviour propounded by realism, constructivist norm research demonstrates that states are impelled to behave in certain ways because of the existence of prevailing notions of what is right/wrong. By definition, these standards are a function of a collective conception of what is/is not legitimate, and thus if we accept that norms do influence state behaviour, we must accept that states need not always be forced to act either by power asymmetries, or indeed legal compulsion. Unless one rejects the premise that norms influence state

behaviour—which I do not—then the role of norms must be considered when discussing the impact of the absence of responsibility in legal terms.

For proponents of R2P, norms provide a ready-made framework by which to justify their near universal rejection of legal reform; the attraction of norm research to R2P advocates is obvious given that at its core R2P seeks to change the behaviour of states without any legal reform. Thus, invariably whenever R2P's efficacy is being defended, R2P is described as a norm—or a collection of norms—and reference is then made to the vast literature on norms which demonstrates that norms *do* influence state behaviour (Bellamy 2015; Dunne and Giffkins 2011; Evans 2008: 241, 2015; Glanville 2016). These arguments thus engage with the literature on the role of norms, particularly the norm life cycle model. According to this view, R2P's evolution coheres with the normative consecutive stages of a norm and thus—given that the broader literature proves that norms influence state behaviour—R2P can make a difference despite not being a legal principle or blueprint for reform (Labonte 2016).

The literature on norms also notes that in some cases, a norm may be overtly violated; research suggests, however, that if a norm is violated this does not necessarily render it 'dead'. Indeed, the violation of a norm may in fact facilitate its consolidation if others condemn the violator for the violation (Acharya 2004; Kratochwil and Ruggie 1986; Panke and Petersohn 2011; Sandholtz 2008; Shannon 2000). In relation to R2P and human rights, it does not make sense to point to a mass atrocity crime and say, 'the fact that this occurred demonstrates that R2P is dead'. Violations are inevitable; the key factor in determining how the violation affects the status of the norm is how the violation is treated.

In this sense, proponents of R2P are right in making three assertions; norms influence the behaviour of states; R2P is a norm (or at least a collection of norms); the violation of a norm does not render the norm moribund. These three claims are, indeed, repeatedly advanced in defence of R2P, particularly in response to mass atrocity crimes and the resultant 'R2P is dead' claims. The problem with this line of argument, however, is not so much that these claims are untrue, but rather that they do not in themselves mean either that R2P effectively influences the behaviour of states, or that the R2P norm is an effective substitute for a legal designation of responsibility. This is so for two reasons: first, the meaning of the R2P norm has been moulded in a particular way since it was established in 2005, and second, R2P deals with a particular set of issues that by definition are not conducive to being regulated by norms. Each is discussed in turn below.

Research on norms shows that after norms emerge they undergo contestation; the meaning, scope and efficacy of a norm is, therefore, mutable *after* it has been advanced. This means that in practice while a norm may have originated from a particular actor or group—the so-called "norm entrepreneurs" (Finnemore and Sikkink 1998: 893)—with a certain meaning, once it has emerged, it is subject to the influence exercised by a wide array of other actors who can adjust its original meaning (Bloomfield 2016: 311; Goldsmith and Posner 2002: 104; Krook and True 2010: 108; Quinton-Brown 2013: 264; Wiener 2008).

As discussed earlier, R2P is predicated on societal pressure influencing states to behave in a particular way. This can only occur, of course, if there is consensus on what should be done in the event that a situation within R2P's purview arises. In essence, societal pressure to comply with a norm is—logically—dependent on the existence of a consensus on the meaning of the norm. The evolution of the R2P norm, however, demonstrates that while there is a degree of consensus on R2P, the nature of the understanding of R2P around which consensus exists is heavily circumscribed. While many have pointed to the fact that states routinely express their support for R2P—which is simply true—the nature of the consensus is limited. States have expressed their support for R2P exclusively in terms of Pillars I (protection from mass atrocities) and II (international responsibility to assist) of R2P; this amounts to supporting what Jennifer Welsh describes as “legal egalitarianism” which essentially means expressing support for sovereign inviolability (Welsh 2013: 394). States are happy to support those elements of R2P, therefore, which identify the state as primarily responsible for the prevention/cessation of intra-state mass atrocities (Pillar I) and the principle that the international community can assist states in so doing if asked (Pillar II). Thus, the consensus on the R2P norm in no way alters the pre-existing understanding of the ‘responsibility’ of states, and certainly does not comprise any agreement on the right—or duty—of external actors to intervene in the domestic affairs of states.

In terms of the second reason, R2P is orientated towards a particular type of organised violence; mass atrocity crimes are generally committed when groups feel that their status/power is imperilled. These groups thus calculate that engaging in mass atrocity crimes is essential to their survival. In this context, the influence of any norm is naturally diminished; while non-compliance with a norm may incur condemnation, this price clearly pales in comparison with the prospect of an existential threat. Thus, R2P is predicated on the threat of incurring shame for norm non-compliance, forcing states to behave in a certain way, yet orientated towards situations where this threat has by definition severely limited traction.

Thus, the argument that R2P need not comprise the designation of responsibility in the legal understanding of the term is not convincing. There are many issues that can be regulated by norms; the prevention/cessation of mass atrocity crimes is not one of them, particularly as the R2P norm has itself been manipulated in a particular way since its inception so that it today comprises only a very limited, state-centric, notion of ‘responsibility’.

Conclusion: beseeching the powerful

‘Responsibility’ is central to R2P, but paradoxically, it is its absence, which undermines the concept's efficacy. If we take the word ‘responsibility’ seriously then it must mean more than just either a ‘discretionary entitlement’ or an encouragement to behave in a particular way. A true ‘responsibility’ implies an obligation objectively regulated, which results in punishment for non-compliance. R2P does not exhibit these features; while there are myriad means by which compliance with R2P is monitored, this oversight is impotent in the absence of the other two

elements. In practice, R2P constitutes a discursive means by which states are encouraged to act in a particular way; it is clearly not a law and its status as a norm is weak. This means, in essence, that R2P is really no more than a continuation of the old strategy whereby states are implored to do 'the right thing' during debates on how to respond to a particular (looming or actual) crisis.

In this debate, it is moral arguments that come to the fore, arguments that orientate around emotive appeals to 'do something', to 'think of the children', to act in accordance with 'common humanity' rather than narrow national interests. As eloquent and indeed ethically attractive as many of these appeals are, they are both naïve and illogical. Naïve because they seek a transformation in the behaviour of states which goes against the history of state behaviour; there are no precedents for a sudden turn towards altruism, and it is difficult to imagine why states might now so fundamentally alter their disposition simply because they have been asked to do so in a novel way. Illogical, because once the discussion turns into a moral argument, states can advance perfectly legitimate grounds for not initiating remedial action. One can only be chastised for not abiding by a responsibility if one has accepted that abiding by this responsibility is a paramount duty. Of course, in the case of states it cannot be; states can reasonably claim that their primary responsibility is to their own people, their own national welfare and that acting to protect those in other states will, in certain contexts, jeopardise their national interests, imperil their national security and fly in the face of the wishes of their own populace. Of course, this is an argument that can be cynically employed by those who simply do not care about foreign victims and cynically retreat into hortatory claims about their duty to their own people. However, this abuse of the justification should not obscure to us the fundamental legitimacy of this justification.

Thus, while R2P was crafted as a means to transform the international community's response to mass atrocities, it has come to constitute the affirmation of the existing system. Given that the system has stayed the same and R2P is premised on the pre-existing notion that states can be persuaded to behave in the 'right' way, it is surely no surprise that the record since 2005 is as bad as it is. To move beyond the impasse, those keen to improve the international community's capacity—and willingness—to respond to mass atrocities must engage more with the true meaning of 'responsibility'. If mass atrocities are to be addressed in a timely and effective manner, then we must consider how to contrive a means by which certain actors are obliged to act, how compliance with this obligation can be objectively verified, and how derelictions can be punished.

Notes

- 1 This obligation is, of course, only meaningful if there is a means by which any derogation is punished. In normative domestic legal systems obligations are enforced by state authorities; but of course no such analogous enforcement organs exist at the international level.
- 2 Luke Glanville outlines a similar—though not identical—summation of "responsibility's" three component parts (2011: 486–487).

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6 Responsibility contestations

A challenge to the moral authority of the UN Security Council

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Introduction¹

Agents of global governance typically operate within an environment that extends beyond the territorial borders of national government. The norms, which are constitutive of justice in global society, are therefore generated and re-enacted through interactions within a spatio-temporal context of “criss-crossing normative orders” (Tully 2012: 261). These orders are rooted in both domestic (mostly but not exclusively) nationally agreed norms that are regulated by constitutional frameworks, and inter-nationally agreed norms that are regulated by the treaty regimes of international law, the politics of international organisations as well as multilateral diplomatic practices. If legitimacy is considered as a “local–global” relation (Zwingel 2012) in global international relations (IR),² then moral authority matters with regard to the responsibility to maintain and warrant justice, and, relatedly, the opportunity to contest and overcome injustice (Ackerly *et al.* 2017). Following “interactive international law” (Brunnée and Toope 2010a), it is held that beyond formal assignment to a post, moral authority is derived through the practice of public interaction. According to discourse ethics in IR, such moral authority depends on the individual’s capability of making moral decisions (Frost 1998; Havercroft 2017b; Robinson 2009). It follows, that in addition to formally established authority structures directly based on a particular site in the normative structure of global governance, moral authority depends on ongoing interactions among individual agents as they practise legality thereby generating normative grids on local sites.

While formal moral authority is ascribed by formal regulations and principles of governance, as identified in a governance setting, the morality, which is constituted through public interactions on local sites, stands to be reconstructed with reference to individual interventions that are practised in a variety of contexts. It follows that, to examine the effect of recurring challenges to moral authority *through* responsibility contestations, it is important to study distinct “normative structures of meaning-in-use” (Milliken 1999: 231). These structures are constituted through both large regulatory and cultural practices, and have

been identified as the formal and informal aspects of the *nomos* (Tully 1995). Both are re-/enacted by a variety of global agents. Accordingly, this chapter begins from the general assumption that culturally diverse and criss-crossing normative orders matter for identifying the effect of responsibility contestations in global society. They set distinct conditions to interact and engage in “struggles over recognition” (Owen and Tully 2007). This is reflected in the distinction of regulatory practices that are constitutive for global governance institutions, on the one hand, and cultural practices that are constitutive for layers of cultural meaning in global society, on the other. While normative constraints and opportunities have been constituted through common regulatory practices of global governance, the meanings undergirding justice in global society are ‘bound up’ through practice in localised settings (Bueger 2014; Bueger and Gadinger 2015; Hofius 2016).

Crucially, therefore, in the global terrain agents operate under the condition of *unequal access to agency*. This condition is due to the distinct regulatory and cultural practices that constitute the respective normative structure of meaning-in-use at the three macro-, meso- and micro- ‘levels’ of global governance, on the one hand, and distinct, yet relatedly, at the ‘layers’ of global society, on the other. While the normative structure of meaning that is constituted by the formal institutional setting of international organisations is largely shared by the heads of state and government representatives who are responsible for signing treaties and conventions, by contrast, the normative grids generated by localised practices differ according to societal field and geographical location. As Tully notes, the “field of legal and governmental pluralism consists in networks of legal, social, spiritual and ecological norms and governance among all living beings” (Tully 2012: 238, citing Brunnée and Toope 2010a). These remain to be studied

from the specific perspective of the people who are subjects of a multiplicity of these normative orders and who seek to exercise agency within them in order to make them more just. The crucial feature of normative orders, from this perspective, is that they are actually grounded in the day-to-day *practices of participation* of the agents (individual and collective) who are subject to them (both governors and governed). From this ‘interactional’ perspective, modes of law and governance gain their democratic authority from the quality and effectiveness of participation available to and exercised by the demos within them.

(Tully 2012: 238–239, citing Brunnée and Toope 2010a)

The resulting gap in global IR, which remains to be filled to counter injustice and enhance access to contestation, therefore, represents distinct normative structures of meaning as the living structures of criss-crossing normative orders. For moral authority, the distinctive feature that differentiates agents who merely partake in global governance, on the one hand, and agents, who enjoy access to agency, on the other, consists in the right to critically engage with the norms of

governance based on “regular access to regular contestation” about norms (Wiener 2014: 1). This difference regarding access to agency is substantiated by the conceptual definition of contestation as a reactive practice that expresses objection to norms, and a proactive practice that enables critical engagement with norms (Wiener 2017). This chapter seeks to illustrate how this distinctive feature bears out in the larger context of global society. To that end, it addresses two scenarios where moral authority is contested: the first scenario addresses the *Kadi* case.³ In this legal case, the reconstruction of the contested claims for the responsibility to protect fundamental rights of individuals by the UN Security Council (UNSC) and the European Court of Justice (ECJ) demonstrate that effectively the political challenge to moral authority is at stake. The second scenario addresses contestations of the Responsibility to Protect (R2P). In this case, the contestations are initiated by the BRICS⁴ states, and therefore from within the normative structure of the UN. The fundamental norm of sovereign rights of states is at stake. And, as in the first scenario, the UNSC’s moral authority is under challenge. Both scenarios are situated within the broader normative governance structure of the UN. They therefore demonstrate how the norm contestations take effect on the UNSC. Ultimately, they demonstrate that the UNSC’s moral agency is affected by the criss-crossing normative orders with roots in domestic (mostly national), regional, and inter-national encounters.

It is as argued that the political importance of the distinctive feature between agents operating as subjects under conditions of criss-crossing normative orders comes to the fore in relation to the contested implementations of the responsibility norm. According to international ethics scholarship, responsibility requires agents to obtain the “capability” of political agency (Erskine 2008). And IR ethics literature has particularly stressed that this capability depends on the possibility of practising moral authority individually. As Mervyn Frost notes, “in practice, constitutive theorists have done very little of this kind of theorizing. They do not for the most part tackle the question ‘What would it be ethical to do in the circumstances?’” (Frost 1998: 127). In order to act morally responsible then, agency requires political capabilities. As Cornelia Ulbert demonstrates convincingly, based on the concept of the “geography of responsibility” the principle of Common but Differentiated Responsibility (CBDR) and its declining legitimacy actually depends on contested moral capability options of the involved states (see Ulbert, Chapter 7). Equally mindful of the relation between culturally diverse agents and the distinct—regulatory and cultural—roots of moral capabilities, this chapter argues that unequal conditions of access to regular contestation (i.e. the precondition for obtaining agency) effectively constrain the capability of individual moral authority. The following proceeds in three steps: section one introduces an argument that takes up the call for more distinctly normative research on norms in IR theory. The second section presents the two case scenarios that highlight instances in which contestations of fundamental norms challenge the moral authority of the UNSC from different vantage points in global society. The third section concludes with a summary note on the effect of norm contestation and the challenge of moral authority in global IR.

Agency and moral authority in global IR

The putative definition of legitimate governance links the fundamental right of an agent who is subjected to norms of governance to engage with these norms. Most generally, the argument rests on the central notion that normative validity is generated and confirmed intersubjectively (Habermas 1988; Kratochwil 1984). The claim initiated the move from positivist towards constructivist regime theory and formed a central pillar of the constructivist turn (Kratochwil and Ruggie 1986). Important qualifications of the claim became evident when one group of social (or liberal) constructivists reduced the perspective on norms by studying regulative and constitutive norms only, while leaving evaluative and cultural norms to one side (Katzenstein 1996; see critically Wiener 2007a). The focus on ‘logics’ of action (see Pouliot 2008; Risse 2000) was conducive to norms research on norm-following and entrepreneurship, taking a predominant interest in compliance and diffusion of norms (i.e. the normalcy dimension of norms). This left the issues of ‘contested compliance’ and ‘norm challenge’ which highlighted norm generative practices of contestation (i.e. the normativity dimension of norms) largely off the radar of the liberal constructivist plotter (Wiener 2007b). The distinctive qualifier among both strands of norms research is that the conditions under which norms are considered as in principle contestable, and relatedly, the moral authority exerted in the process (Havercroft 2017b) remain to be explored in more detail. This chapter seeks to contribute to fill that gap in the norms literature.

While sharing the discourse ethical approach, to some the right to contestation exists in principle, however, within the limits of a given normative order (Habermas 1988). To others, the right to contestation refers to practices of contestation that apply to all norm types (Tully 2004). That is, while they are considered as the fundamental norms of the Enlightenment, the “trinity” of human rights, democracy, and the rule of law, are and ought to be contestable, in principle, and at all times (Kumm *et al.* 2017). The decisive conceptual impact of a distinction between the two strands of constructivist norms research in IR (i.e. as considering exclusively the ‘normalcy’ dimension of norms, or favouring a bifocal perspective on normalcy and ‘normativity’ of norms) is highlighted with reference to the “typology of norms” (Wiener 2008: 66). For it demonstrates the crucial distinction between studies that maintain the ‘trinity’ as non-contestable and those which elaborate on the way fundamental norms are constructed and re-enacted through contestations in distinct locales in global society. As this chapter argues, the UNSC’s moral authority is challenged through contestations of fundamental norms. At the same time, as norm generative practices, these contestations are vital for identifying alternative policy options. As norm generative practices, contestations are likely to open windows of opportunity based on emerging ‘ground rules’. To identify these, the norm typology is key.

It distinguishes three types of norms according to their respective moral reach and degree of generalisation. Accordingly, fundamental principles have the broadest moral reach, and the lowest degree of contestation (*type 1* norms);

organising principles are of medium moral reach and medium degree of contestation (*type 2* norms); and standardised procedures and regulations entail the least moral reach and highest degree of contestation (*type 3* norms). ‘Explanatory’ or ‘liberal’ constructivist norms research applying the Habermasian principled approach would allow for contestation of *type 1* and *type 3* norms. Both are clearly visible and exist prior to interactive practices of norm validation. By contrast, ‘critical’ or ‘agonistic’ constructivists who apply the political approach to norms allow for the contestation of all three types (see Havercroft 2017a; Wiener 2008, 2014, 2017b). As Tully emphasises, “[t]o overcome this detachment from interaction as political struggles on the ground”, he therefore suggests turning directly to the “field of interaction in which the conflict arises” (Tully 2004: 86). That is, the conditions of access to contestation stand to be assessed empirically and normatively in each of the globally criss-crossing normative orders. To that end, a bifocal approach begins from conflict to identify the degree to which normative recognition is—and remains to be—achieved through contestation (Laden and Owen 2007; Owen and Tully 2007). The approach centres on conflict and the process and practices that evolve in order to ‘resolve’ it, rather than focusing on a given norm and its implementation (Tully 2004: 86).

Agency depends on the terms of engagement. It is never practised in a vacuum (see Brunnée and Toope 2010a, 2011, 2016; Finnemore and Toope 2001; Forst 2010). As noted above, these terms of engagement are generated through the respective large regulatory and cultural practices which set the institutions of global governance and the layered knowledge of global society, respectively. As the social constructivist literature on norms has demonstrated, engaging with norms involves activating socio-cultural experience that has been generated by individual background experience (Adler and Pouliot 2012; Pouliot 2008) and normative structures of meaning-in-use. It follows that through their everyday practice, agents of global governance and global society contribute to normative change. Whether and how the distinct levels of governance/layers of society are affected, depends on the type of—reactive or proactive—contestation that is practised at the micro-, meso- and macro-layers of global social order (see Hofius 2016; Milliken 1999; Onuf 1994; Steffek 2004; Tully 2008). All agents in international relations encounter themselves in and thereby contribute to re-enacting the normative structure of meaning-in-use. That interactive practice is always reconstitutive. This said, not all agents are equally capable of developing agency. The norm generative effect of contestation as the mere objection to norms allows stakeholders a minimal impact on moral change. By contrast, when enjoying regular access to contestation, a stakeholder obtains the option to contribute and change normative validity claims through proactive engagement with norms. With regard to the responsibility norm Cornelia Ulbert calls this context of constraints or opportunities the “geography of responsibility”, i.e. an institutional landscape which has been constituted through engagement with selected responsibility norms (see Ulbert, Chapter 7).

To assess the effect of these challenges on moral agency, the following addresses instances where the UNSC’s moral authority has been undermined, despite the

international treaty regimes in which the contested norms are formally embedded. It is argued that, if not properly addressed, the normative fragility is likely to mark a critical juncture with regard to the UN's role as a framework that sets an enabling landscape for the 'geography of responsibility'. This landscape is shaped through the potential of moral agency (i.e. conditioned by organising principles in specific areas or treaty regimes such as, for example, R2P, CBDR, or the precautionary principle) on the one hand, and the quality of normative orders (i.e. regulatory institutions, constitutional principles, and treaty regimes) on the other. Against these conditions, moral authority stands to be reconstructed and evaluated by zooming in on instances of conflict where norms stand contested within the UN's main institutional settings. The chapter follows the volume's overarching claim that norm contestation is central for studying the *politics* of responsibility in global IR.

Moral authority

So moral authority is constrained and enabled by specific institutional settings of criss-crossing normative orders within global IR. This is valid for both global governance and societal institutions. An "*institution* in this context is meant to reflect the ways society orders its social systems and the way that formal and informal leaders influence and guide the efforts of their populations" (Cerami 2011; emphasis added). As the changing 'geography of responsibility' demonstrates, in most areas where the politics of responsibility matter, norm implementation turns out to be a complex spatio-temporally distinct procedure. I therefore have suggested speaking of "stages of norm implementation" in the cycle model (Wiener 2017) and to distinguish between practices of constituting, referring and implementing norms, respectively. The cycle model allows for taking into account distinct cultural roots and the respective expectations towards the effects of moral authority in selected operations. The literature that leads beyond Western-style organisational logics and strategising, is therefore of prime importance for understanding the complexity of the geography of responsibility. It focuses on the levels of governance and normativity, regional and cultural plurality as well as the diverse set of actors reflected in access to moral agency. It follows that the interplay between two factors matters. They include, first, distinct levels of order where global normativity stands to be negotiated such as the macro-level of norm setting in the context of global governance institutions, the meso-level of norm negotiation in contexts of deliberation among stakeholders and a range of non-governmental organisations, and the micro-level of norm implementation where the expected norm followers come into play as individual (group, firm, or other) agents (see Park and Vetterlein 2010; Tully 2008; Wiener 2014). Second, the distinguishing factors include a plurality of geopolitically and culturally distinct regions, all of which generate their own specific practices of governance. This plurality includes for example perceptions of the 'West' and the 'others', the rising powers such as the BRICS states, the diverse perceptions of Asia including the Indian subcontinent, South East Asia and the WANA region (West Asia and

North Africa), and so on. To illustrate how this plays out with regard to challenges to moral authority of the UN, the following zooms in on two scenarios.

The politics of responsibility: contested moral authority

Following Jean Cohen's question of "whose sovereignty matters" in 21st century international relations (Cohen 2004) this section reconstructs moments of conflict when fundamental norms of the UN's overarching normative order stand contested. The first scenario refers to the responsibility to protect fundamental rights of individuals. Here, the UNSC's moral authority was challenged by the ECJ. In their judgment in the *Kadi* case the moral authority of the EU's regional governance institutions is pitched against that of the UN and its global governance institutions, especially the UNSC. The second scenario refers to the R2P norm where the moral authority of the five permanent members of the UNSC (P5) was contested by the BRICS countries (i.e. the BRICS countries' call for 'Responsibility while Protecting', RWP).⁵

It is argued that the public reoccurrence of such moments of norm contestation of moral authority within the UN signals a decline of the UNSC's until now relatively solid role in sustaining what was long perceived as the liberal community of states (Slaughter 2017). These norm contestations raise the larger issue of 'whose norms count' in today's diverse setting of global IR. While the point needs to be proven through much more systematic case studies, recent research on norms in the field of international development studies has convincingly argued that 'norm ownership' makes a difference for how norms 'work' (Kratochwil 1984; Park and Vetterlein 2010). To explore this claim, the following recalls selected moments of norm contestation in global governance and identifies the respective contestation of moral authority at the time.

Fundamental rights of individuals: the Kadi case

A major change to the global "permissive consensus" (Zürn *et al.* 2012) *vis-à-vis* the normative order which is represented, defended, and promoted by the UN's long-standing transregional moral authority occurred when the UNSC began to take control over decisions about fundamental norm implementation. These decisions involved the application of new mechanisms to control and counter international terrorist practices in the 1990s. The European arbitration with regard to *Kadi* shed light on that change when it revealed the links between the UNSC's Sanctions Committee, which had been established to counter terrorist activities in 1999,⁶ and the decision to implement the novel instrument of applying 'smart sanctions' including the 'blacklisting' of individuals that effectively results in freezing an individual's accounts, thus impeding any border-crossing activities on their account. A major public contestation of the UN as a protector of fundamental rights of individuals occurred when the EU's legal institutions took issue with such blacklisting in the *Kadi* case. Here, the ECJ cautioned against the allegedly insufficient fundamental rights protection on behalf of the UNSC. At the time,

Advocate General (AG) Miguel Poiares Maduro argued that in light of this omission, the “European legal order” as a “new legal order” that rested on its “basic constitutional charter”⁷ would have to provide that protection instead. While the argumentation in the files documenting the arbitration in the prolonged proceedings of *Kadi* remained widely unnoticed by political scientists and the media, it triggered exhaustive debates about the role of law and the rule of law among some of the leading learned scholarship on a global scale (see De Búrca 2009; Kumm 2009; Eckes 2009; Cohen 2010; Cremona 2011; Isiksel 2010 from a political science perspective) to the extent that the case was discussed as a major challenge to the power of international law (De Búrca 2009).

Quite to the contrary, for political scientists the case indicates a major shift in the normative order because it challenges the UN’s claim for transregional moral authority. The following excerpts from the arbitration demonstrate how. As AG Maduro noted with regard to the prior judgment of the European Court of First Instance (CFI):

where pleas are raised concerning *alleged breaches of fundamental rights*, it is preferable for the Court to make use of the possibility of reviewing those pleas as well, both for reasons of legal certainty and in order to *prevent a possible breach of fundamental rights from subsisting in the Community legal order*.

(Opinion of the AG Miguel Poiares Maduro, Para. 16; emphasis added)

The importance of the obligation to protect the fundamental rights of individuals, even by political organisations beyond the national state and therefore unbound by their fundamental constitutional norms, is emphasised by the AG’s explanation in Para. 19 when he notes that:

neither Article 103 of the UN Charter nor those resolutions could have the effect of precluding the courts from reviewing domestic implementing measures in order to assess *their conformity with fundamental rights*. [. . .] *So long as the United Nations do not provide a mechanism of independent judicial review that guarantees compliance with fundamental rights* of decisions taken by the Security Council and the Sanctions Committee, the Community Courts should review measures adopted by the Community institutions with a view to implementing those *decisions for their conformity with fundamental rights as recognized in the Community legal order*.

(Opinion of the AG Maduro, Para. 19; emphasis added)

The AG directly contests the normative legitimacy of the UN decision-making body when noting that, if decisions under Chapter VII of the UN Charter were in breach of the fundamental rights protection provided by the European legal order, then the latter’s normative assessment was to prevail over the former:

The claim that a measure is necessary for the maintenance of international peace and security *cannot operate so as to silence the general principles of*

Community law and deprive individuals of their fundamental rights [. . .]. Certainly, extraordinary circumstances may justify restrictions on individual freedom that would be unacceptable under normal conditions. However, that *should not induce us to say that “there are cases in which a veil should be drawn for a while over liberty, as it was customary to cover the statues of the gods”*.

(Opinion of the AG Maduro, Para. 34–35; emphasis added)

In effect, the arbitration in the *Kadi* case raised substantial criticism with regard to the UN’s failure to uphold their obligation to protect individual rights. Even if the public profile of the case remained relatively low key, the UN’s moral leadership was called into question following the UNSC’s practice of undermining the responsibility of securing the protection of fundamental rights of individuals. A follow-up judgment in *Kadi II*⁸ stressed the impact of these contestations by noting that:

The *Court of Justice in fact scrutinised the UN system*; and “such judicial review is liable to encroach on the Security Council’s prerogatives”.

(*Kadi II*, Para. 114; emphasis added)

As observers noted at the time:

The General Court therefore read into the Court of Justice’s *Kadi* decision an element of potential deference reminiscent of the first ‘*Solange*’ (‘so long as’) jurisprudence of the German Federal Constitutional Court: *So long as the UN system does not offer effective judicial protection, the EU has to do so*.

(Stahlberg 2010; emphasis added)

The summary of the judgment again points to the UN’s lacking institutional means for implementing appropriate measures for the protection of fundamental individual rights *vis-à-vis* the alleged culprits targeted by the UNSC. The reconstructive analysis sheds light on how the involved agents re-enacted the normative structure of meaning-in-use with regard to the fundamental human rights of individuals. As this analysis reveals, notwithstanding the actual decision in the case, the deliberations and arbitrations surrounding *Kadi* challenge the UNSC’s moral authority. They question the UNSC as a collective agent insofar as the failure to comply with the obligation to protect fundamental rights of individuals has prompted the EU’s regional agents to perform that protective role themselves.

Following these arbitrations and related contestations by political observers and the representatives of individuals who had been targeted by the instrument of blacklisting, the UN set up the new Office of an Ombudsperson of the Security Council’s 1267 Committee⁹ to oversee complaints of those listed.¹⁰ The ombudsperson is mandated with the task to “gather information and to interact with the petitioner, relevant states and organizations with regard to the request. Within an established time-frame, the Ombudsperson will then present a comprehensive report to the Sanctions Committee”.¹¹ The main point of this illustration was to

shed light on the substantive contestation about the moral authority with the responsibility to protect fundamental rights within global (sic) society. As the legal bodies of the EU as a regional order challenge the UNSC and, relatedly, the UN's transregional claim for moral authority in protecting the trinity of fundamental norms, the inter-related re-enactment of normative meanings-in-use among criss-crossing normative orders comes to the fore. The emerging 'ground rule' or organising principle which was foregrounded during the contestation was the 'Solange' rule maintaining that, 'as long as' (lit. transl. of German 'solange') the UNSC is not in a position to provide the instruments (*type 3*) to protect the fundamental norm of fundamental rights of individuals (*type 1*), its moral authority is challenged. Hence, a facilitative ground rule legitimises the ruling in favour of the litigant in the *Kadi* case. The scenario illustrated that the contestatory practices involved arbitration in formal legal proceedings, political deliberation, and learned scholars' assessments. The practices thus involved a plurality of regional, national, and group-based agents, in a range of distinct environments involving diverse modes of contestation. The outcome of the process contributed to formal institutional change on behalf of the contested moral authority's normative structure within the immediate global governance context.

The Responsibility to Protect: sovereign power of member states

The R2P norm has been conceived as a new norm in the aftermath of the decision in favour of the NATO's military intervention to protect human rights (*type 1* norm) in the 1999 Kosovo conflict (see Bellamy 2008; Brunnée and Toope 2010b; Erskine 2010; Welsh 2013). Its central function in global IR consists in offering the discursive frame to facilitate talk about the ground rules and specific mechanisms to actually protect human rights in global society. As this illustrative scenario about the proposal to replace R2P with RwP seeks to demonstrate, the criss-crossing normative orders are constitutive of and constituted through a diversity of agents. This diversity has generated conflict about the R2P norm along the is/ought-dimension. Specifically, the UNSC's potential authority to undermine UN member states' sovereignty when implementing the Responsibility to Protect norm, was of prime concern for the BRICS. By proposing the Responsibility *while* Protecting initiative the BRICS effectively regained moral authority based on the removal from decisions about sovereignty from the macro- to the meso-stage in global IR. To establish the effect of norm contestation on the challenge of UNSC's moral authority (and, relatedly, how to counter it), it is less important whether R2P is a 'legal' norm (see Hehir, Chapter 5), than how the norm works with regard to the most effective protection of human rights at times of crisis. For example, in her assessment of the narrative Jennifer Welsh argues, "the norm of R2P is best conceived of as a responsibility to consider a real or imminent crisis involving mass atrocity crimes—what in legal literature is sometimes called a 'duty of conduct' "(Welsh 2013: 368).

While after the first decade of its existence it has been evaluated as an "emergent norm" by lawyers (Brunnée and Toope 2010b), R2P was quickly referred to as a

'norm' by the constructivist-leaning norms literature (Gholiagha 2015; Welsh 2013). Within this chapter's framework, R2P is qualified as an organising principle or a ground rule (*type 2 norm*) insofar as it emerged from the policy and political process about the R2P. As a *type 2 norm*, R2P has emerged from and been re-enacted by the contestatory practices among agents within the UN's normative structure which have generated the three-pillar structure towards the norm's implementation (*type 3 norms*). It was developed by the Report of the International Commission on Intervention and State Sovereignty (ICISS) in Ottawa in 2001, and its implementation was mandated at the UN World Summit in 2005 (Bellamy 2008; Gholiagha 2014). The Secretary General's 2009 implementation report suggests a three-pillar strategy to that end.¹² The pillars include (1) the protection responsibilities of the state, (2) international assistance and capacity building, and (3) timely and decisive response (see Gholiagha 2015 for a review). While international lawyers have been particularly interested in establishing the legal quality of the norm, raising the question of whether or not after a decade's existence the norm has crossed the threshold from a political principle to a legal norm (Brunnée and Toope 2010b), others have argued that what matters most regarding the R2P norm is whether or not it is generally complied with and accepted. As Welsh observes "there is continuing contestation within international society about how and to what degree R2P should be operationalized, and—more fundamentally—about the legitimacy of certain interpretations of R2P's content" (Welsh 2013: 366). The sheer number of engagements with and deliberations about the norm have enhanced R2P's increasingly central role in discussions over if, how, and when to enact the norm (Gholiagha 2014).¹³

The proposal to replace R2P with the concept of RwP emerged from both within and outside the UNSC. Some of the contestations that were led in public and outside the confines of the UNSC involved a range of non-state stakeholders. The contestations involved in particular representatives and advocacy groups from the 'rising powers' from the 'Global South'. For example, some of the BRICS states, in particular Brazil, suggested a different terminology of the norm as the RwP.¹⁴ As Kai M. Kenkel and Christina G. Stefan find, the contribution of RwP "lies in reconciling supportive and dissenting views on R2P, including those from both the Global North and South, in the wake of the divisive 2011 intervention in Libya. In this sense, it is an example of the shaping of a norm, done by an emerging power availing itself of the platform offered by non-permanent membership in the UN Security Council" (Kenkel and Stefan 2016: 41).

Taking this chapter's focus on the changing moral authority of the UNSC into account, the most interesting aspect that was highlighted through these contestations was the engagement with the meaning of the norm. The contestants sought to replace 'to protect' with 'while protecting' thereby bringing concerns about the involved parties sovereign status to bear. Thus, RwP reflects the "fear that R2P might be instrumental in legitimising military interventions carried out for the pursuit of vested political, economic or strategic interests, other than those strictly related to humanitarian concerns" (Costa Vaz 2013: 196; see Kenkel and Stefan 2016: 45). The issue then was less one of 'legality' but about engaging

in a discussion about ‘meaning’. As the *Guardian* noted, there is considerable contestatory power behind these discursive interventions (i.e. revealing a weight which was not merely due to Brazil’s aspirations to an elected seat in the UNSC).¹⁵ Following the former Brazilian President Dilma Rousseff’s suggestion to consider the RwP norm as a complementary norm to R2P, a public deliberation about the concept including a diverse group of UN delegations as well as external observers such as, for example, the EU, was organised by the Permanent Mission of Brazil on 21 February 2012 as “an informal discussion” at the United Nations. The discussion was co-chaired by Brazil’s Minister of External Relations, Ambassador Antonio de Aguiar Patriota, and UN Special Adviser for the Responsibility to Protect, Dr Edward Luck.¹⁶ The high public interest in the matter across a range of state-plus agents was noticeable. Reportedly, “[t]hirty-seven Members States, Observers and NGOs asked to speak at the meeting”, according to the International Coalition for the Responsibility to Protect (ICRtoP 2012). The essence of this critical intervention into the R2P discourse was an interest on the part of the involved interlocutors to be able to maintain their sovereign powers while engaging in activities of humanitarian intervention. At the event Special Adviser Luck argued for example that:

[r]esponsibility entails early engagement, proactive prevention, *agile employment of non-coercive instruments*, careful planning, and sober *judgment by the appropriate Charter-authorized organs*. Delaying a response does not make it more responsible.

(ICRtoP 2012, emphasis added)

And the Costa Rican delegation noted that:

the discussion was not calling into question the idea of protecting civilians, but rather raising legitimate *concerns on the application of the use of force*; concerns “of an *operative*, rather than conceptual, *nature*”.

(ICRtoP 2012, emphasis added)

These challenges of R2P as a *type 2* norm illustrate its facilitative role: as an organising principle R2P brings agents to the table who share the broad moral claim of human rights protection, yet, who prefer distinct means of implementation. More profoundly, the BRICS states’ intervention and the proposal to replace R2P with RwP challenges the UNSC’s moral authority as a representative body with a concern for other groups of states, such as the BRICS.

According to the distinction of three norm types (i.e. fundamental norm, organising principle, standardised procedure, respectively) the RwP proposition implies considering the norm as an organising principle (a *type 2* norm). For, first, it has predominantly evolved through a political process (i.e. through stakeholder contestations); and second, and relatedly, it has contributed an alternative or a complementary principle at the meso-level of global governance. That is, the validity of the norm is neither set exclusively by its formal validity (as per

mandate given at the UN World Summit) nor is it purely instrumental (as per the UN's implementation details). Instead, its value has been forged through interaction among involved stakeholders. The legal term 'duty of conduct' matches the notion of R2P as a meso-level organising principle very well. The higher and more diverse the involvement of the group of stakeholders, the more likely is the norm's acceptance due to the constitutive impact of a plurality of agents. While no formal changes have taken place, largely due to reasons of changing political power in the root country of Brazil as the leading agent of the BRICS states' challenge of the UNSC, the concept has made an impact on the normative structure of meaning-in-use. The residue of the resistance has been generated by a diverse set of stakeholders on a widely visible platform which enhanced the moral agency of these challengers and questioned the UNSC's moral agency. Whether or not the residue will be revived and come to fruition in the long run remains to be established.

Conclusion

As this chapter seeks to demonstrate, the potential for and effect of moral authority depends on the normative structure that constrains or enables agency in global IR (i.e. reflecting both the formal structures of global governance and the informal socio-cultural normative grids). These conditions are demonstrated by the two scenarios on distinct contestations of fundamental norms in global society with an effect on the UNSC's moral agency. In turn, the two scenarios in which the moral authority of the UNSC is challenged with regard to its capacity to enact the responsibility norm highlight the contestation of fundamental norms. The legal contestation in the *Kadi* case questions the UNSC's moral authority to protect fundamental rights of individuals; and the political contestation in the RwP scenario challenges the UNSC's moral authority to undermine national sovereignty. As the chapter detailed with reference to the typology of norms, distinct practices of contestation, and norm validation, the conditions for access to contestation set a reciprocal pre-condition for moral authority. In the *Kadi* case scenario litigants complained about the lack of existing legal mechanisms that would facilitate legal contestation of the UNSC's 'blacklisting instrument'. In turn, in the RwP scenario, the involved non-state and civil society agents complained about the lack of convincing political mechanisms to implement the R2P three-pillar structure.

The chapter addresses challenges of the UNSC's moral authority within the 'global geography of responsibility' with reference to the normative structure of the UN. To that end, it zoomed in on two illustrative scenarios where the principle of responsibility stands contested by a plurality of agents, both within (R2P) and outside (*Kadi*) the UN setting. Both scenarios raise questions about the role of moral authority. As both instances of contestation reveal, the mere observation of contested normativity does not suffice for drawing conclusions about fading authority. Yet, based on the distinct modes of contestation and their origin in different contexts of global governance, such as the legal context of arbitration of

Table 6.1 The UNSC's contested moral authority: *Kadi* and R2P/RwP

Moments of conflict	Type 1 norm	Type 2 norm	Contesting agents	Outcome normative structure
<i>Kadi</i> case	Fundamental rights of individuals	'Solange' principle	ECJ, AG, ECFL, individual litigant	Formal: Ombudsperson's Office
Responsibility to Protect	Human rights; sovereignty	R2P vs RwP	BRICS; plurality of agents: government representatives, advocacy groups	Informal: platform for intervention (UN fringes); RwP as complementary to R2P; enabling dissenting voices

Source: Author's own table.

the *Kadi* case and the context of the public space in which degrees of *responsibility* were justified by a diverse set of actors, it is possible to assess stronger and weaker aspects of moral authority profiles within the UN. For example, the stronger aspects, which will require more far reaching institutional change, involve the case of fundamental rights contestation in *Kadi*. The formal institutional change presented by the new Ombudsperson's office indicates the highly sensitive subject, and the force of the discursive intervention uttered by the European courts denotes the normative power that is at stake here. In turn, the case of R2P and the complementary RwP norm offers the most notable and forward-looking output that may possibly be generated through contestation. By advancing RwP as an alternative which keeps with the focus on the same fundamental norm, the contestations opened the possibility for dissent to a plurality of actors. While challenging the moral authority of the UNSC, these contestations thus effectively allow for soft diplomacy to unfold by way of participatory regular contestation (compare Table 6.1). While more and regular access for all stakeholders should be enabled in the long run, the debate initiated by Brazil's former President Rousseff indicates the norm generative power of norm contestations.

Notes

- 1 This chapter was written while the author was a Visiting Fellow at the Lauterpacht Centre of International Law and at Hughes Hall at the University of Cambridge (2016) and held an Opus Magnum Fellowship grant by the Volkswagen foundation (2015–17). All are thankfully acknowledged. For comments on the first draft I thank the editors of this volume, especially Cornelia Ulbert and Elena Sondermann.
- 2 This has been identified as central to the project of global IR theory (Acharya 2016; Hurrell 2016).
- 3 Judgment of the Court (Grand Chamber) of 3 September 2008—*Yassin Abdullah Kadi, Al Barakaat International Foundation v Council of the European Union, Commission of the European Communities, United Kingdom of Great Britain and Northern Ireland* (Joined Cases C-402/05 P and C-415/05 P); OJ EU 11.8.2008, C/285 2ff, see http://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=uriserv%3AOJ.C_2008.285.01.0002.01.ENG.

- 4 BRICS is the acronym for the association of the five emerging countries Brazil, Russia, India, China, and South Africa.
- 5 For the leading literature on this shift in the R2P policy development, see especially Stefan (2016), Stuenkel (2016), and Ziegler (2016).
- 6 The Sanctions Committee was established according to paragraph 6 of Resolution 1267, adopted by the UNSC at its 4051st meeting on 15 October 1999 (S/RES/1267 (1999)), available at: <http://www.refworld.org/docid/3b00f2298.html>.
- 7 Para. 16, 17, 21 of the Opinion of the AG Miguel Poiares Maduro on the Joined Cases C-402/05 P and C-415/05 delivered on 16 January 2008, see <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1427190174892&uri=CELEX:62005CC0402>.
- 8 Case T-85/09, *Yassin Abdullah Kadi v European Commission*, Judgment of the General Court on 30 September 2010, (*Kadi II*), see <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?isOldUri=true&uri=CELEX:62009TJ0085>.
- 9 As the UN's website notes, "[t]he Office of the Ombudsperson was created by Security Council resolution 1904, adopted on 17 December 2009, and its mandate was extended by resolution 1989, adopted on 17 June 2011, resolution 2083, adopted on 17 December 2012, and resolution 2161, adopted on 17 June 2014." See <http://www.un.org/en/sc/ombudsperson>.
- 10 The Office of the Ombudsperson was first held by Canadian Judge Kimberly Prost. She was appointed by the Secretary General on 3 June 2010 and re-appointed for 30 months on 1 January 2013. The current Ombudsperson Catherine Marchi-Uhel was appointed by the Secretary General on 13 July 2015. She took up her official duties on 27 July 2015. See <https://www.un.org/sc/suborg/en/ombudsperson>.
- 11 See <https://www.un.org/sc/suborg/en/ombudsperson>.
- 12 Compare the UN Secretary General's Report on the implementation of the norm, A/63/677, 12 January 2009, for details see <http://responsibilitytoprotect.org/implementing%20the%20rtop.pdf>.
- 13 For a plea to translate the R2P into a legal obligation see Hehir, Chapter 5.
- 14 RWP was introduced by Brazilian President Rousseff as "responsibility in protecting" during her address to the United Nations General Assembly in September 2011 and then expanded on in a concept note presented to the UNSC on 9 November 2011 by Brazilian Permanent Representative, Maria Luiza Ribeiro Viotti. Compare a Feature article by the International Coalition for the Responsibility to Protect (ICRtoP) from 14 September 2012, see <http://icrtopblog.org/2012/09/14/feature-responsibility-while-protecting-the-impact-of-a-new-initiative-on-rtop>.
- 15 "The shift is a sign of the way that the balance of power and influence is changing in the world, particularly since the global economic crisis. China is now Brazil's main trading partner and the country neither wants nor needs Western loans. Brazil has more diplomats in Africa than Britain. It is a creditor to the IMF, provides development assistance to 65 countries. It is also promoting fora such as India-Brazil-South Africa (Ibsa) and BRICS as well as the G20" (Foley, C., *Welcome to Brazil's version of 'responsibility to protect'*, 12 April), see <http://www.theguardian.com/commentisfree/cifamerica/2012/apr/10/diplomacy-brazilian-style>.
- 16 For quite elaborate details on the contributions to these deliberations, see ICRtoP 2012.

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Part III

**Practising the politics of
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7 In search of equity

Practices of differentiation and the evolution of a geography of responsibility

Cornelia Ulbert

Introduction¹

In principle, international law is characterised by the sovereign equality of states. In reality, however, states differ in many ways. Therefore, international agreements have long reflected the notion that states differ in capabilities to fulfil the commitments to which they have agreed. One prominent example of this concept is the principle of ‘Common but Differentiated Responsibility’ (CBDR),² which was popularised by the Rio Declaration in 1992 and referred to in the United Nations Framework Convention on Climate Change (UNFCCC) and its related Kyoto Protocol.³ Principle 7 of the Rio Declaration states that:

States shall co-operate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth’s ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.

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From a bargaining perspective, the move to enshrine this principle in the UNFCCC can be interpreted as industrialised countries making concessions to developing countries to get the treaty adopted. However, CBDR is not only about different capabilities, but also about obligations, which result from actions in the past, i.e. the history of the greenhouse gas emissions of industrialised countries.

The issue of climate change, i.e. the consequences of the anthropogenic greenhouse gas effect, is paradigmatic of local short-term actions (albeit with a century-long history) with global long-term consequences. The results of individual actions do not only have spatial but also temporal consequences, raising the question of intergenerational justice, since the negative effects of climate change will not only be unevenly distributed in geographical terms but will also affect different generations. Therefore, climate change does not only touch upon

questions of intragenerational inequalities but also refers to the intricate problem of intergenerational justice (Hiskes 2005; Page 2007; Shue 2014).

Since the UNFCCC was adopted in 1992, the principle of CBDR has been enshrined in a number of multilateral—especially environmental—agreements (see Honkonen 2009; Rajamani 2012). Nevertheless, it has always been highly contested. Therefore, its interpretation and operationalisation have evolved constantly, not only codifying (legal) obligations for state parties but also more and more referring to moral principles and human rights norms (Rajamani 2010). Hence, over time, legal obligations (in the sense of binding commitments) focusing on ‘technical’ standards were supplemented by references to moral principles and human rights norms. The recourse to a rights-based perspective, however, brings the individual to the fore and changes the norms by which states are held accountable and to whom they are held accountable. Therefore, the realisation of apparently technical standards has developed into more intricate processes of ‘being answerable to’, raising questions of (moral) agency and legitimacy in a different manner. Moreover, focusing on the different meanings of differentiation in the original version of the UNFCCC and the subsequent Kyoto Protocol on the one hand and in the Paris Agreement on the other, allows us to reconstruct how agency is constituted in very specific ways with crucial consequences for the nature of the climate regime.

To retrace the complex interactions based on specific meanings of responsibility and differentiation, the notion of a ‘geography of responsibility’ will be applied. The metaphor of ‘geography’ is used here not only to capture the (changing) ‘nature’ of responsibility, but also to explore responsibility in terms of a space (or constraint) of action. This exploration will start by introducing the idea of a ‘geography of responsibility’, and what it entails, followed by a short account on the development of the CBDR principle within the climate regime. Subsequently, I touch on some ‘landmarks’ within the geography of responsibility to discuss various shapes CBDR can take with reference to how the climate regime developed within the framework of the UNFCCC and the Kyoto Protocol, and its re-formulation in the Paris Agreement adopted in 2015. Finally, in my concluding remarks I reflect on differentiation as a means of devising a politics of responsibility.

Landmarks of a ‘geography of responsibility’

The issue of climate change lends itself rather well to demonstrate that ‘responsibility’ is always embedded in a wider ideational and structural context in which varying universal validity claims prevail. Moreover, responsibility is also characterised by a spatio-temporal dimension that contributes to its changing meanings, and hence to different types of relationships and complex interactional networks of actors and institutions. Therefore, it seems appropriate to resort to the notion of a ‘geography of responsibility’ with varying spaces, inhabitants and distinctive features.

The key challenge for any inquiry of responsibility in global politics is to identify who the bearers of specific responsibilities are (Erskine 2003b: 1), and

thus the discussion of responsibility is inevitably also one of moral agency (Erskine 2003a; Hoover 2012; Brown 2001) because basically responsibility, inferred from its Latin origin (*respondere*), means 'to answer to'. Beyond the law, the concept of responsibility captures all types of situations in which not only legal but also moral duties and obligations in a broader (and less codified) sense are used as yardsticks to prescribe certain behaviour or evaluate certain actions. In a nutshell, responsibility is about the praise or blameworthiness of human action (Crawford 2007: 189). Thus, responsibility is inherently normative because it is about certain attitudes towards specific universal validity claims (Kutz 2004: 555).

Therefore, when we talk about responsibility, a specific normative background always comes into play. Assigning duties and prescribing roles never takes place in a vacuum. Moreover, we have to take into account the properties of the situation by which responsibilities are attributed or by which a causal relationship is established that allows for controlling the consequences of a certain action. This is why, in essence, responsibility is a relational concept. At the same time, responsibility is also genuinely political. While it is normative in substance and heavily shaped by normative IR theory, moral philosophy, and the philosophy of law, from an IR perspective the political nature and its political effects are of extraordinary importance (Beardsworth 2015). By directing the political, responsibility is itself political since it addresses the meaning, legitimacy, and limitations of politics (Jabri 1998: 598).

But because responsibility is inherently political, it also raises questions and attracts criticism: as some authors have pointed out, the necessity of clarifying responsibility is due to possible threats of irresponsibility (Gunder and Hillier 2007: 73). Not being aware of a duty to act in a certain manner inevitably bears the risk of inaction (Veitch 2007)—an allegation that proponents of the 'Responsibility to Protect' often bring forward to argue their point for appealing to 'the international community' to take action in violent conflicts. The modern globalised world with its impervious complexity creates a lack of clear avenues of accountability by replacing control and clear assignments of responsibilities with flexible and situated arrangements (Koskenniemi 2009: 406).

Hence, when we talk about responsibility, we do not only have to take into account its relational character between any subject and object of responsibility (Who is responsible for what and to whom?); we also have to specify on which duties and rights it rests and which specific claims and relationships of accountability it entails. Rights and duties, in turn, define and construct the agency of the individual and/or collective actor to whom responsibility is assigned (and vice versa). Moral agency in particular has quite powerful consequences as a concept because it questions some fundamental assumptions about the international system, most importantly the notion of state sovereignty and anarchy (Hoover 2012: 236). If states are morally bound not only by specific rights but also duties, they act in a rule-guided manner on the one hand and cannot claim non-interference in 'domestic' affairs on the other hand.

One of the most prominent concepts of moral agency in IR was proposed by Toni Erskine, who conceptualises moral agency as a distinct property of an actor

with two key features: the capacity of moral deliberation and the capacity of moral action. From these features three consequences regarding moral agency can be concluded: first, the agent's ability to understand and reflect upon moral requirements, second, the ability to act respectively, and, finally, the agent's freedom so to do, to act in accordance with moral requirements (Erskine 2001: 69). Implicitly, Erskine's definition is guided by the expectation of rational autonomy of actors. However, the problem with the notion of rational autonomy is that it tends to ignore the importance of structure and social context. As David Chandler and others have argued, the globalised world of today confronts actors with a world of complexity and interconnectivity in which many effects of our actions are unintentional, i.e. contradict the concept of a purposeful actor (Chandler 2013: 176; see also Chandler, Chapter 12). Therefore, these rather messy human realities make it difficult to single out specific actors who can be held responsible for particular actions since individuals always act in a context shaped by other actors, structures, and practices. Hence, it seems more appropriate to think of agency not as a property of an actor but as the result of complex interactions of actors and structures that change in space and time. With respect to the concept of a 'geography of responsibility', the capacity to act is constituted within a specific reading of who is responsible for what and to whom based on specific validity claims.

Assuming contextual dependency of responsibility nicely shows how responsibility produces enabling or constraining effects: "Moral agency is situated in that it grows out of particular contexts in which the capabilities and obligations of individuals are developed and enforced by social institutions" (Hoover 2012: 256). In the following, I would like to reconstruct how this 'geography of responsibility' sketched above changed over time with the evolution of the climate regime by starting with a short overview of how the CBDR principle developed.

Development of the CBDR principle as a framework to tackle climate change

Unsurprisingly, the most prominent example of the application of the principle of CBDR is in global climate governance.⁴ There, a very complex institutional structure has evolved over time relying on public, private, and hybrid governance arrangements (see e.g. van Asselt 2014). Instrumental to this process of institutionalising systems of governing climate change was the adoption of the UNFCCC in 1992 at the UN Conference on Environment and Development (UNCED) in Rio de Janeiro. Its adoption was also made possible by the compromise that was struck between developed and developing countries, each emphasising one of the key subjects of the conference: either protection of the environment or development. This "fragile consensus" (Rajamani 2012: 609) was reflected by the then propagated concept of sustainable development.

The Convention⁵ distinguishes between three groups of parties: developed countries (Annex I), countries undergoing a transition to market economies, which were also subsumed under Annex I but differentiated, and developing countries, which were marked as non-Annex I countries. By distinguishing

between Annex I parties and non-Annex I parties, the Convention acknowledged that the different groups of states possessed different capabilities to combat climate change. Hence, the Convention argued for the provision of financial resources and transfer of technology to developing countries by developed countries.

Only the Kyoto Protocol, adopted in 1997, specified emission targets for Annex I countries to mitigate the effects of climate change. Concurrently, the Clean Development Mechanism (CDM) was introduced allowing developing countries to generate credits through emission-reducing projects, and to sell them to developed countries, which in return could take those credits to reduce ‘their’ emissions. CDM projects were characterised as a ‘win–win situation’ for both parties, since they also entailed a development component: they did not only aim at reducing emissions but also at fostering development in the target country.

The original structure of the climate regime thus specified that developed countries—because of their historical legacies and their current capabilities—were the ones who were responsible for action and thus in charge of shouldering the brunt of this burden-sharing agreement. The range of actions, however, was mainly limited to mitigation measures, i.e. the obligation to reduce greenhouse gas (GHG) emissions. At the same time, developing countries were allowed ‘room for development’—without needing to take into account the amount of GHG emissions resulting from that process. In fact, parties to the Kyoto Protocol acknowledged that developing countries’ share of emissions would be growing to meet their social and development needs.

The UNFCCC’s original differentiation was soon criticised, since it did not reflect the political realities of the economic rise of especially China and India, which—as designated developing countries—became major GHG emitters without having to do anything about it. Therefore, the original distinction between developed and developing states became increasingly blurred and was seen as an obstacle to effective mitigation (see Voigt 2014: 52). Although signed by the United States under President Clinton, the US Senate never ratified the Kyoto Protocol because of reservations that developing countries were not required to reduce their emissions.

The uneasiness with this bifurcated differentiation also surfaced in the series of Conferences of the Parties (COPs) in the first decade of the 2000s. After the Kyoto Protocol had entered into force in 2005, its first commitment period started in 2008 and ended in 2012. Highly conflicting negotiation processes on the issue of binding targets and the question if developing countries should take a share in emissions reduction characterised this period. In the end, the outcome document of COP 15 in 2009, the Copenhagen Accord, introduced a new three-tiered architecture, thus beginning “to break down the firewall between developed and developing countries” (Bodansky 2016: 299). The Accord distinguished between developed countries with quantified targets, developing countries, who will take some mitigation actions, least developed countries and small island developing countries, who may take action (Bushey and Jinnah 2010: 5). Thus, with the Copenhagen Accord the system of differentiation in favour of developing countries began to dissolve (Rajamani 2013: 160). Although the climate regime

suffered a major setback with Canada withdrawing from the Kyoto Protocol in 2011 (taking effect in 2012), the parties agreed on a second commitment period (to last until 2020) with the so-called Doha Amendment in 2012.

Already at COP 17 in 2011, however, parties of the UNFCCC had established an Ad Hoc Working Group on the Durban Platform for Enhanced Action. Its mandate was “to launch a process to develop a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties” (UN Doc. FCCC/CP/2011/9/Add.1, Decision 1/CP.17). This new round of negotiations was scheduled to end in 2015 with the aim of establishing a post-2020 agreement. One of the reasons for this was that, in terms of equity, critics voiced concerns about the incentive structure of the existing climate regime. By focusing on the right of countries to emit GHGs, mitigation measures concentrated on emission rights framed as property rights, which were traded on markets or acquired through instruments like the CDM. Therefore, policymakers did not feel under pressure to develop more effective ways of reducing GHG emissions. Moreover, the carbon trading schemes were also criticised since they did not only tend “to entrench existing inequalities of access to global resources, but actually [made] them worse” (Hayward 2007: 434).

Simultaneously, it became clear that mitigation measures alone would not suffice to avert the negative effects of climate change. Soon, adapting to climate change entered the international agenda. However, along with the discussion on adaptation went a discussion about which human rights like the rights to self-determination, life, health, food, water, or housing (Center for International Environmental Law 2011: 6) might be infringed upon by reducing people’s prospects to realise their chances of a decent living. Indigenous groups like the Inuit and Small Island States in particular argued that the impacts of climate change violated a range of their human rights relating to culture, property, health, life, physical integrity, or means of subsistence (Rajamani 2010: 398). Subsequently, the Human Rights Council also addressed the relationship between human rights and climate change in a number of reports and issued several resolutions on it from 2008 onwards.⁶ Advocates of a rights-based approach thus hoped that shedding light on the impacts of climate change on the individual and its rights might create an “ethical pull” (Rajamani 2010: 395).

Consequently, the idea took hold that the evolution of the climate change regime depended on a common understanding of equitably sharing both the efforts to tackle climate change and its benefits. Because, as Tim Hayward put it: “What the rich owe to the poor should not be seen as ‘more emissions’ but as an equitable share of the benefits they have derived from their unjust appropriation of more than their share of ecological space” (Hayward 2007: 447). To achieve this, it seemed necessary to develop more sophisticated notions of ‘differentiation’, not only between states but also within states to identify the most vulnerable groups affected by climate change. Hence, more and more observers voiced the opinion that an equitable climate regime needed “to be based on differentiation that is flexible, more diverse, and dynamic and only granted on a temporary basis” (Voigt 2014: 52).

In 2015, still under the umbrella of the UNFCCC but with the view of replacing the Kyoto Protocol from 2020 onwards, state parties adopted a new, legally binding instrument (with a number of non-binding elements): the Paris Agreement.⁷ Parties of the Paris Agreement stipulate to hold “the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels” (Paris Agreement, Art. 2.1). Although it is very unlikely that this target will be met, the Paris Agreement is looked upon as “a historic achievement in multilateral diplomacy” (Rajamani 2016: 493) and an innovative instrument that will possibly strengthen the climate regime. It is, as was envisioned with the Durban Platform, an agreement ‘applicable to all’, thus removing the strict bifurcation between developed and developing countries. Therefore, it specifies the same core obligations for all parties. It considers, however, ‘different national circumstances’. With a view to a post-2020 climate regime the Paris Agreement establishes a long-term, durable architecture and institutionalises an iterative process by requiring state parties to submit “nationally determined contributions” (NDCs) every five years (Bodansky 2016: 290). Let us now turn to how the specific versions of differentiation shaped distinct geographies of responsibility.

Shaping the landscape by assigning differences and responsibilities

Asymmetric differentiation in the UNFCCC and the Kyoto Protocol

Differentiation in the original architecture of the climate change regime referred to the distinction between ‘developed’ versus ‘developing’ countries, putting the responsibility to act on developed countries because of their historical contribution to environmental degradation and their ability to shoulder the burden of cost-intensive mitigation measures. Two subsequent principles in Article 3 of the UNFCCC spell out this bifurcated differentiation:

1. The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof.
2. The specific needs and special circumstances of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change, and of those Parties, especially developing country Parties, that would have to bear a disproportionate or abnormal burden under the Convention, should be given full consideration.

(UNFCCC, Art. 3.1. and 3.2)

This specific form of differentiation reflects an equity perspective, which many developing countries had advocated already in the negotiation process of the

UNFCCC. They had pointed out differences in contributing to the level of GHG in the atmosphere (historical versus current and future), the nature of the emissions (survival versus luxury), economic status (poverty versus wealth), and the impacts of climate change as well as the ability to cope with it (severe versus adaptable) (see Rajamani 2010: 395).

From this, the right of developing countries to receive financial and technological assistance from developed countries was inferred. Article 4.7 of the UNFCCC specifies this in a 'linking clause' by making the implementation of commitments by developing countries dependent on the implementation of commitments by developed countries:

The extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of the developing country Parties.

(UNFCCC, Art. 4.7)

Therefore, responsibility in the UNFCCC comprises both 'responsibility for' having caused emissions and 'responsibility to' developing countries to remedy historic wrongdoing and to assist the weaker parties affected by the wrongdoings from worsening the situation (Winkler and Rajamani 2014: 105). By defining responsibility like that, developed countries are the ones expected to act (see Figure 7.1).

Thus, in terms of agency, developing countries were not regarded as equals to developed countries since they lacked one of the key features of agency proposed by Erskine: the ability to act. In the framework of the UNFCCC, the agency of developing countries is a conditional one, which depends on the interactional character of agency. The UNFCCC refers to a number of rather general and some more specific principles on which parties to the Convention should base their actions. As already mentioned above, parties shall act with a view to the benefits of present and future generations (Art. 3.1). In the Preamble parties are granted the sovereign right to exploit their own resources, but they also have "the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction". In the section on Principles, parties are also asked to take precautionary measures (Art. 3.3), and again are granted the right to sustainable development (Art. 3.4). Thus, the UNFCCC entails a range of rights and duties for state parties, privileging developing countries in terms of rights and exempting them from a number of duties with reference to their inability to act accordingly. "In this way, 'positive discrimination' in favour of developing countries led to highly asymmetric environmental obligations coupled with arrangements and mechanisms which institutionalize this categorization" (Voigt and Ferreira 2016: 287).

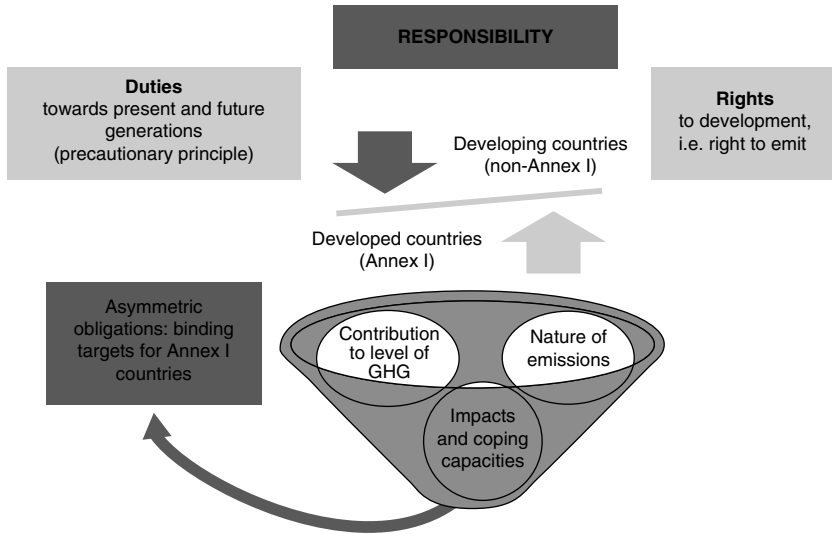


Figure 7.1 UNFCCC and Kyoto Protocol: asymmetric differentiation in a top-down process
 Source: Author's own illustration.

But what about the agency of developed countries? The UNFCCC spells out rather clearly what the moral requirements of developed countries are. Interestingly, however, the moral requirements are conditional on economic reasoning:

The Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures, taking into account that policies and *measures to deal with climate change should be cost-effective* so as to ensure global benefits at the lowest possible cost. To achieve this, such policies and measures should take into account different socio-economic contexts, be comprehensive, cover all relevant sources, sinks and reservoirs of greenhouse gases and adaptation, and comprise all economic sectors.

(UNFCCC, Art. 3.3, emphasis added)

This framing of the moral standard to take precautionary measures as being valid even if there is no “full scientific certainty” gets ‘diluted’ by taking only those measures which are economically “cost-effective”. What we can witness here, is how moral agents define and delimit their rights and duties by taking various structural factors like an economic system based on the usage of carbon fossil fuels into account. Subsequently, this led to obligations specified in the Kyoto Protocol that were framed as rights to emissions and tradeable emissions schemes or

instruments like the Clean Development Mechanism and Joint Implementation. Hence, observers argued that within the framework of the UNFCCC and the Kyoto Protocol “the right to development takes within its fold the right to emit” (Rajamani 2010: 397).

Although the Kyoto Protocol was meant to lay down legally binding obligations (for the Annex I, i.e. developed countries), the document adopted in December 1997 deferred the details of how it should work to subsequent negotiations. However, these negotiations got stuck in a number of technical issues because developed countries could not agree on how to reach the emission targets laid down in the Kyoto Protocol and how to measure the overall emissions (by e.g. including carbon sinks). Therefore, in spite of very sophisticated accountability mechanisms negotiated internationally under the Kyoto Protocol for Annex I countries—comprising registry systems, accounting, reporting, and review procedures as well as a rather complicated compliance system—the effectiveness of the climate regime with respect to reducing the overall level of GHG emissions remained inadequate.

Another reason for the stalemate was due to exempting developing countries from any binding actions. When the Bush Administration announced to withdraw its support of the Kyoto Protocol in 2001, the decision was also justified by pointing out that the Provisions of the Kyoto Protocol at that time only covered the minority of GHG emissions. In essence, the then structure of the climate regime with its asymmetrical differentiation challenged its legitimacy. This in turn led many developed countries to reject what had been defined as their responsibility in the UNFCCC. This resulted in Canada and Russia declaring their non-compliance with the Kyoto targets in 2011 and the subsequent withdrawal of Canada in 2012. Although formally the second commitment period of the Kyoto Protocol will only end in 2020, the climate regime based on it had largely become ineffective and needed to be complemented or replaced by some new—at best binding—mechanism, which was adopted in Paris in December 2015.

Dynamic differentiation in the Paris Agreement

As envisioned with the launch of the Ad Hoc Working Group on the Durban Platform for Enhanced Action, the Paris Agreement turned out to be ‘applicable to all Parties’ and truly global in reach. This is the first and most important difference from the existing structure of the climate regime. In terms of legitimacy, the new agreement aspires to include as many parties as possible in decision-making and subject them to binding obligations. Hence, observers concluded “the Paris Agreement represents the most ambitious outcome possible in a deeply discordant political context” (Rajamani 2016: 494). A new form of differentiation proved to be one of the crucial factors for this. Article 2.2 of the Paris Agreement reiterates the CBDR with an interesting qualification: “This Agreement will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, *in the light of different national circumstances*” (Paris Agreement, Art. 2.2, emphasis added).

In contrast to the UNFCCC and the Kyoto Protocol, in the Paris Agreement the most ambitious goals do not only relate to developing countries, but to “each Party”:

2. Each Party shall prepare, communicate and maintain successive nationally determined contributions that it intends to achieve. Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions.

3. Each Party’s successive nationally determined contribution will represent a progression beyond the Party’s then current nationally determined contribution and reflect its highest possible ambition, reflecting its common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.

(Paris Agreement, Art. 4.2, 4.3)

The Paris Agreement does still contain provisions for assigning differentiated responsibilities to developed and developing countries:

4. Developed country Parties should continue taking the lead by undertaking economy-wide absolute emission reduction targets. Developing country Parties should continue enhancing their mitigation efforts, and are encouraged to move over time towards economy-wide emission reduction or limitation targets in the light of different national circumstances.

5. Support shall be provided to developing country Parties for the implementation of this Article, in accordance with Articles 9, 10 and 11, recognizing that enhanced support for developing country Parties will allow for higher ambition in their actions.

(Paris Agreement, Art. 4.4, 4.5)

However, it does not differentiate responsibilities based on assigning specific countries to one of those categories, since it does not define fixed categories of countries like the Annexes of the UNFCCC and the Kyoto Protocol did. Moreover, it expects that even developing countries will enhance their level of ambition in their mitigation and adaptation efforts. With respect to the agency of the parties, the Paris Agreement endorses the concept that all parties have the ability to take actions, and it leaves them freedom to act according to what they define as necessary actions to take, based on a national process of defining their contribution to the overall effort to tackle climate change. For many observers, the Paris Agreement creates an “evolutionary space” since the general, principled way in which CBDR is referred to leaves room for the parties to adapt their obligations “to be responsive to an evolutionary understanding of accountability for temperature increases and also to changing political, social and economic circumstances” (Voigt and Ferreira 2016: 294).

The emphasis on the agency of the parties is also reflected in the bottom-up process of how each country determines its national pledges (see Figure 7.2).

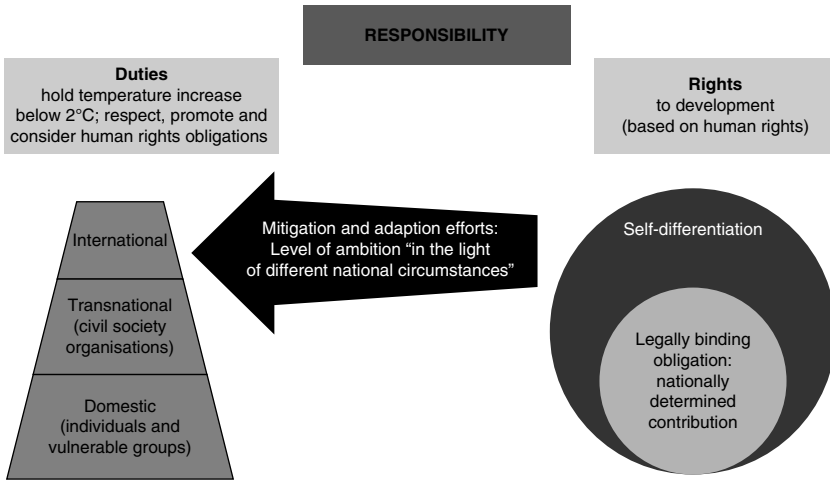


Figure 7.2 Paris Agreement: dynamic differentiation in a bottom-up process
Source: Author's own illustration.

Since the agreement does not prescribe any types or the extent of mitigation and adaptation measures, it allows for each country to be treated differently, thus creating a system of self-differentiation with each section of the agreement taking a different approach to differentiation (Maljean-Dubois 2016: 154, 157). Hence, the “overall approach to differentiation, therefore, is not premised on ‘causality’ alone, but on an amalgamation of country-specific responsibilities, capabilities and circumstances” (Voigt and Ferreira 2016: 294).

To achieve compliance, the Paris Agreement contains a number of legal obligations, above all a pledge and review system, under which states prepare and communicate successive NDCs.⁸ This move away from binding emission targets is the biggest difference to the Kyoto Protocol architecture of the climate regime. This new approach signals an adjustment to the reality of the myriad of existing domestic climate policies around the globe with differing laws and regulations. Since the NDCs are dependent on national discretion and still rather vague, they are subject to an international review mechanism (Voigt 2016), thereby creating a ‘two-level game’ of international negotiations on the one hand and domestic coalition building on the other (see Keohane and Oppenheimer 2016: 148). Interestingly, the legal obligations put down in the Paris Agreement refer to conduct rather than to results (Rajamani 2016: 497). This emphasis on process is in line with having realised “that effective climate policy is not about finding quick fixes to an emissions problem but about putting in place the structure for a long-term technological and economic transformation” (Falkner 2016: 1118).

A prerequisite for making the Paris Agreement a success is to make transparent what each NDC will contribute to the overall effort of holding the global average temperature to well below a 2°C increase compared to pre-industrial levels. This

is why it is so crucial that this ‘evolutionary space’, which was created by the agreement, is also inhabited by more and more civil society organisations and individuals (Chan *et al.* 2016; Hale 2016). The process of devising and implementing NDCs is also closely monitored by civil society organisations, who have developed tools to inform and assist countries in their commitments to certain levels of fairness and ambition (Voigt and Ferreira 2016: 296).⁹ Therefore, parties are not only subject to peer pressure among states internationally but also to ‘naming and shaming’ by civil society organisations, domestically and transnationally. In view of the Paris Conference in December 2015, states had already been asked to announce voluntary pledges, so-called ‘intended nationally determined contributions’, which were scrutinised by a large coalition of civil society organisations that conducted an “equity review” revealing a significant “ambition gap” in the collective mitigation effort.¹⁰ This attests to the “social character” of the NDCs, which “are subject to contestation and argumentation in order to become socially accepted as being genuinely fair and ambitious” (Chan 2016: 298).

Another interesting new feature of the Paris Agreement is that, implicitly, it abandons the sole focus on states by acknowledging in the preamble that the human rights of individuals are affected by climate change:¹¹

Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.

(Paris Agreement, Preamble)

Proponents of a rights-based approach welcome such a reference combined with the new system of differentiation since this might help to ensure that the most disadvantaged individuals in every country might benefit from future mitigation and adaptation measures (Cullet 2016: 326). The reference to human rights will not lead to countries taking decisions without considering what they think is feasible, applicable, and, above all, affordable. However, respecting human rights opens up the space to refer to the correlative duties of restitution, compensation, and rehabilitation of the affected individuals. Moreover, in cases where specific rights and duties seem to conflict, human rights might provide benchmarks against which actions can be evaluated (Rajamani 2010: 415–417).

The new climate regime based on the Paris Agreement is only gradually taking shape. There are critics who voice concern about the lack of substantial commitments, which were guaranteed by the former top-down differentiation of the UNFCCC and the Kyoto Protocol (but never fully enforced) and are lacking now in this bottom-up process of self-differentiation entailed in the Paris Agreement (e.g. Morgan 2016). However, the new framing of the CBDR in the Paris Agreement might contribute to using the more procedurally oriented mechanisms to

support developing countries more effectively in defining their respective substantive obligations and assisting them in implementing them (Huggins and Karim 2016: 448).

Conclusion: differentiation and the politics of responsibility

The geography of responsibility sketched above relies heavily on particular framings of climate politics that also rest on specific notions of differentiation. As we have seen, this has consequences for the scope of possible actions by “allocating responsibilities in problematic and limited ways and locking in particular discourses of rights within dominant policy narratives” (Newell *et al.* 2015: 536). Moral or legal claims, which form the basis of specifying responsibilities, are always challenged, checked and contained by the structural and ideational context in which the geography of responsibility is embedded. Thus, assigning responsibility in itself does not set clear limits to agents but opens up a space in which actions can unfold within a complex structure of interactions between rights, duties, and obligations, the constitution and exertion of moral agency, and relationships of accountability.

The original bifurcated differentiation in the UNFCCC and the Kyoto Protocol, which created two distinct categories of actors with different rights, duties, and capacities to act, was based on equity concerns and the notion of (causal) responsibility for actions in the past. This conceptualisation, however, turned out to lead to a de-legitimisation of the whole process by not allowing for a more flexible approach in terms of fairness and effectiveness. The Paris Agreement, in contrast, might contribute to turning the climate regime upside down. It leaves the parties more leeway to define their respective responsibilities and to decide on what they would like to achieve within the new system. Reversing a popular saying, the new approach of differentiation in the climate regime suggests that ‘with responsibility comes power’, i.e. also the power not to act according to what seems necessary to combat climate change. This is why when you look upon responsibility as being embedded in a system of interactions and relationships within a structural and ideational context, the issue of accountability based on transparent mechanisms of ‘being answerable’ to a range of actors beyond fellow nation-states comes to the fore. And above all, the evolutionary space that opens up in that geography presents itself as a genuinely political one.

Notes

- 1 I would like to thank the participants of the research colloquium at the Institute for Development and Peace (INEF) and especially Elena Sondermann, Andrea Schapper, Antje Wiener and Peter Finkenbusch for comments on an earlier version of this chapter. I am also grateful to Dominic Noll and Lieselotte Heinz for their assistance in developing the illustrations.
- 2 Also sometimes called ‘Common but Differentiated Responsibilities and Respective Capabilities’ (CBDR-RC).
- 3 For a broader historical overview on the evolution of differential treatment see Rajamani (2006).

- 4 For an extensive overview of different notions of CBDR see Pauw *et al.* (2014).
- 5 <http://unfccc.int/resource/docs/convkp/conveng.pdf>.
- 6 See <http://www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/HRClimateChangeIndex.aspx>.
- 7 http://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf
- 8 Note that to pledge, i.e. hand in an NDC, is a legal obligation for parties, but the content, i.e. what each country pledges, is not obligatory.
- 9 See e.g. the CAIT Climate Data Explorer, provided by the World Resources Institute, which also comprises an “Equity Explorer”, accessible at: <http://cait.wri.org/equity>.
- 10 The Report “Fair Share: A Civil Society Equity Review of INDCS” of November 2015 can be accessed at: http://civilsocietyreview.org/wp-content/uploads/2015/11/CSO_FullReport.pdf. This pre-Paris report was followed by another report in November 2016 (endorsed by almost 200 civil society organisations) called “Setting the Path towards 1.5°C. A Civil Society Equity Review of Pre-2020 Ambition”, see <http://civilsocietyreview.org/wp-content/uploads/2016/11/Setting-the-Path-Toward-1.5C.pdf>.
- 11 NGOs had lobbied for including this reference into the agreement (Bodansky 2016: 313).

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8 The business of responsibility

Supply chain practice and the construction of the moral lead firm

Christian Scheper

Introduction

This chapter addresses the politics of corporate responsibility in the context of global production. While most of the corporate social responsibility (CSR) literature discusses potentials, limits and normative fundamentals (moral and legal) of business responsibilities, the main interest here is to understand responsibility as a product of social practices. By ‘social practice’ I draw on the broad ‘practice turn’ in the social sciences and its recent influence on political inquiry (Jonas and Littig 2017), in order to analyse business responsibility as a political phenomenon. This interest is guided by the assumption that responsibility is closely tied to a specific concept of moral agency, which is primarily individualistic and rationalistic, and brackets structural conditions (Hoover 2012). This could be politically problematic with regard to business agency in a globalised political economy. The questions I raise are how particular practices of corporate responsibility in the context of transnational relations of production enact corporate moral agency, and what kinds of ethical discourse and relations of power this (re)produces. In order to address this question I look at the context of corporate responsibility practices in global garment production networks (GPNs).

The main argument I make is that responsibility as a social practice in GPNs follows a particular ethos of management and reflects dominant social relations of production rather than conflicting with it. With regard to the garment industry, I argue more specifically that responsibility follows the logics of buyer-driven supply chain management and an according supply chain ethic. This has effects that are rather contradictory to what one might assume based on conventional CSR debates: it *enables* the economically most powerful companies in the GPN to pursue their business in the name of universal norms, rather than ‘taming’ their economic power by morally or legally *confronting* their sources of profit. This leads me to the conclusion that there is a specific ‘business of responsibility’—a practice of responsibility that serves particular business interests in the global political economy of garment production. It functions as a source of business power: responsibility has become a marketable asset that primarily serves lead firms in their construction of a ‘morally sound’ agency within a ‘morally deficient’ political economy.

In order to make this argument, the chapter links a practice-theoretical conception of responsibility to a critical political-economic view on management agency. I present my argument in two main steps: First, I define *corporate responsibility* as a product of social practices and, more specifically, of social practices that follow particular strategies of governance in the context of GPNs. Second, referring to the field of garment production, I reconstruct some of the effects that stem from the assumption of business responsibility by referring to two kinds of empirical phenomena, both of which contribute to the construction of moral lead firm agency: 1) I reconstruct the emergence of a particular ‘supply chain responsibility’, which is primarily emerging from academic practices of defining responsibility in management terms; 2) I give one example of a transnational governance approach in which the assumption of responsibility has been translated into a lead firm-oriented governance initiative, the Bangladesh Accord on Fire and Building Safety (hereafter: Accord). The example shows how a relatively effective call for corporate responsibility by labour union federations reproduces the economically dominant position of large buying firms by calling on their economic power in order to push for fire and building safety in Bangladesh. The lead firm is blamed but in the process becomes a moral leader, while relations of power and constitutive economic conditions of profit-making are bracketed from the responsibility practice.

In my conclusion I highlight how this practice-theoretical perspective on responsibility specifies the more general critique against the modern, liberal conception of moral agency as an individualistic and rationalistic concept: the assumption of corporate responsibility exempts the very economic rationales that lie at the heart of corporations as political agents. By calling on lead firms’ responsibility, one presupposes their capacity to act and draws on the economic dependency of diverse actors along the production network. This is normatively ambiguous because it necessarily (re)defines socially responsible conduct on the very basis of economic conventions of profit-making rather than addressing or even confronting these very conventions.

A practice-theoretical perspective on corporate responsibility

The understanding of social practice I draw on comprises more than just activity and instead relates to the very constitution of the social. In the sense of Wittgenstein’s language game a practice brings together actions with words and a material context and thus creates contextualised meaning. In this way, social practices are “competent performances” (Adler and Pouliot 2011: 4). Focusing our analysis on practices allows us to bring together situated agency with its social environment, including its material factors, ideas, and norms (Adler and Pouliot 2011). Other than parts of the sociologically oriented practice-theoretical canon today, my interest in this perspective is linked to its potential not only to describe practices but to highlight their *political* effects, especially by reproducing governance

structures (Jonas and Littig 2017: 7). The practice-theoretical perspective on responsibility assumes that its meaning is created socially: what responsibility means is enacted by people in and through specific practices.

Discussions about the concept of corporate responsibility fill libraries today. However, only specific aspects in this debate are of importance here. While the CSR concept has its origins mostly in the business community, it has also been increasingly considered as an issue of (private and public) governance, especially in the context of a growing role and critique of private political authority (Cutler *et al.* 1999). Proponents of business responsibility for social and ecological concerns assume that it can serve as a governance tool (Ruggie 2014). This assumption and related policy approaches have been controversially discussed in the global governance and political economy literature (Sum and Jessop 2013: 325–351; Utting and Marques 2010). Where corporate responsibility is assessed in relation to its potential for governance, this is usually done with regard to its normative content, reach, and scope, its legal and ethical status, as well as its effectiveness for realising a specific norm or goal, such as decreasing pollution, fighting corruption, or abandoning child labour. This means that the assumed norm is taken as a starting point and CSR is considered a potential solution towards closing governance gaps. Critics, accordingly, are concerned about its flawed normative contents and weak regulatory effects, which are reflected, for instance, by the ‘soft’ legal status of CSR commitments, their function as ethical smokescreens and reputational cosmetics, or its arbitrary scope and reach.¹

Here my interest is rather to understand how—in the specific context of the garment industry—social practices of assuming responsibility as an element of corporate governance become *productive* by bringing about particular norms and forms of agency (while excluding others)—rather than just implementing or diffusing them. By analysing what I refer to as ‘corporate social responsibility practices’ I reconstruct the ways in which these enact corporate moral agency based on its demarcation from structural conditions under which a corporation has a capacity to act based on normative discourses of good or bad conduct. ‘Social responsibility practices’ then refer to the set of practices that one would identify as acts of assuming responsibility for social concerns, especially normative statements and programmes of implementation in GPNs: corporate codes of conduct, reports, joined governance initiatives, monitoring techniques, risk assessments, and training. It is in and through such practices that a corporate ‘capacity to act’ in the name of general norms of good and bad or right and wrong—that is, moral agency—is enacted. This practice-theoretical perspective differs from ideal types of both normative and realist approaches: Whereas some realists would take the mentioned structural conditions as the mere manifestation of material structures and economic interests, practice theory understands these as a set of social conventions, the result of shared structures of knowledge (Reckwitz 2002). On the other side of the spectrum would be normative approaches, which would assume a kind of genuine or ideal meaning, content or purpose of responsibility.

Global production as a site of corporate social responsibility practices

There is a body of literature about ontologies and analytical approaches to global production systems, particularly the concepts of global commodity chains, global value chains (Bair 2005; Gibbon *et al.* 2008), global production networks (Henderson *et al.* 2002), and supply chains (LeBaron and Lister 2015). For understanding practices of responsibility and moral agency, I will refer to the latter two concepts: first, the concept of the GPN, as it understands production systems as constantly reproduced in and through practice (Coe and Hess 2013; Henderson *et al.* 2002). GPNs “comprise complex political-economic systems in which markets—and their associated distribution of resources and authority—are constructed within, as well as actively shape, their socio-political context” (Levy 2008: 943). GPN analyses assume that networks are always relational and “in a process of flux” (Coe *et al.* 2007: 272). This assumption and the holistic character of the concept help to problematise social effects of dominant regimes of practices, including particular forms of agency enacted by them (such as the ‘focal’ or ‘lead firm’). One such regime is represented by the concept of the ‘supply chain’. It reflects a much narrower management view on the production network as a chain of supplies of commodities and produced parts or goods, organised according to specific programmes of corporate governance.²

GPN research has discussed some of the ‘productive’ effects of codes and standards as a governance practice by corporations and civil society organisations (Nadvi 2008; Nadvi and Raj-Reichert 2015). They create new rules as “societal responses” (Gereffi and Mayer 2006) to deficits in state governance. Gibbon and Ponte (2008) have also shown the productive side of value chain governance in terms of its interrelation with disciplinary effects of governmentality. The authors understand governance as a set of “invoked models of practice” and supply chain management as a particular “programme of government” (Gibbon and Ponte 2008: 367). Raj-Reichert (2013) has also analysed the production of agential power of health and safety managers as an element of governmentality in electronics production networks.

Drawing on these strands of research, we can further think about the constitution of moral agency through the concept of responsibility as part of corporate governance practice. More specifically, since responsibility presupposes the assumption of agency and a particular capacity to act, to call on and demarcate a particular *corporate* responsibility to solve a public or general goal of governance means to presuppose a particular corporate capacity to make decisions in accordance with this goal. Against this assumption one might argue that the moral standards as such are not up to the company as a bearer of responsibility—it is rather a call for *compliance* with given norms than a moral capacity. However, practice-oriented research has shown that the adoption of general norms into particular business contexts involves processes of translation: they lead to a specification of normative standards but also to their adaptation to the “corporate form” (Merry 2015). The call on corporate agency means to privilege not only a

particular legal status that constitutes the corporation but also the sources of agential power within a capitalist market context: the need to uphold a model of profitable business is the direct precondition for calling on the corporations' responsibility. In other words, existing *economic* capacities to govern (e.g., buying power) necessarily come into focus as a basis for the corporation's capacity to act *morally* as a driver of the network. From this derives the reflex to limit responsibility by exempting those structural conditions that co-constitute corporate agency. Responsibility practice, thus, merges universalistic normative discourses with a particular business context and an economic rationale. Through this context and its (taken-for-granted) norms of "how to make and maintain business" we can understand responsibility as becoming part of "maintaining and developing social norms" (Hoover 2012: 249). I will specify this theoretical argument in the case of garment production.

The case of the garment industry

The global garment industry has become exemplary for the increasingly powerful politics of responsibility in GPNs. Since there is an extensive and critical body of literature about the CSR discourse in this sector (e.g., Hale and Wills 2005; Nadvi *et al.* 2004), I will only briefly refer to some of its key characteristics and then directly turn to the construction of moral agency through responsibility practice.

It is especially the oligopsonistic structure of the garment industry and its manifestation in buyer-driven regimes of supply chain management that constitute the political-economic context against which a particular conception of responsibility has evolved over the last three decades. Whereas garment production has been publicly criticised for its labour conditions since at least the early 1980s (Fuentes and Ehrenreich 1983), there was a serious increase in public campaigns against the most powerful buyers—mostly the visible brand companies and their 'sweatshop conditions'—in the 1990s. Sweatshop movements and anti-corporate campaigns at the time created new forms of "ethical risks" for garment brands and retailers (Scheper 2015). Demands for social responsibility, mostly raised in consumer countries towards brand and retail practices in production countries, have come to reflect many of the social and ecological costs of garment production that had been bracketed by economic conventions of exploiting labour through outsourcing and the global management of supply chains (Sum 2010; Tsing 2009). In the last 20 years, however, there has been a massive increase in brand and retail approaches to explicitly address the social and ecological conditions upon which their outsourced production is based. A regime of corporate reactions has evolved that aims at justifying and remedying social and ecological consequences of global production. Corporate responsibility practices materialised mainly in the form of a "code rush" (Sum and Ngai 2005: 182). Through codes, standards, and guidelines, large buying companies have increasingly attempted to use their market power to govern social and ecological conditions in the production network in order to decrease reputational risks for their brand values.³

Defining corporate moral conduct through supply chain ethics?

In the garment industry, we see effects of brands' and retailers' responsibility practices in the form of changing roles and functions in the GPN: on the one hand, brands and retailers have become part of various governance arrangements to address the 'social problem' in garment production. They form coalitions with governments, international organisations, civil society organisations, and union federations. Examples are the Fair Labor Association in the US, the Fair Wear Foundation in the Netherlands, the Ethical Trading Initiative in the UK, the German Partnership for Sustainable Textiles, or the Bangladesh Accord on Fire and Building Safety. I will refer to the latter example in more detail below.

In such initiatives, brands and their business practices are considered part of the solution to the problem, based on their market power and leverage to create change. The demand for responsibility both targets the agent who 'drives' the network, but at the same time presupposes the basis of its ability to drive, that is, its economic leadership in the network. We can therefore assume that responsibility as a practice evolves in a context that is based on those very economic conventions that are constitutive of the network, that is, practices of "purchasing and supply management" (Gibbon and Ponte 2008). These entail routinised norms and economic models that have driven the formation and led to the maintenance of an oligopsonistic garment production network: the business model of the buying corporation—that is, the large retailer or brand—is built on the possibility of developing an economics of scale. The model of 'fabrication-less' production demands a supply chain that systematically exploits global diversities and inequalities (Tsing 2009). In order to be profitable, this chain is organised alongside these 'commodifiable' forms of diversity. We can observe unequal labour costs and skills related to, for instance, different states of development, regulatory frameworks and social hierarchies based on gender, race, class, and age. Diversity is what makes supply chains 'big' and profitable, so "supply chain capitalists worry about diversity, and their self-consciousness is what makes it easy to show that diversity forms a part of the structure of capitalism, rather than an inessential appendage" (Tsing 2009: 150). To the extent that a corporate model of production in the garment industry draws on a profitable supply chain, the call for lead firms' *responsible* conduct in line with universal norms, such as equality and human rights, necessarily creates a tension with the very exploitation of diversity the lead firms' profitability is based on.

In this context, a corporate responsibility practice, therefore, needs to presuppose the economics of supply chain management as a *ground* for corporate ethics, not as its contradiction—otherwise it would undermine its capacity to act. Thus, the articulation of a supply chain ethics forms a crucial part in the construction of lead firm moral agency in the network. Empirically, we can see the evolution of a managerial conception of supply chain responsibility. It is usually referred to as 'responsible', 'sustainable' or 'ethical' supply chain management, which has become a sub-discipline of management studies (Carter and Jennings 2002; Gold *et al.* 2010). This business-ethical 'programme of government' represents a

conception of ethical conduct that starts from the financial basis of making profits through supply chains. We find various representative models of this in business literature, which have been adapted to supply chain regimes. The most common model in this respect is the Triple Bottom Line (Carter and Rogers 2008: 364). It presents the responsible corporate agent as fulfilling not only its capitalist function of improving the financial bottom line, but also improving its ecological and social ‘bottom lines’. The concept “considers and balances economic, environmental and social goals from a microeconomic standpoint” (Carter and Rogers 2008: 364). Since the normative implication of the model is to put the three bottom lines on an equal footing and thus achieve a competitive advantage (Reuter *et al.* 2010), the effect is that social and ecological responsibility are not used to question the financial bottom line (see also Scheper 2017). This also resembles older conceptions of business responsibility, such as the classical “responsibility pyramid” by Archie B. Carroll (1991), which considered profitability as the fundament and put “legal”, “ethical” and “citizenship” responsibilities on top. Ethics ‘start’ only where economic goals are fulfilled. The different corporate-ethical models have in common that responsible corporate behaviour is possible where it improves (or at least stabilises) profits (the financial bottom line) while engaging in the improvement of the social and/or ecological bottom lines (e.g., Carter and Easton 2011: 49; Kumar and Christodouloupoulou 2014: 7).

Whereas the increasing integration of ethical considerations with rationalistic management models is often discussed as making supply chains more responsible and more receptive to moral demands, we can also consider this as a corporatisation of the very idea of social and ecological responsibility. This process of integration draws ethical *boundaries*, since the question of right and wrong—the identification of “evil” (Connolly 2002)—is always limited by what is economically possible in the given business situation of the responsible firm. It is through this exemption that an enabling space is created in which corporate governance practices can re-articulate universalistic norms and values in managerial terms. The demand of responsibility from supply chain business makes supply chain managers become agents in the specification of what responsible conduct means in practice.

We can come back to the example of the garment industry: where suppliers and sub-contractors in production countries like Bangladesh are highly dependent on the ‘drivers’ of the chain in economic terms, their moral agency also seems to be highly reduced to a field of manoeuvring in a corridor provided by the programme of government in the GPN. Where the ‘supply chain perspective’ is taken, the supplier base tends to become the ‘pre-moral’, rationalistic context, to which the lead firm needs to ‘carry’ its norms and moral values, because it has the economic capacity to do so. The cultural-political-economic diversity that forms the basis of profitable supply chains becomes represented in the very ‘distribution’ of moral agency in the GPN. The result is a public critique that primarily targets lead firms, but, paradoxically, it is also these lead firms that are expected to carry their norms and values ‘to the chain’.

From economic power to moral agency: the Bangladesh Accord on Fire and Building Safety

A recent example in which we can see the strengthening of corporate lead firm agency ‘in the name of responsibility’ is the Accord.⁴ It provides an interesting case for the ambiguous relationship between the call for corporate responsibility on the one hand and the construction of lead firm agency on the other. The Accord was a political response to the catastrophic Rana Plaza factory building collapse in Bangladesh in 2013, in which 1,135 workers lost their lives due to massive deficits in basic fire and building safety. “The tragedy brought renewed attention and pressure to the longstanding debate about the responsibility of multinational apparel brands to protect the rights of workers in their supply chains” (NYU Stern Center for Business and Human Rights 2015).

The Accord is a five-year agreement (2013–2018) that includes the conduct of safety inspections in over 1,600 factories, the public disclosure of these factories and their Corrective Action Plans, as well as the establishment of Health and Safety Committees and safety training programmes (Accord 2015). The agreement was signed by two international trade union federations, seven Bangladeshi trade unions and 180 apparel corporations (Accord 2015). It has received much attention because it marks the first time that international union federations were able to agree on a legally binding contract with transnational garment buying companies about factory conditions, based on the assumption of their (co-)responsibility for the disastrous conditions. Interestingly, factory owners are not a party to the agreement, although they might be the most obvious addressees for demanding factory safety. Instead, it is rather the assumption of the buyers’ economic leverage and responsibility that has led to the agreement. Although the resulting factory safety in Bangladesh is far from perfect, the Accord’s achievement in terms of factory inspections and remedies has been impressive—at least in those approximately 1,600 factories inspected (for a differentiated assessment see Khan and Wichterich (2015)). Since the initiative started its work, there has been no major fire accident reported in the garment industry in the country. Whereas union federations and civil society organisations mainly link the Accord’s success to the legally binding character of the agreement, it is obvious that the Accord works efficiently primarily because of the collective buying pressure from company signatories. It creates high pressure on supplier factories to follow action plans: if the Accord’s demands for remedies are not complied with, a factory risks losing orders not only from its direct buyer but from all other signatory companies as well.

Whereas the assumption of responsibility by transnational buying companies for fire and building safety in Bangladesh has thus effectively used the economic power to create higher factory safety, the case also illustrates how the power relations between transnational buyers and Bangladeshi suppliers have not been addressed (Khan and Wichterich 2015). Quite to the contrary, the supply chain regime has been systematically used in order to establish particular standards, pushed through by the collective sourcing power of transnational buyers. While

this makes perfect sense in order to reach higher factory safety, it also shows how the assumption of responsibility draws on the very economic rationale and corporate practices based on low regulatory standards and a lack of international workers' rights protection—those factors that have made the buying companies' business profitable and led to an enormous growth of the industry in Bangladesh. Bangladesh's ready-made garment industry specifically provides the competitive advantages resulting from low costs, high flexibility and the possibility to quickly produce high quantities. The economic conditions that make supply chain managers focus on Bangladesh have created an environment of enormous sector growth and widely unregulated spread of manufacturing facilities, including the common practice of sub-contracting. The assumption of corporate responsibility in this context allows for systematic use of the 'driver' of the problem in the name of the universal demand for basic factory safety, but it necessarily exempts the ethics of the supply chain regime: we see this in the buyers' collective demand towards suppliers to provide factory safety while keeping buying costs stable. In fact, by establishing an effective mechanism based on the assumption of responsibility by transnational buying companies, their lead firm agency based on collective power has even been increased, creating additional pressure on supplying factories in the name of worker safety.

Conclusion

This chapter has reconstructed the relationship between the politics of responsibility and moral agency in the context of global production. It shows that corporate responsibility as a social practice has an ambiguous effect: it privileges the economically dominant firm based on the fact that its capacity to act is a precondition for assigning moral agency. The politics of responsibility, thus, form the bridge between economic power and the construction of moral agency.

From this we can draw more general conclusions on the business of responsibility: based on an individualistic and rationalistic conception of moral agency, responsibility as a social practice demarcates moral conduct based on an existing political-economic context, such as the discipline of supply chain management in the buyer-driven garment industry. Accordingly, moral *agency* is constructed based on the very conventions that have created economic relations of domination and the powerful 'lead firm'. Paradoxically, by assigning responsibility, the moral agency of the latter is separated from the structural context, leaving an allegedly 'morally deficient' supply base. I have taken the garment industry as an example in which business models strongly rely on profitable supply chains. Responsibility here works well in the interests of lead firm business because the moral contradictions between the very factors that make the supply chain profitable (such as low costs and high flexibility) are exempted from responsibility practice. The very business model based on low price purchasing that is the fundament of the buyers' profits becomes part of the "structural conditions" (Hoover 2013).

Responsibility, therefore, enacts practices of power and control, and contributes to the constitution of moral agency. We see that responsibility practice makes the ‘lead firm’ not only an economic but also a *moral* leader: it has to ‘carry’ norms and values to its deficient supply base. The moral agency of the economically weak fades into the background and becomes rather an ‘environment’ that is the object of ‘pre-moral’, rationalistic market forces. The structures of the GPN and its economic drivers become the source and ground of moral agency, rather than its contradiction and target. My observation of corporate responsibility practices in the context of GPNs, therefore, specifies the more general assumption that responsibility as a concept tends to ignore structural conditions (Hoover 2013).

From the acknowledgement of the close entanglement of responsibility and agency we can start thinking about potential alternative politics of responsibility in the context of GPNs. The practice-theoretical perspective reminds us of the need to turn our view both to the context of shared “structures of knowledge” that form economic conventions of profit making, but also towards “forms of agency that are critical and active in evaluating ethical ends” in a democratic sense, as Hoover (2013: 257) suggests based on his reading of Dewey (see also Hoover, Chapter 2). Referring this to the politico-economic context of production would mean to search for a transnational democratic impetus of creating agency for those who are economically weak—such as in the ‘lower ends’ of the supply chain of the garment industry. While this has long been a goal of labour networks and workers’ rights organisations, it is worth highlighting that a call on the responsibility of large buyers might conflict with this goal. A search for democratic moments of agency in transnational relations of production—including an ethical evaluation of what constitutes ‘good business’, therefore, can help in critically assessing corporate responsibility practices in GPNs.

Notes

- 1 Specific fields of interest here have been environmental politics (Falkner 2009; Levy and Newell 2005) and human rights (Rabet 2009; Ruggie 2014; Schepher 2015). Especially the idea that corporate responsibility can function as a tool for closing ‘governance gaps’ in the human rights system has aroused critical debates not only in politics but also in international law (Deva and Bilchitz 2013). For critical debates on corporate codes of conduct and standards in global production systems, see Barrientos and Smith (2007), Nadvi (2008), Preuss (2009), and Sum and Ngai (2005).
- 2 I use the notion of ‘corporate governance’ broadly to describe the sum of governance practices by private corporations. For a more nuanced differentiation between market, corporate and industrial governance, see Gereffi and Mayer (2006).
- 3 On impacts and flaws of corporate codes for improving working conditions from workers’ perspectives, see Barrientos and Smith (2007); on their role in the context of labour struggles, see Rodríguez-Garavito (2005); on their general contents and limitations, see Preuss (2009). Especially from the perspective of labour studies, codes of conduct are not considered an effective tool to solve structural problems of poor labour conditions and power inequalities in GPNs.
- 4 For a more detailed discussion of this case, see Schepher 2017.

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9 Pluralisation of authority in post-conflict peacebuilding

The re-assignment of responsibility in polycentric governance arrangements

Tobias Debiel

Introduction¹

Since the 1980s, we can observe two successive waves of privatisation in the field of security provision and peacebuilding that have led to the devolution and (sometimes unplanned) pluralisation of authority: the growing relevance of private military and security companies (PMSCs), in particular noticeable in the 1990s and 2000s, and the increasing role of non-state actors (NSAs) at local level over the last decade. Transnationally governing fragmented peace is a new reality insofar as we witness not only a globally embedded acknowledgement of private actors, but also the re-assignment of responsibilities. The chapter argues that the analytical framework of polycentric governance catches these phenomena quite adequately. However, this form of governance poses problems with regard to institutional integration if it is applied in hybrid political orders (HPOs) in which the state shares sovereignty with a plurality of ‘local’, private, transnational and international actors and institutions. Furthermore, it leads to severe normative grey zones, in particular the blurring of accountabilities with regard to human rights norms.

This chapter engages in ‘conceptual scoping’, investigating how forms and assignments of responsibility in war-torn societies² have changed in light of the pluralisation of authority and how they have affected basic criteria of liberal governance, such as accountability, in particular regarding human rights issues. Responsibility, here, is understood as the social ascription and claiming of who is legally or morally in charge of authorising, performing or refraining from particular actions and obliged to justify his doings/non-doings. This refers to the object, nature and rationale of responsibility (responsibility by whom, to whom, for what, and why; see Loke 2016: 846).

Our starting point is the observation that local NSAs over the last decade have been increasingly regarded as relevant for the provision of security and peacebuilding (second section). They are embedded in polycentric webs of governance which are shaped by a pluralisation of authority, specific modes of governance and respective forms (shared, blurred, contested) of responsibility. From the perspective of international actors, I explore two strategies to counter

the shortcomings of polycentric governance such as institutional disintegration with regard to NSAs: first, the recovery of state-based authority and control, and, second, the empowerment of marginalised local groups through experimental forms of authorisation. The final section concludes by identifying respective normative problems that come along with this structural change in governing fragmented peace, namely gaps and ambiguities regarding human rights issues, and the legitimacy of private actors.

Privatising peacebuilding, diffusing responsibilities

The field of peacebuilding has been transformed by the commercialisation of security functions, which first took place in the markets of Western industrial countries, but extended rapidly to the 'Global South'. Commercialisation ultimately led to the entry of transnational security suppliers as active players into statebuilding and peacebuilding operations (Krahmann 2009). Besides this trend, local violent actors have attracted substantial academic and political attention over the last decade (Hofmann and Schneckener 2011). This has been due to their growing acknowledgement as (often ambivalent) security providers (Podder 2014).

Commercialisation as devolution: the first wave

The increasing commercialisation of security provision is a consequence of the global dissemination of neoliberal ideas and policies in the 1980s ('roll-back of the state', 'marketisation of service provision' etc.). However, the rise of neoliberal policy doctrine only captures part of the picture. Shearing and Wood (2003: 403) describe the trend as a mix of "planned devolution and unplanned pluralization". Commercialisation has been especially prominent in the Global South. In fragile developing countries, such as Sierra Leone and Nigeria, private security services have become active in the field of resource extraction since the 1990s, often in close interconnection with multinationals. In transitional societies like post-apartheid South Africa, private security companies (PSCs) have extended further into everyday lives than in most industrial countries (Abrahamsen and Williams 2007: 243). In urban centres such as Cape Town, public-private policing has become the norm, and is taking on tasks previously reserved for the state. Importantly, privatisation has not replaced the state, but led to an ongoing negotiation of its responsibilities. Accordingly, upon request, the police may support private firms for specific enforcement measures for which the respective company must pay all or part of the costs (Abrahamsen and Williams 2009: 8).

At the beginning of the 2000s, the interventions in Afghanistan and Iraq created a particularly lucrative market with soaring growth rates (Krahmann 2009: 11). Furthermore, there is now also a multilaterally organised market for private security services in which the UN appears as a consumer. In UN peace missions, PMSCs have been assigned support functions or even active organisational functions. Sub-contracting PMSCs is not restricted to UN military operations, but includes civil measures as well. For instance, the transportation

requirements of the World Food Programme have been met by private firms, which, in the wake, became responsible for the armed protection of convoys (Østensen 2011; Pingeot 2012).

It is noticeable that commercial transnational service providers enjoy a remarkable degree of acceptance in the international community and operate largely outside overarching governance architectures. This is reflected, not least, in the Montreux Document (September 2008).³ There, 17 countries and country groups postulate the applicability of international humanitarian law and recommend a voluntary code of good practice. However, they do not take any tangible steps towards setting up international regulation (International Committee of the Red Cross (ICRC) 2009; Krahnmann 2009: 1). Accordingly, issues of vertical accountability are sidelined.

Furthermore, it remains non-transparent and incoherent to whom certain responsibilities are assigned and which criteria apply. In particular, it is not transparent why international and state actors do business and cooperate with particular private actors and not with others. Even in the UN system, there are few rules, and policy tends to be contradictory and *ad hoc*. As a result, there have been a number of cases in which contracts were signed with PSCs that were problematic from a human rights perspective. Notable examples are DynCorp, which was accused of having been implicated in human trafficking and organised prostitution in Bosnia in the 1990s, Lifeguard Security and Sandline International, linked to the now disbanded Executive Outcomes, and Saracen in Uganda (Pingeot 2012: 22).

Responsibilising local actors: the second wave

Apart from commercialisation, international organisations and international non-governmental organisations (INGOs) have been increasingly ‘responsibilising’ local actors and institutions over the past ten years (see Ilcan and Rygiel 2015: 336; Joseph 2013). Within this process, they have not only been assigned guard and protection functions. International donor institutions such as the World Bank and the Organisation for Economic Co-operation and Development (OECD)’s Development Assistance Committee (DAC), but also bilateral agencies such as the UK’s Department for International Development (DFID) are considering, in dialogue for a on security sector and judicial reform, how traditional non-state legal systems can be utilised in post-conflict settings (Podder 2014: 1618).

Leaning on Podder (2014), a rough distinction can be made between non-state armed groups (NSAGs) and traditional authorities who are anchored in their communities and are connected with informal customary law, often beyond the state (see Table 9.1). NSAGs control the collective means of violence and are prepared to use them, without formally belonging to state structures (Hofmann and Schneckener 2011: 604). Besides rebel organisations, local militias, youth gangs, secret societies, and mafia-like organisations—often tied to international drug and human trafficking—play a key role in organising (in)security (for West Africa, see Mehler *et al.* 2010). The role of the Bakassi Boys in the

Table 9.1 Governance roles of non-state actors in war-torn societies

Actor	Role
Non-state armed groups (NSAGs)	Security, justice, political representation and economic regulation
Traditional and customary authority	Rule of law, conflict resolution, dispute settlement, mediation and customary justice

Source: Podder (2014: 1620).

Igbo-dominated southeast of Nigeria is a much-quoted example. This vigilante group was set up by shoe producers in Aba, a commercial centre, in the late 1990s. Although their occult practices attracted attention, the Bakassi Boys earned respect mainly through their clear rules of conduct and relatively transparent procedures in the questioning and punishment of suspected thieves (Meagher 2012: 1091–1092). More recent research has acknowledged that NSAGs—particularly when they dominate delimited territories—form a parallel jurisdiction (Podder 2014: 1620). Within violent conflicts, international actors, thus, might need to work with them (thereby somehow recognising them), but this form of collaboration does not *per se* mean to attribute responsibility as many of these actors also commit human rights violations.

The second group of on-site NSAs encompasses a wide range of traditional authorities, such as clan elders, chiefs and religious leaders. They regularly have responsibility for resolving (legal) disputes related to domestic, labour, or land-tenure issues (Mehler *et al.* 2010: 7; Podder 2014: 1620) and mostly rely on informal, customary law regulations (Machold and Donais 2011; OECD-DAC 2012). It is difficult to distinguish traditional authorities from NSAGs, also because they often overlap. For example, traditional authorities sometimes use local militias to enforce their verdicts. At the same time, traditional authorities do not primarily gain their legitimacy from the availability of means of violence, but from shared belief systems, myths, symbols and rituals. Consequently, a web of actors that follow different ‘legalities’ tackles many security-related issues on the local level. There are no overarching rules about how customary, domestic and international law and regulations interface and relate, but responsibilities overlap and are often assigned on an *ad hoc* basis.

Since NSAs form the most prevalent challenge to peacebuilding in the context of polycentric governance arrangements, the conceptual and empirical focus of the following sections will be on the second wave of privatisation that has put the local level in focus.

Shared, blurred and contested responsibilities in polycentric governance arrangements

In crisis regions, international interveners encounter diverse and scattered structures of power and authority. Boege (2011) fittingly described such arrangements as HPOs. In HPOs, the state shares sovereignty with a mix of ‘local’, private,

transnational and international actors and institutions (Boege *et al.* 2009; Carbonnier and Wennmann 2013). The result is a ‘pluralisation’ of authority. Following Abrahamsen and Williams (2007: 24) authority can be defined here as the “ability to establish a presumptive right to speak and act”.

While originally geared towards urban governance in ‘modern’ Western societies, Vincent and Elinor Ostrom’s concept of polycentric governance may serve as a helpful framework to understand these trends. In 1961, Vincent Ostrom, Charles M. Tiebout and Robert Warren proposed the following definition:

‘Polycentric’ connotes many centers of decision making that are formally independent of each other. Whether they actually function independently, or instead constitute an interdependent system of relations, is an empirical question in particular cases.

(Ostrom *et al.* 1961: 831–832)

In the field of security governance, the term polycentric reflects well the loss of significance of hierarchical understandings of authority as well as of blueprints of multi-level governance after the 1990s, which assumed a clear division of tasks and duties in an ordered system of shared responsibility. Rather, polycentric network regulation has empirically gained importance and is embedded in transnational security assemblages shaped by asymmetric structures of knowledge, power and money. Whereas in the hierarchical version of super-ordinated juridical structures different responsibilities are clearly divided, often in territorial terms, polycentric governance misses an authoritative coordination that goes beyond specific case arrangements (Finka and Kluvánková 2015: 604). In these heterarchic assemblages, a web of norms and rules has emerged that is continuously reconfigured, transcending the public–private divide. Accordingly, we do not observe a simple delegation of authority and accompanying legal and moral responsibilities from public to private realm. Instead, semi-autonomous spheres of regulation create a variety of competing and complementary “legalities” (Sassen 2006)—between the UN, regional organisations, state agencies, PSCs, traditional actors and NSAGs.

In the framework of polycentric governance systems, three modes of interaction are possible in principle, namely synergy, fragmentation, and conflict, each involving different forms of responsibility:⁴

- Synergetic interaction can be expected if a core institution includes almost all relevant stakeholders that share a basic normative consensus and if elaborated principles exist for specific policies. It results in forms of ‘shared responsibilities’ among different actors.
- The situation differs, if institutions and decision-making procedures are only loosely bound, norms and principles are ambiguous, and the core institutions include only a part of the relevant actors. In this constellation, synergy is almost unattainable. However, fragmented interaction is possible around negotiated and frequently blurred lines of responsibility if specific actors are able to overcome the “orchestration deficit” (Derkx and Glasbergen 2014: 41–42).

- Regarding relatively unconnected institutions and decision-making procedures, whose basic norms and rules are contradicting, the mode is decisively conflicting. Notions as well as spheres of responsibility are contested.

According to Finka and Kluvánková (2015: 604), polycentric governance can be regarded as Type II multilevel governance that transcends hierarchic territorial control and instead is “characterized by task-specific jurisdictions with flexible designs in the absence of authoritative coordination”. In an environment of effective rule of law and state institutions, polycentric governance modes have comparative advantages over monocentric, hierarchically structured systems, as they are more open to local knowledge, offer incentives for mutual learning and can react more appropriately to new challenges (Araral and Hartley 2013: 2; Ostrom 2010: 552). This is the constellation commonly found in consolidated market democracies.

By contrast, war-torn societies are characterised by HPOs in which the formal institutions are dysfunctional, often in core areas of state action: “states operate alongside ‘informal’ and other ‘non-state’ forms of organisation in the exercise of public authority and service provision” (Meagher 2012: 1075). Such situations come close to what Krasner (1999) labelled ‘organized hypocrisy’, which is characterised by the contradictions between Westphalian sovereignty and domestic structures of authority (Lake 2014: 515).

In many societies outside the West, sure enough, the lack of a Weberian legitimate state monopoly of force as well as traditional and customary authority have historically been a stable feature of rule, particularly in post-colonial Africa. This phenomenon has not only been a particular characteristic of war-torn societies or the product of peacebuilding efforts. Still, international peacebuilding has further accentuated this. And hybridity has become much more complex through the engagement of international peace operations, INGOs, and transnational commercial providers of security. As a consequence, the discursive mainstream in the peacebuilding literature of the 1990s which favoured a hierarchical mode of governance is now increasingly acknowledging a pluralisation of authority and a hybridity of governance modes.

Within HPOs, fragmented or conflicting modes of interaction are much more common than synergetic ones (see Table 9.2). Still, it is not impossible to attain *synergetic modes of interaction* that allow for the *assignment of shared responsibilities*. These shared responsibilities assume that authorities from different realms (traditional/customary–modern) and levels (national–local) can contribute to the political process in a complementary way. One interesting and often-discussed example is offered by the post-war order established at the beginning of the 1990s in Somaliland (Albrecht and Moe 2015; Debiel *et al.* 2009). A clan-based negotiation and reconciliation process managed to overcome societal divide in this ‘failed’ state. At the same time, it also involved actors from the former state bureaucracy and from business, thus crossing the barriers of the ‘modern’ and more ‘traditional’ spheres. The process of political ordering was anchored on the local level and not driven by outside forces.

Table 9.2 Assignment of responsibilities in hybrid political orders

<i>Normative frameworks</i>	<i>Modes of interaction</i>	<i>Forms and assignments of responsibilities</i>
Normative basic consensus and principles for policies exist	Synergetic	Shared responsibilities (e.g. Somaliland)
Ambiguity regarding norms and principles	Fragmented	Blurred and permanently negotiated responsibilities (e.g. Sierra Leone, Liberia)
Contradictory and disconnected norms and rules	Conflict	Contested notions and spheres of responsibilities (e.g. Democratic Republic of the Congo, Afghanistan)

Source: Author's own table.

This form of conflict transformation focused on common normative principles as well as joint assumptions of the role of politics in society. It could thereby rely on “shared mental models” (Denzau and North 1994) regarding the relationship of clan, custom and political institutions. Based on the Xeer, a superordinate value system that links customary law with ontological understandings of Somalis, norms and institutions of democratic competition and control through rule of law were anchored in the constitution. These synergies were reflected most clearly in the establishment of the Guurti as the upper house in a bicameral system that, through its roots in the clan system, was able to resolve conflicts and enjoyed the acceptance of a wide range of actors. In other words, even under conditions of hybridity, shared responsibilities can be established if a normative consensus and principles for its policy implementation exist.⁵ Strikingly, responsibility and normative consensus in this case was partly appropriated as an act of defiance against the international community and certainly not assigned by the latter.

The situation is different in countries like Liberia and Sierra Leone, in which an overarching normative framework is missing. Instead, they are shaped by legal pluralism and a pluralisation of authority, which is deeply rooted in colonial and post-colonial history. In contrast to Somaliland, war-torn societies in Western Africa remained torn along ethno-political and ethno-regional fault lines as well as between the capital and rural areas. The peace process in Liberia and Sierra Leone was substantially driven from outside and rather top-down than bottom-up. Accordingly, political élites were the main cooperation partners of international donors, while local institutions and their functioning were broadly neglected (Vincent 2012). As national institutions in the fields of governance, justice and security were highly centralised and perceived as corrupt, mistrust was widespread and impaired the emergence of common norms and principles. As a consequence, “initiatives to repair or build relationships [. . .] have been neglected, fragmented or disconnected from communities” (Drew and Ramsbotham 2012: 9). Given these circumstances, temporary efforts of international donors to involve traditional authorities in the formal sector turned out to be futile because they hardly

dealt with these complexities and might even have strengthened pathologies. Thus, we can observe a plurality of competing authorities on the local level, where Paramount Chieftains, the local administrations appointed by the central government, transnational companies, and NGOs as well as international organisations with their conflicting legalities are equally involved.

In the field of security and justice, this even led to the emergence of “oligopolies of violence” (Mehler *et al.* 2010) with competing spheres of influence that reflect *fragmented modes of interaction*. Under these circumstances, international peacekeepers, state institutions as well as customary actors and NSAGs (like vigilante groups or secret societies) claimed to be in charge of security provision for selected parts of the population. If, however, dominant market leaders emerged (a role that was ascribed to international peacekeepers in Liberia and Sierra Leone), more synergetic modes of interaction with NSAGs and traditional authorities became possible, though the exact differentiation between actor-specific *responsibilities remained blurred*. In other words, in this constellation, there is no stable consensus on who is in charge of and accountable for specific issues, instead agreements depend on current and volatile power-relations.

Afghanistan as a largely collapsed state is an example of the *conflict-based mode of interaction*. Here, hybridity means the coexistence of and conflict between various institutions, which operate in different spaces and claim validity for their principles and norms, but whose interests and *spheres of responsibility* also *clash*. In Afghanistan, the spectrum ranges from the central government, which has the upper hand in Kabul and certain provinces, to the Taliban, which hold sway in various parts of the country and espouse a different ideology. Some of the provincial towns and regions are controlled by local chiefs (Schetter and Glassner 2011). Normative systems and institutional rules are frequently disconnected; the interplay between state and traditional actors is grounded, if it emerges at all, on power-based and fragile compromises.

Co-optation mechanisms can curb conflicts to some extent, without, however, contributing substantially to problem-solving. In such configurations, international actors like the UN and international troop providers become yet another player in a ‘complex bargaining game’, providing rules but being unable to contribute to normative or institutional integration. Frequently, international aid serves as ‘bribes for security’ rather than as an incentive to rebuild the broken social contract within a country (Goodhand and Sedra 2007, 2010). The plurality of actors, thus, contributes to further disintegration and shrinking spaces for negotiations beyond the local level.

Two ways to deal with plurality: vertical endorsement versus horizontal experimentalisation

Is it possible to tackle or even overcome fragmentation and conflict in polycentric peace governance? In a preliminary fashion, we discuss the implications of two strategies, namely: re-invention of public authority and strengthening of public scrutiny, and deconcentration of power through ‘democratic experimentalism’.

Reinventing public authority: vertical endorsement of responsibilities

The reinvention of public authority tries to clarify lines of responsibility and opts for a vertical regulation to which actors have to respond. Such a strategy tries to adapt insights from metagovernance theory (Derckx and Glasbergen 2014: 42–43; Jessop 2003) which brings the state as coordinator and facilitator back in (Blanco 2015: 124), often in a conflictive process. It does not impose a particular model but sticks to core categories of how power can be controlled and held accountable and how responsibilities should be defined with regard to basic normative values. It assumes that the complexities of polycentric governance are “restricted” (Bousquet and Curtis 2011: 57), i.e. open to prediction and control. It thus mainly aims at the “orchestration deficit” (Abbot and Snidal 2009: 545) that exists in fragmented systems of governance (Derckx and Glasbergen 2014: 41–42).

This approach puts states as well as multilateral institutions into a new perspective and goes beyond hierarchical relations among them as well as between them and private actors. A full institutional integration is no longer aimed at, but rather multi-level designs are favoured that respect the partial autonomy of different levels (Wulf 2015). Thereby, traditional institutions can be integrated by formal statutes (like the Guurti that bounds clan elders in Somaliland); private economic actors, trade unions and NGOs can liaise with public authority in similar ways, as can be shown at national level in the fields of environmental or labour market policies. On the international level, policy fields like corporate social responsibility (see Scheper, Chapter 8) or climate governance (see Ulbert, Chapter 7) provide examples of how such multi-level designs emerge and are shaped by differentiated and relational notions of responsibility which are permanently negotiated.

Such an institutional integration as well as agreement on core norms, however, can solely be established under the prerequisite of only partially fragmented or synergetic interaction and will rarely be applicable to fields where contradicting and mutually exclusive notions of responsibility are prevalent. In other words, they demand the possibility to agree on shared or at least clarified responsibilities on a reliable, long-term basis that can be accompanied by common standards of monitoring and public control (Cabral *et al.* 2009: 291). Thus, it is not likely to materialise in many post-conflict settings as long as a respective domestic demand for more institutional integration does not exist.

Empowerment through ‘democratic experimentalism’ and horizontal-self-regulation

Other authors draw more attention to the opportunities afforded by polycentric governance and propose targeted measures to strengthen the rights of marginalised groups. They engage with horizontal self-regulation and a more flexible attribution of responsibilities. This is the direction taken by Clifford Shearing, Jennifer Wood, Scott Burris and Peter Drahos in particular. With the concept of ‘nodal governance’, they have developed an approach that displays numerous parallels with

polycentric governance models. They place particular emphasis on the question of who has access to the nodes where the diverse actors in the web of governance converge and where much of this governance takes place. In contrast to approaches that stress public control and scrutiny, Shearing and Wood (2003: 416) and Wood and Shearing (2006: 7, 12–13) look for neglected democratising potential embedded in supposedly weak actors. Broadly speaking, the aim is to strengthen the bargaining power of underprivileged groups, which are taken seriously in their critical capacity (see Boltanski and Thévenot 1999) and respective moral agency. For illustrative purposes, they refer to Zwelethemba, a black township near the South African provincial city of Worcester. Here, local peace committees have taken on key roles in conflict mediation and were able to mobilise support from and recognition by public authorities, which, in all, led to increased security.

There is a particular focus on marginal capacities and stores of knowledge, and on limited access to effective governance nodes that define who is and who is not in charge of particular tasks (Burris *et al.* 2005: 58). Accordingly, Burris *et al.* (2005) call for an embracing of experimental approaches to strengthen local capacities. That would neither solve the coordination problems inherent in polycentric governance nor resolve the issue of competing or conflicting norms. On the other hand, it would increase access of local actors to existing mechanisms of control and accountability. Such approaches can cope with ambiguities of norms or principles and tap the knowledge as well as self-reflexive governance modes of local actors. It assumes that complexity is ‘generalised’, i.e. that emergence dominates and classical steering mechanisms are no longer appropriate (Bousquet and Curtis 2011: 57). By relying on the critical-experimental intelligence of human beings as well as their social and local embeddedness, and the advantages that democracies have for problem-solving, it is close to pragmatist thought in the tradition of Dewey (Bray 2009: 691–692).

In cases like Somaliland and Bougainville, ‘experimental’ settings (like clan meetings or meetings of traditional chiefs) were able to transform a normative basic consensus into functioning governance structures as post-liberal research has shown (Albrecht and Moe 2015; Boege 2012). Since such approaches are more flexible than the re-invention of public authority, they might also apply to societies in which the normative consensus and institutions are fragmented. The case of South Africa (where NSAs work in the shadow of some hierarchy provided by the state) might be a starting point for further analysis. Empirical studies, however, have yet to produce more substantive evidence in support of such strategies beyond the purely anecdotal. As the deconcentration of power focuses solely on horizontal self-regulation of local conflicts, it might be inappropriate in settings where local conflicts are highly intertwined with the national, regional and international level.

Conclusion: towards more accountability in normative grey zones

The chapter has reconstructed the two successive waves of privatisation in the field of security provision and peacebuilding that have led to the devolution and

(sometimes unplanned) pluralisation of responsibilities. Transnationally governing fragmented peace has become a new reality as hierarchical models of multilateral governance, based on international organisations and assumptions of the Weberian state, have been losing relevance. The analytical framework of polycentric governance catches these phenomena quite adequately. Under the conditions of HPOs, however, fragmented and conflictive modes of interaction are much more common than synergetic ones. Accordingly, notions of responsibility are blurred and contested, which hinders the emergence of models of shared responsibilities among the plurality of actors.

Blurred, contested or contradictory notions of responsibility result in severe normative challenges for international actors. In particular, a remarkable grey zone is emerging with regard to who takes responsibility for human rights issues and to whom actors are accountable. Such situations arise in particular when UN organisations or even humanitarian NGOs take over guard duties and protection functions in conjunction with commercial security providers; or if international organisations, in implementing their measures, have recourse to local authorities and their sanctioning mechanisms, which are not integrated into the rule of law. Here, the various legalities and jurisdictions often collide.

Problems regarding human rights issues also arise when local authorities, such as vigilante groups, secret societies, tribal militia or hunting communities, are entrusted with the provision of security and it remains unclear whether the normative foundation of such responsibilities are addressed on a horizontal or vertical level. With regard to local legal disputes in particular, there are certainly some successful examples of horizontal self-regulation, as experiences in Somaliland (Moe and Simojoki 2013), Paktia (Afghanistan) (Schetter and Glassner 2011), Bougainville (Boege 2012) or in South Sudan (da Costa and Karlsrud 2012) substantiate. Still, overarching national and international human rights frameworks, in particular with regard to women's rights, were sometimes neglected or sidelined.

More ambivalent, even, is the increasingly recognised security function of NSAGs, as the above-mentioned example of the Bakassi Boys illustrates: in effect, the group took on the role of prosecution authorities—even including the imposition of sometimes harsh sentences. In the early years, they were even monitored by a committee consisting of local traders and members of producer associations (Meagher 2012: 1091–1092), though they were not accountable to public authorities in a strict sense. Interestingly, with their progressive integration into local state structures, this horizontal accountability was lost. This has proven to be problematic as the number of human rights offences even increased.

This chapter has discussed two strategies to deal with the challenges of polycentric peace governance, namely the re-invention of public authority and the strengthening of public scrutiny on the one hand, and deconcentration of power through 'democratic experimentalism' on the other. Though both strategies are not contradictory, they stress different dimensions: opportunities to regain space for public regulation and oversight versus the potential of underprivileged actors

to take control of their own affairs and gain bargaining power *vis-à-vis* state institutions. Only empirical research can tell under which circumstances these mechanisms work. Theoretical insights from governance research and institutionalist theory inform us, however, that consensus on core norms and some degree of institutional integration are required for a functioning, re-invented public authority. From a human rights and rule-of-law perspective, furthermore, a minimal degree of consistency and coherence is necessary to delineate responsibilities and deal with conflicting legalities.

The role of international organisations in governing fragmented peace will shift under these circumstances. Operative functions will be restricted to clearly defined parts and phases of peacebuilding while it becomes more important to define rules of collaboration and to establish and support public supervisory mechanisms. Such a re-orientation might be complemented by more flexible strategies of experimentation with horizontal models of accountability that already exist in diverse empirical settings but so far have remained rather under-researched with regard to an overarching normative framework.

Notes

- 1 The author would like to express his gratitude for valuable comments received from Christof Hartmann, Peter Finkenbusch, Elena Sondermann and Cornelia Ulbert on earlier drafts of this chapter.
- 2 The term war-torn societies is broadly used as a synonym for the term post-conflict societies. At the same time the term war-torn societies is more accurate as the concerned countries experience regular relapses into armed violence, and disruption by violence has become a decisive characteristic.
- 3 See the publications of the UN Working Group on the Use of Mercenaries that take into consideration PMSCs in a broader term than the name suggests: <http://www.ohchr.org/EN/Issues/Mercenaries/WGMercenaries/Pages/WGMercenariesIndex.aspx>.
- 4 Here, I refer to Biermann *et al.* (2009: 19–21). They developed a typology for fragmented governance systems with respect to global environmental governance that can be easily transferred to other areas as well.
- 5 A normatively more problematic but still enlightening example from ‘rebel governance’ is how Hamas complemented the official judiciary in Gaza by ‘Islamic Conciliation (*sulha*) Committees’ and thus established efficient extrajudicial arbitration bodies in a cohesive way (Berti 2015: 20, 30).

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Part IV

De-constructing
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10 Responsibilising through failure and denial

Governmentality as double failure

Jonathan Joseph

In a world perceived as increasingly complex, it seems like responsibility for dealing with central problems, particularly in relation to shocks and threats, is shifting away from governments and states and onto individual subjects. Or at least this is the case in certain areas of policymaking where a conscious strategy of responsibilising subjects is pursued. A dual discourse operates whereby first, pessimistically, we are told that the world's problems are now just too big for states and other collective actors to deal with and, second, we are told that we can, nevertheless, empower individuals and their communities to deal with these ever more difficult demands by becoming more aware, reflexive and adaptable.

The responsibilisation of subjects to deal with the challenges they face is presented in a positive light as the government “helping people to help themselves” (Cabinet Office 2011: 4). People are encouraged to show initiative and enterprise, indeed to “thrive in the face of adversity” (United Nations Development Programme *et al.* 2008: 11). The state is no longer responsible for the protection of populations; primary responsibility rests with the people themselves. Instead, the role of the government and other institutions and organisations is to encourage people to develop their capacities to withstand, cope and adapt in the face of dangers and threats, to better manage shocks and stresses and to rebound and recover, if necessary. This can be understood as a way of governing people. It works through facilitation, encouragement and suggestion. This is governance “from a distance” (Miller and Rose 1990), understood as the “conduct of conduct”.

This can be read as a general description of contemporary forms of governance, at least under what Miller and Rose (1990) call “advanced liberalism”. We could carry out a wider survey of contemporary trends of governing people that work by appealing to people to lead responsible lives. One way might be to encourage people to adopt sustainable lifestyles. Another is to promote wellbeing and happiness. The paragraph above suggests a challenging set of issues connected to dangers, threats, crises and stresses that we have come to understand through the prism of resilience. The rest of this chapter will examine the rise of this resilience approach, but will try to analyse it through its connection to arguments about governance, more specifically, an increasing tendency to justify strategies of governance through failure and denial. The central paradox we wish to uncover is that resilience works by telling us that the bigger picture is too complex to

manage and our knowledge of it too uncertain, yet the more we are denied the opportunity to act on this scale, the more we are encouraged to accumulate knowledge at the micro level and the greater the opportunities to reinforce regulation through encouraging responsible self-governance.

Resilience thinking is currently the dominant paradigm in areas such as humanitarian intervention, disaster risk reduction, infrastructure protection and development strategy. This chapter looks at the way it helps frame current forms of global governance through the assumptions it makes about the wider world and our place within it. In particular, resilience thinking presents the world as a complex system with increasingly unpredictable and unknowable events and processes that we cannot avoid, and must thus learn how to withstand, recover and adapt. Because of this, it can be argued that governance takes place through failure and denial (Joseph 2016). Failure and denial work by presenting the world in such a way that we can no longer hope to control it, or even intervene effectively. Failure in particular operates in relation to liberal frames of reference, suggesting that interventions can no longer rely on universal principles and assumptions. Grandiose attempts at intervention have not worked and interventions need to be more pragmatic in their aims. Denial works by promoting the belief that we can never adequately comprehend the world, that certain problems require adaptation rather than prevention and that, with little ability to control the bigger picture, we must move to a focus on changing behaviour on the individual level.

The argument of this chapter is therefore that failure and denial are crucial to the responsabilisation process whereby different actors are encouraged to govern themselves in the most appropriate ways. The world is portrayed as increasingly complex and our place within it as increasingly uncertain. The wholesale blurring of the bigger picture leads to an increasing turn to micro-level activity where individual actors are encouraged to behave in such a way as to better cope with this uncertainty. Denial that we can really know or understand the bigger picture and the failure of various attempts to do so, rather than encouraging a politics of inactivity, work to reinforce regulative governance at lower levels through the promotion of reflexive, self-aware, and adaptive behaviour. In the next section we will trace some of the key arguments of the failure and denial discourse and following that we look at the particular role played by resilience in shifting responsibility downwards. The chapter will then go on to question just how far this devolution of responsibility is really able to go. An understanding of governance as 'double failure' will be developed to suggest that difficulties encountered in trying to responsabilise 'all the way down' in fact serve a useful purpose insofar as they refocus global governance on the regulation of conduct at the level of states and their governments.

Blurring the 'bigger picture'

Failure and denial will be used here as specific ways to describe the current ethos informing international intervention. However, this is founded on a wider set of

ontological and epistemological assumptions that work to frame the world in a certain way so as to shape and guide our various activities and to responsabilise our behaviour. Here we will use the expression ‘bigger picture’ to refer to this wider context. Our overall argument is that there is much blurring of this bigger picture going on, although this actually works to sharpen responsibilities at lower levels.

First, it relates to a set of ontological assumptions that tends to be understood through arguments about complex adaptive systems. These are considered as a combination of various interacting parts producing emergent and self-organising systems. These systems are non-linear in character and are therefore less predictable, generating uncertain outcomes. Order emerges in an unintentional and often unpredictable way. An influential body of ecology literature is important in this respect, emphasising multiple states and non-equilibrium. Gunderson and Holling (2002) use the term “panarchy” to describe how complex systems like ecosystems contain structural and process elements defined over several spatial and temporal scales. This emphasis on complexity and heterogeneity does, however, lead to a consequent denial of knowability. As the resilience pioneer C. S. Holling noted in the 1970s: “Flowing from this would be not the presumption of sufficient knowledge, but the recognition of our ignorance: not the assumption that future events are expected, but that they will be unexpected” (Holling 1973: 21).

These ontological and epistemological arguments help justify a certain approach to governance that emerges with the ideas of socio-ecological systems and societal resilience. What is common to these views is an argument that denies our ability to control complex systems and urges us instead to learn how to adapt and to mitigate their detrimental effects. Faced with a world of unpredictable occurrences and confronted by increasing risk and uncertainty, we must learn how to govern ourselves through developing appropriate adaptation strategies. Faced with a world that we can neither control nor understand, we must turn to ourselves in order to survive. The most obvious area where this applies is climate change where we must accept the severe consequences of environmental destruction and learn to adapt our lives to these changing and less and less certain circumstances. But the arguments for climate change adaptation can equally be applied to areas such as terrorism, security and civil protection, economic resilience and global poverty. So while blurring the big picture hinders the possibility of both social science and critical thinking, it actually enhances those approaches to governance—across a wide policy field—that advocate a shift to the self-management of individuals and communities.

As the next section will argue, this promotion of self-management is a form of governmentality prominent in Anglo-Saxon thinking on resilience. This governance takes place through failure and denial in two key senses. First, it works through the denial of the knowability of the big picture, as just suggested. Second, this is combined with the politics of failure, embracing the belief that trying to intervene at the macro level is doomed to fail. This can be said as both a societal and historical claim and applies at both domestic and international

levels. Past attempts to intervene, regulate, and control are seen as modernist illusions that accompany the false beliefs of traditional scientific endeavours to uncover the real world. Liberal belief in intervention is also seen as a historical failure, particularly at the international level where attempts by states to provide security and protection and to alleviate problems of war and under-development have in fact ‘done more harm’.

Failure of international interventions to resolve conflicts or promote development now works as a strategy to promote a different kind of approach that works in favour of shifting responsibility on to local actors. Governing through a belief in the historical failure of intervention means rejecting liberal universalism and large-scale state-building, democratisation and development strategies in favour of more pragmatic strategies of liberal-local hybridity. Historical failures are contrasted with the positive enablement of local agency, presented as a common-sense and pragmatic thing to do, but also as a liberating move that shifts from seeing local people as passive “victims” who lack agency to helping them achieve self-transformation as active and resourceful agents (Chandler 2012: 17). Whether this does positively enable local actors, or merely shifts the responsibility for coping with risk and insecurity onto local communities and individuals is a matter for debate. If it is the latter, then we can add that the fuzziness of the big picture works to undermine accountability at the higher levels, making no one body responsible for any act of failure (Flinders 2012: 100). In the face of the failure of various state-building strategies aimed at improving institutional capacity, resilience thinking emerges to offer vague notions of complexity and hybridity in place of clearly recognisable causal relations and explanatory factors for political problems (Pospisil and Kühn 2016: 9).

However, while it is clear that the resilience discourse has emerged as the primary means to understand past failures of intervention and for promoting a new interventionist strategy that reflects critically on core aspects of the liberal framework of intervention, this does not mean a wholesale rejection of previous approaches or a new form of “post-liberalism” as some suggest (Chandler 2014; Pugh 2014). The changing picture of the wider world and our means of knowing and acting upon it might actually work to secure better compliance with international norms and existing practices. As liberalism starts to question its universalistic aspirations, insecurity becomes the “principal design for governmental reasoning” (Evans and Reid 2014: 64) and we recognise the need for detailed knowledge of the micro level to better understand what we need to do to survive. The fuzziness of the macro world reinforces the need for a detailed micro picture of our individual interactions to better deal with our uncertainty. The blurring of the bigger picture works to turn our concerns away from the wider world and towards our own subjectivity, adaptability, reflexivity, risk-taking, knowledge acquisition and, above all else, our responsible decision-making. A central paradox, therefore, is that the less we know of the universal, the more we need to know the particular. And the more we need to concentrate on practical, local and everyday knowledge, the greater are the opportunities to reinforce regulation of different actors though encouraging responsible self-governance.

For international policymaking this means encouraging local populations to be more aware of the risks they face and more flexible in how they manage these problems. With the international community less ready to intervene directly, populations have to embrace adaptive behaviour. While the complex and uncertain nature of systems and macro-level processes means that there is little we can do in the face of catastrophic threats, this is presented in a positive light, encouraging people to show enterprise, initiative and reflexivity in the face of adversity. While certain classical liberal principles are questioned, this approach is fully consistent with current neoliberal forms of understanding. As we see next, this is consistent with contemporary forms of neoliberal governmentality, which encourage us to accept a passive relationship to the wider world and a proactive approach to our precarious position within it. However, there is ultimately a twist in the tale insofar as this micro-level governance might also fail. Yet, such a failure—the failure of neoliberal techniques of governance to be transported to various parts of the world and for them to embed themselves in local conditions—need not be a problem. Instead, this ‘double failure’ (of liberal universalism at the macro level and neoliberalism at the micro level) can serve a purpose in strengthening the global governance of states.

Resilience as neoliberal governmentality

Blurring the bigger picture does not lead to the blurring of our responsibilities. Quite the contrary, it works to intensify the responsibilities of individual subjects and communities. While the international community and those in a dominant position within the dominant states are relieved of certain obligations due to the complexities of the world and consequent difficulties of intervention, those with less power are obliged to take *more* responsibility for their lives, lifestyles and life choices. Indeed these three ‘ls’ can be understood through the currently fashionable trinity of resilience, sustainability and wellbeing. All fit very well with the micro-regulation of neoliberal governmentality. In fact, they intensify neoliberal governance rather than challenge it, and seek to responsibilise subjects to an ever-increasing degree and to shape their moral agency in relation to all aspects of their lives.

Resilience as governmentality works through ontological commitment to the complexity of the world and the futility of trying to intervene at the macro level combined with a more intensive approach to individual conduct and social interaction. What is historically distinctive about governmentality is that it takes the population as its main target, political economy as its means of knowledge and apparatuses of security as its main technical instrument (Foucault 2007: 108). The liberal character of governmentality is expressed through its appeal to the freedom and autonomy of the governed. This works through the promotion of responsibility, self-awareness and self-regulation. Liberal governmentality seeks to govern ‘from a distance’ by limiting its direct involvement and governing through other social institutions, civil society and the private sphere. Most of all, it governs through the market; and governmentality of a more neoliberal

character is particularly intensive as well as self-reflexive in this respect, recognising that free market conditions are an artificial contrivance that requires active intervention. As a form of governance, it seeks to instil a particular rationality among its subjects who, taken as citizens and consumers, are encouraged to take responsibility for their life choices and lifestyles. As neoliberal governance, it imbeds a set of norms and values consistent with market logic, where behaviour is “subject to the dynamic of competition” and “regulated by reference to the market” (Foucault 2008: 147).

Resilience thinking seeks out this capacity for enterprise and innovation among populations facing threats and adversity. More specifically, it places emphasis on our capacity for learning, self-awareness and adaptability. This promotion of adaptive, but enterprising behaviour is also well illustrated in a statement by the UK’s Department for International Development (DFID):

The adaptive capacities of actors—individuals, communities, regions, governments, organisations or institutions—are determined by their ability to adjust to a disturbance, moderate potential damage, take advantage of opportunities and cope with the consequences of a transformation. Adaptive capacities allow actors to anticipate, plan, react to, and learn from shocks or stresses.

(DFID 2011: 8)

Global governmentality works from a distance through invoking private and civil society actors. It governs through the market and the competences of the private sector. The blurred bigger picture works to lower expectations of what international organisations and Western governments will do directly. Past failures are used to justify a shift in emphasis with the main aim of intervention now being to assist in building local capacities and human capabilities.

Governmentality, understood as governance from a distance, operates across a range of areas of international intervention such as poverty reduction, development strategy, humanitarian support and disaster risk reduction. The focus on capacities and capabilities has in recent years undergone something of a shift in emphasis from building institutional capacities, to building human capacities and capabilities as is well illustrated in the work of Sen (1999) and other development economists. The capabilities approach governs from a distance by ‘empowering’ or shifting responsibility onto local people and communities, placing emphasis on enhancing their ability to achieve through various ‘functionings’ or activities. The strong emphasis on relations between people and on the achievement of freedoms fits closely with current arguments for wellbeing. However, ideas like resilience also fit very well with this approach, emphasising the importance of people and communities developing their own resourcefulness in the face of powerful shocks, stresses and risks. In relation to such crises and uncertainties, resilience emphasises self-awareness, self-regulation and self-governance. Above all, resilient individuals and communities are those who have the ability to adapt their behaviour. As a recent United States Agency for International

Development (USAID) (2012: 1) document argues, since there is little we can do to stop shocks from happening, we must increase our adaptive capacity to respond quickly and effectively to new circumstances.

The resilience approach to adaptive capacities combines a focus on the attributes of individuals with support for strengthening institutional capacities. Recognising the partial failure of recent strategies to strengthen the latter, resilience places more emphasis on human capacities, invoking certain intangible human qualities and attributes. Despite the fatalism lying behind such a turn, invoking such human qualities might constitute a progressive move should this involve a break from the calculative model of market-type behaviour and an emphasis on human qualities such as empathy, solidarity, togetherness and understanding. Instead, the policymaking literature interprets the human through the lens of governance and therefore according to such things as our capacity to learn, reflect and adapt. With little that can be done at the macro level, large-scale intervention is replaced by a more pragmatic approach that works with existing capacities and capabilities while taking a “coaching approach” to improve the resilience of local people (Haldrup and Rosén 2013). Recent arguments by the World Bank see such an approach as offering more flexibility and greater practical value. However, this supplements rather than replaces the institutional approach since the latter provides an “enabling environment” for greater flexibility in the short term and formality in the long run (World Bank 2013: 15). Thus, arguments for resilience are founded on a partial (but not wholesale) recognition of the failings of liberal peace- and state-building approaches. Recent policy documents and strategy papers have dared to question both actual interventions and the general framework of liberal universalism, arguing for a more practical and flexible understanding of particular challenges. We could read this as a recognition of the need for local solutions, or of failure of liberal internationalism, or a combination of the two. Perhaps it is recognition of the local, not to reject international intervention, but to make it work in a less direct way.

The ambiguities of this can be seen in the reviews of resilience-building projects. A report on resilience-building in the Sahel region, carried out by the NGO CARE International frames resilience as an alternative to the deeply flawed neoliberal programme of intervention that has seen a rise in the number of people requiring emergency assistance. It notes that existing development models have not addressed the needs of rural women and small-scale farmers and that resilience-building projects need to shift the allocation of resources to better target the most vulnerable. However, it suggests that the AGIR project to build resilience has encountered severe obstacles caused by the neoliberal development programme and that “while there is consensus for resilience, a number of sensitive political, economic and institutional issues have yet to be tackled” (Gubbels 2015: 15–16). This actually suggests that a huge change in thinking is required if resilience is really going to make a difference to the lives of local people.

Similar issues arise in a report by Concern Worldwide, an NGO involved in resilience-building in the Sahel and Horn of Africa. Again, it emphasises that a significant change in thinking has yet to take place. Looking at the difficulties

faced by promoting community resilience, it does give a success story based on the Moyale District in Kenya. In contrast to neighbouring districts, the malnutrition rate fell as a result of new health facilities and a scheme for better water provision. Government capacity to respond was enhanced and there was proper coordination among agencies (Concern Worldwide 2013: 16). However, this raises the issue of whether there are really the resources and will to provide such an intervention in other districts. Indeed, the report itself goes on to argue:

The financing of social protection, climate adaptation and disaster risk reduction faces obstacles at national level. These policies often lack strong demand from recipient countries and can be perceived as donor interests. For disaster risk reduction and climate change adaptation, there is often little political will or financial incentive to invest limited resources in ensuring that something does not happen in the future, compared with investing in visible and popular infrastructure and food relief programmes. Governments can also take a short-term sceptical view of social protection programmes because of their recurrent costs and concerns about creating dependency, rather than seeing them as promoting longer-term development opportunities and safety nets to alleviate vulnerability to crises.

(Concern Worldwide 2013: 17)

If this is so, then the critique of liberal intervention and the advocacy of local resilience ought not to be taken too much at face value. It raises the question of whether such resilience strategies can really prove effective in achieving their stated aims of enhancing individual and community capacities. It might be the case that in the United Kingdom or the United States, governments have developed fairly comprehensive resilience-building plans that try to engage local populations—even if we might be critical of how this is done. This is not the case in most other parts of the world where either such strategies do not exist or resilience is taken up in a half-hearted way. This is certainly the case across Europe where resilience is regarded with some suspicion as an Anglo-Saxon notion (Joseph 2013). When applied to poorer countries there is the additional problem of whether strategies that emphasise individual and community resilience can really be applied all the way down. Here, the issue of different cultures and political traditions is combined with the problem of lack of local resources and questionable international support. While we might normally expect governmentality to work directly upon populations to responsabilise their conduct through embedding a series of societal norms, the exercise of global governmentality does not necessarily take the health, welfare and wellbeing of local people as its primary concern, particularly now that the narrative of austerity is leading to the scaling back of commitment and resources. While global governmentality does indeed invoke support for populations as the intended beneficiaries of intervention, it is actually the local state and the most important local actors that remain its primary focus.

This line of argument has been suggested by some scholars seeking to develop an understanding of how global governmentality works. For example, Zanotti

(2005: 480) writes of how states have become the subject of international scrutiny and intervention aimed at regulating them as “governments” concerned with the wellbeing of their populations. Whether states actually do provide for the wellbeing and resilience of their populations becomes a secondary issue for global governance. The adherence to the relevant international norms and procedures is of greater significance. Whereas domestic governmentality is primarily targeted at individuals and communities, global governmentality is primarily targeted at states, using concern for the better governance of populations as a means to achieve this.

In this sense, while the content of capacity-building and capabilities approaches might be new, the effects remain the same, namely, to reinforce global governmentality. The nature of the international domain and the different social contexts found among those countries and regions where international interventions take place mean that the main aim of such interventions is to responsabilise the appropriate national governments and perhaps regional organisations. This can be considered a governmentality of governments and states insofar as these bodies are the primary targets, but the means by which they are targeted share similarities with the governmentality of populations—operating from a distance through a discourse of empowerment, facilitation, and partnership, and through various norms of conduct and responsibility. However, countries receiving international assistance are also subject to the disciplinary power of close monitoring and assessment and are not free, therefore, to follow their own understanding of such things as institution-building and resilience-building. For example, the EU approach to resilience places strong emphasis on accountability, transparency, efficiency and effectiveness, arguing for “robust monitoring and evaluation frameworks and related measurement tools” (Council of the European Union 2013: 4). It argues that resilience “should be assessed in terms of measurable improvements at all levels, beginning at community level [. . .] requir[ing] investment in the development of results-based management approaches, with strong baseline data” (*ibid.*). Likewise, DFID (2011: 14) talks of developing progress indicators for embedding resilience. Again, this indicates governance from a distance and the shaping of conduct through indicators, benchmarking, performance monitoring and peer review. Ideas like resilience and wellbeing are deliberately fuzzy notions as we have just outlined. They may even get at certain intangible human qualities that cannot be reduced to rational, calculative behaviour. Nevertheless, international organisations are in the process of deciding exactly how these should be measured and assessed. Governance now operates, as it were, through the measurement of the supposedly unmeasurable. For example, there are already a number of indexes for resilience and wellbeing, notably the Human Development Index, but also more specific measures that can be used by international organisations to monitor and assess performance, set targets and use other such means to subject states and governments to international scrutiny. In this sense, it does not really matter whether the things being measured can really be measured because what this process facilitates is the means for subjecting states to further examination and evaluation.

In summary, the presentation of the bigger picture as blurred leads not to a lessening of regulation, but to an enhancement of governmentality. In domestic cases of governmentality such as resilience strategy in the United Kingdom, this might be said to enhance micro regulation at the individual and local level. In the case of international interventions, the stated aims of enhancing the resilience and wellbeing of populations work more at governmental than micro level. Indeed, failure to adequately improve resilience at the local level actually serves a useful purpose, as we see next.

Global governance as ‘double failure’

By now we should be able to highlight how contemporary global governance works through a significant paradox. This can be called the paradox of governance as double failure. The paradox is that despite its claims not to be able to do so, global governance does indeed govern the macro—conceived not as control over the external environment, but as the global governance of states. Moreover, it governs the macro through its failure to govern the micro. Despite explicit claims to do so, the unwillingness or inability to govern populations at local level serves as the basis to justify greater regulation of their governments and institutions.

The central thesis can be formulated thus: The governance of the micro is legitimated through a belief in the failure to be able to govern the macro. This is based on arguments about complexity, the embrace of a fuzzy ontology, scepticism towards science and knowledge and the belief that large-scale interventions lead to failure. This belief in the inability to govern the macro is seen as both a current condition and a historical failing. However, the subsequent failure to govern the micro—that is, the inability or unwillingness of global governmentality to reach all the way down to the social and the human as noted above in the cases of the Sahel and Horn of Africa; its failure, at least on its own terms of significantly improving the resilience and wellbeing of populations—serves as the basis for a return to the macro and a concentration on the conduct of states. By way of another example, we might point to disaster intervention in Nepal where efforts to promote community-based preparedness have failed to promote self-motivation and where mobilisations instead revert to government and regional level (Jones *et al.* 2013). This returns us to the governance of the macro through the governance of states, thus operating on the basis of a double failure. Governance of the macro is served by the actual failure of the governance of the micro, which in turn is founded on the supposed failure or inability to govern the macro understood as complexity.

Resilience approaches can be understood as operating at various levels with various degrees of success. Understood as governmentality, the resilience approach ought to reach all the way down to communities and individuals and this indeed is the dominant view in Anglo-Saxon countries. However, despite the claims, this does not really work so coherently even in countries like the UK (see Vilcan 2017). Such an approach is either unpopular, or difficult to operationalise outside these specific social and cultural contexts. Based on promoting the

view that centralised state interventions lead to failure, governance must work *through* complexity (Chandler 2014) and through society and social relations. Contemporary governance embraces the failure of past interventions to justify a more pragmatic, relational and local ethos. However, the inability of global governmentality to reach all the way down to the local to govern individuals and communities and to shape the subjectivity of actors means that resilience strategy—as a form of global governmentality—must be considered a failure. This is not to say that projects to develop resilient communities and individuals do not work. There are a number of local examples to the contrary. Rather, it is to claim that international organisations have failed to effectively promote this strategy as a form of intervention. It reflects the classic distinction between top-down enforced resilience (strategies) and genuine bottom-up, grassroots or indigenous developments. The current failure of most resilience-building strategies thus mirrors the failure of state-building efforts and other more established practices because it follows the same logic. However, rather than presenting an irresolvable problem, this serves global governance by providing a pretext for placing more pressure on states and returning to the governance of the macro. Thus, the failure to make a significant difference through resilience-building leads to a renewed effort to govern states and to get them to take responsibility for the resilience and wellbeing of their populations.

While the precise forms of intervention and failure are a matter for empirical investigation, some general points can be made about resilience's own inbuilt notion of failure. If the idea behind resilience is to responsibilise downwards, then a key part of governing through failure relies on the inability of the individual to fulfil this responsibility. This works in a general sense, but is perhaps particularly the case in international interventions. The neoliberal subject ought to be capable of autonomous decision-making. Yet, resilience recognises human activity to be embedded within a complex and uncertain social environment. As Chandler (2014: 11) argues, this represents a shift from a subject-centred to a relational understanding of the problems we face that raises questions about individual autonomy by emphasising social embeddedness. Viewing humans as socially embedded represents a partial rejection of the idea that we are autonomous, rational, calculating individuals. Indeed, it emphasises human vulnerability through the messy social relations and entanglements we find ourselves in.

Resilience thinking tends to present a view of the social as fluid and contingent while humans are connected through social networks rather than embedded in more enduring social relations. This provides an important justification for rejecting rationalist planning and large-scale intervention in favour of pragmatist, 'best fit' solutions that recognise the messy, unpredictable character of social life. But while this places the onus on people themselves to address their resilience strategies to make themselves less vulnerable, such personal strategies can never fully succeed because individual autonomy has been thrown into question. If human freedom, as Chandler (2010: 125) suggests, is defined as the capacity to make the right decisions and respond correctly to external problems, then resilience works on the assumption that people are lacking this ability to cope

with freedom and autonomy. Interventions, both local and international, centre on this failure to achieve autonomy and the need for further ‘coaching’, capacity-building and capabilities-strengthening. This depends on a perceived double failure caused first by the macro-level problematisation of global complexity, second by the micro-level problematisation of individual autonomy. The effect of this double problematisation is to reinforce the global governmentality of states.

This raises interesting questions for how we perceive the shifting form of international intervention and whether this really constitutes a new ‘post-liberal’ paradigm. Pugh (2014: 314) is one of those advocating this position, suggesting that since the 1990s international intervention has shifted its attention from the state to wider society and that resilience facilitates this more social approach. However, if this chapter’s argument is correct, then rather than there being a shift away from states and more formal institutional frameworks, there have instead been two changes, namely: 1) a shift that leads to a denial that the international community has either the ability or the duty to intervene and that its main role is to facilitate, regulate, and monitor; 2) that societal techniques can be used to better discipline the state and reinforce formal frameworks. Resilience does indeed offer a societal focus, but international intervention is not particularly bothered about the actual societal effects. The apparent turn from formal institution-building towards capacity-building and resilience does provide a critique of traditional state-building and serves a useful purpose in confronting disillusionment and malaise (*ibid.*: 314). It is not the case though that large-scale and collective bodies like the state play a relatively minor role in resilience programmes with the emphasis placed on how communities adapt (*ibid.*: 317). Governance through the social and through the human is not a shift away from governance of the state but of the current means of achieving this. If such governance through the human and social fails in its own terms, this works all the better to reinforce discipline on states and those deemed to be responsible for such failures.

Conclusion

Today the world is portrayed as a more risky, dangerous and unpredictable place, and our efforts and activities to control it are prone to failure. Resilience contributes to contemporary forms of governance by encouraging the view that we cannot continue in the same old way and that rather than attempting to regulate the wider world, we have to learn how to adapt our behaviour. The effect of this is to devolve responsibility downwards and to moralise agency in relation to self-governance, awareness and adaptability. Ontological and epistemological assumptions about the complexity of the world and the fuzziness our knowledge have led to a widespread belief that intervention does not work. Governing through a belief in the historical failure of liberal intervention means rejecting large-scale projects based on universalist principles in favour of more pragmatist strategies of liberal-local-everyday hybridity. The irony is that the belief in failure works to justify further interventions. Past failures are contrasted with the

positive enablement of local agency, presented as a liberating move that enhances local capacities and frees human capabilities.

The irony is that despite taking a more societal approach, resilience encounters difficulties when applied to different societies. This is because the dominant approach to resilience has emerged in the Anglo-Saxon countries and has been described here as a neoliberal form of governmentality. This does not necessarily mean that resilience is intrinsically neoliberal. However, this is the primary understanding of resilience as promoted by international organisations. While recognising the local and promoting pragmatic solutions, the governmentalising techniques remain remarkably similar. Indeed, they enhance neoliberal techniques of governing from a distance while subjecting conduct to intensified monitoring and surveillance. The development of indices for measuring resilience, wellbeing and sustainability will serve mainly as a means for monitoring the conduct and performance of states, governments and institutions.

When promoted by international organisations, resilience contributes to global governance through failure and denial. It highlights past failures of large-scale intervention while denying that such strategies can ever be of use under conditions of complexity and fuzziness. Resilience emerges as an alternative to such strategies, albeit one that does not appear to work very well. The consequence of this double failure is a return to an emphasis on the state as the primary object of governmentality. Double failure allows the international community to deny responsibility for continued failure, while continued failure allows for a focus back upon the state as the main body responsible for dealing with the resilience and wellbeing of populations.

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11 Bringing therapeutic governance back home

US responsibility and drug-related organised crime in the Americas

Peter Finkenbusch

Introduction

This chapter discusses how contemporary policy thinking is reformulating the notion of international responsibility and, in the process, entrenching neoliberal governance frameworks in Western societies. It argues that in the context of the international fight against drug-related organised crime in the Americas a therapeutic discourse on demand reduction has overcome the state-building problematic according to which international security problems are caused by socio-cultural deficits in weak, failed, or fragile societies abroad. Instead of failed states producing global ‘bads’ (such as international terrorism, refugee flows, and environmental hazards in isolation), wealthy Northern societies are seen as having exported their problems to the rest of the world through problematic consumption choices. Economic stagnation and the break-down of political order in the Global South—and their negative knock-on effects on international security—are (re)produced by unethical Western consumption practices. In consequence, rather than intervening in post-conflict and other transitional societies through foreign policy, fostering international peace and development becomes an issue of enabling better choice-making at home. This process incorporates populations in the Global North into the paternalising discourses previously reserved for post-conflict societies.

In this analysis, international responsibility is an aspect of the frame of reference through which policymakers make sense of the world and their place within it. It forms part of modern governmental technology, reflecting different views “on the best possible way of governing” (Foucault 2004: 2). Accordingly, the main thrust of the chapter is to engage in a critical analysis of (neoliberal) governmental rationality. This classic governmentality perspective is more interested in the logic of practice, than in who is promoting it or how it came to dominate in any particular case.¹ Thus, while mention is made of key actors, institutions, and events, the chapter is not a detailed case study. Similarly, while falling within the broader post-structuralist fold, the chapter does not offer a discourse analysis, i.e. a reconstruction of the discourse of responsibility as a system of meaning with its own rules of enunciation (Foucault 1970, 1981).

It focuses on contrasting liberal and neoliberal modes of governing (Foucault 2004), demonstrating how the recognition of global interconnectedness is promoting the latter in Northern societies.

Here, 'neoliberalism' denotes those governmental approaches that work on the "milieu" of decision-making subjects to stimulate collectively beneficial choices (Foucault 2004: 245). It does so by putting itself into the "position of the person" who acts, "analys[ing] the internal rationality [. . .] of individuals' activity", and then, trying to remodel the subject's material and ideational environment (Foucault 2004: 223). This involves reshaping the intersubjective communication processes through which individuals create meaning, i.e. the "constructs through which they understand the environment and solve the problems they confront" (North 2011: 20). What distinguishes neoliberalism as a governing logic is that it understands autonomy (and its positive outcomes) as the product of government, rather than its unproblematic starting assumption.² It tries to "work *through* the freedom [. . .] of the governed" (Dean 2007: 15, emphasis added). In this way, neoliberal governance lends itself easily to therapeutic practices targeting the "very personality of individuals through psychosocial intervention involving both formal and informal education" (Hughes and Pupavac 2005: 884). In therapeutic modes of governing, expert "engineers of the human soul" define normality and "tutor individuals as to the ways of living that will accomplish normality" (Rose 1999: 76). Therapeutic governance is concerned with the way we "relat[e] to ourselves individually [. . .] as subjects" (Rose 1999: 63). Accordingly, therapeutic frameworks understand governance problems as the subject matter of psychology or pedagogy, rather than politics (Hughes and Pupavac 2005: 875).

The argument in this chapter is drawn out with reference to the Merida Initiative, a US–Mexican security cooperation agreement signed in 2007. With a planned initial budget of \$1.4 billion, the Merida Initiative is the "centerpiece of the US Government's security cooperation with Mexico" (US Congress 2009a: 57), a country whose rising crime levels have become a focal point of international attention (International Crisis Group 2015; International Institute for Strategic Studies 2008; Human Rights Watch 2011). Initially, the main purpose of the agreement was to "increase the operational capabilities of Mexican agencies and institutions" through police training and military equipment (Office of the Spokesman, US Department of State 2007). In this traditional 'War on Drugs' model, described in the first section, US responsibility entailed direct technical assistance with expectations lying squarely on external actors. This could be understood as a liberal notion of responsibility, as it starts from a set of universally applicable solutions and the political ability to impose them from the top down. In a world of linear causality, governance problems are amenable to direct manipulation and the negative outcomes of intervention can be blamed on international interveners in an obvious and straightforward way. As the second section draws out, in 2010, US policy shifted to a state-building approach, centred on good governance promotion and civil society inclusion, the so-called 'Beyond Merida' strategy. Beyond Merida problematised socio-cultural issues rather than imperfectly administered police or judicial institutions. US policy

towards Mexico took on an indirect, enabling approach, locating the source of the problem deep within Mexican culture. This neoliberal framework blamed the intervention for the failure of intervention. It is a neoliberal approach to responsibility, as problems are seen as internal to the object of governance and thus unamenable to direct amelioration from outside. Once problems are produced 'on the inside' by the socio-cultural deficiencies of transitional societies, the responsibility of international policymakers becomes a mediated one of enabling other people's choice making. In contrast, the demand discourse unsettles the one-sided geographical bounding of the problem by emphasising US domestic issues (third section). US drug consumption appears as the ultimate driver of regional instability and violence. Importantly, the discourse frames demand as a misinformed consumer habit requiring a better enabling environment, thereby facilitating neoliberal forms of governance domestically.

Governmental thinking in the Merida Initiative is paradigmatic for the evolution of post-Cold War interventions. By pursuing one-size-fits-all technical solutions, the 'War on Drugs' model resonated strongly with the post-conflict interventions of the early 1990s, which saw the state in idealised, functional terms as a "depoliticised, bureaucratic form [. . .] of political rule" (Bliesemann de Guevara 2008: 348). In this view, state institutions could be built or strengthened deliberately by external actors and even "taken over temporarily by international administrations" (Bliesemann de Guevara 2008: 348). Beyond Merida, in turn, reflects contemporary neoliberal policy thinking, positing that "states are comprised of more than formal institutions" and that "statebuilding never starts with a blank sheet" (OECD 2009: 26, 72, 98). Its anti-corruption component speaks clearly to the view that properly functioning public institutions need "certain habits of minds", i.e. social "norms that support" formal institutions (Fukuyama 2004: 17; Pouligny 2010: 2). Notably, the recognition of informal societal issues has meant that international policy élites have had to accept new "limits to what international support can do" (World Bank 2011: 205) and that national stakeholders have to take responsibility (United Nations 2009: 4). Finally, the acknowledgement of the role of US drug demand echoes the Organisation for Economic Co-operation and Development's (OECD's) critique of "external factors", such as money laundering, tax evasion, and arms trading, which are seen as "undermin[ing] the creation of effective public authority at the country level" (OECD 2011a: 43, see also OECD 2011b: 12). Therefore, the Merida Initiative is a well-suited example to illustrate the emergence of neoliberal policy thinking and the way in which the growing awareness of global interconnectedness is eroding the binaries of the state failure framework—in the wake, further popularising therapeutic neoliberal governance at home.

The 'war on drugs' as liberal responsibility: the complicated problems of technical assistance

Initially, the Merida Initiative followed a drug interdiction and law enforcement approach (Mohr 2008; Olson 2008). The goal was to engage violent criminal

organisations “head on” (Acevedo 2014: 231) by enhancing the “institutional capacities” of Mexico’s federal government and police forces (Benítez 2013: 34; see Office of the Spokesman, US Department of State 2007). By delivering “new detection technologies and improved equipment”, the US government hoped to increase the number of arrests and drug seizures in Mexico (Benítez 2013: 34). At this early stage, US–Mexican security cooperation centred on equipment deliveries, information exchange and training for military personnel, judges and police units (Benítez 2013: 35). In so doing, Merida continued the traditional ‘War on Drugs’ model—premised on the idea that “drugs themselves” represent a security “threat to American society” and that this menace can be neutralised by “restricting the supply of drugs” and “aggressively prosecuting” those involved (Benítez 2013: 83). In this rational-choice approach, interdiction and law enforcement aimed at raising the market price to such a level that consumption becomes unattractive. Similarly, heavy punishments and a high conviction rate would dissuade potential suppliers from entering the market. In this view, drug demand is acknowledged, but seen as following supply. The source of the problem is external to society: a criminal enemy (from abroad) bringing harmful, addictive substances to innocent suburban youth.

Here, international responsibility is a technical matter of improving the capacity of law enforcement agencies, customs services, and judicial systems in source countries. This was the dominant US anti-drug policy in the Americas for many years—in Colombia in the 1990s, in particular—and Merida built on this experience (Bailey 2011; Haugaard *et al.* 2011; Benítez 2013: 83). Thus, to many commentators, the Merida Initiative simply appeared as “*déjà vu*” (Freeman 2008), reproducing the “old paradigm” (Brands 2009: 2). In consequence, Merida became the target of a well-rehearsed critique by human rights non-governmental organisations (NGOs) and advocacy groups, both in the United States and Mexico. For example, Carlsen (2008) from the Center for International Policy, a Washington-based advocacy think tank, warned that US counter-narcotics aid through the Merida Initiative would provide “abusive security forces” with “unchecked power” and generally increase “authoritarian presidential powers”. According to Carlsen (2009), that was because US policymakers, diplomats, and line-agencies were unable to “tell the good guys from the bad guys” and were assigning traditional policing functions to the military. What matters is how these concerns were answered within the ‘War on Drugs’ framework. For the State Department, “*control de confianza*”, i.e. ensuring accountability, was a purely technical, best-practice issue (US Department of State 2010a: 4). It involved designing and developing “sound practices” for “screening candidates” and the “periodic re-investigation of active duty employees” (US Department of State 2010a: 4). As for the control of militarised presidential power, the solution was seen in constitutional checks and balances, civilian oversight of the armed forces through ombudsmen and parliamentary committees, as well as the abolishment of separate military jurisdiction. It would seem that in this framework, US policymakers and implementing agencies, such as the Drug Enforcement Administration (DEA), bore the brunt of responsibility for the outcomes of international

intervention. Through their financial support and military presence, they were intervening directly in the provision of public security. By assuming a clearly visible governing position, they were wide open to domestic and international scrutiny. Importantly, ensuring accountability appeared as a complicated, but achievable task—by improving vetting procedures, recruitment standards etc., and by changing the formal-legal structure of the recipient state. The responsibility for failed intervention was lying primarily with the (US) Americans and was couched in terms of deficient policy design and ineffective internal supervision.

The culture of lawfulness programme as neoliberal responsibility: endogenous causation and the transformation of informal context

As equipment deliveries and training programmes for Mexico were rolled out, the critique of the ‘War on Drugs’ model mounted. In the words of former US Secretary of State Hillary Clinton, “clearly what we have been doing has not worked” (in Landler 2009). In the relevant congressional committees—the House Subcommittee on the Western Hemisphere, the Senate Committee on Foreign Relations, and the House Subcommittee on State, Foreign Operations, and Related Programs Appropriations—as well as the think tank and human rights community which advised and lobbied them—led by the Wilson Center’s Mexico Institute and the Washington Office on Latin America—there was a growing consensus that US policy had only worked on the “most visible manifestations of the drug trade”, that there existed a set of “deeper, more difficult issues that drive that business” (Brands 2009: 35). Leading US policy analysts Eric Olson, David Shirk, and Duncan Wood from the Woodrow Wilson Center argued very successfully that there existed “major deficits in Mexican society” that undermined state efforts to enforce the law (Shirk *et al.* 2014: 2).

Therefore, two and half years into the initiative, narrowly conceived security cooperation became more and more problematic and it was clear that US policy had to develop a broader “governance oriented strategy” (Olson in US Congress 2009a: 14). This new strategy took shape in early 2010 through the so-called Beyond Merida policy shift (see Bureau of International Narcotics and Law Enforcement Affairs, US Department of State 2011: 390). The US ambassador to Mexico at the time, Carlos Pascual, “spearhead[ed]” this “reformulation” of US policy (Bow 2013: 90). Pascual had a strong professional background in post-conflict operations as the State Department’s former Coordinator for Reconstruction and Stabilization. He had also previously testified in Congress on the relevance of state-building for US foreign policy (in US Congress 2008a: 62) and published on the topic with leading academics (Krasner and Pascual 2005). As Assistant Secretary of State William Brownfield explained, US policy would move from “big ticket equipment” transfers to “sustain[ing] adherence to the rule of law and respect for human rights” (in US Congress 2011a: 10). In particular, under the banner of “building resilient communities”, the Beyond Merida

framework addressed a “broad range of needs outside of law enforcement and the judiciary” (Bureau of International Narcotics and Law Enforcement Affairs, US Department of State 2009), such as gang prevention, school education, and public outreach (see US Department of State 2010b: 5).

Merida’s Culture of Lawfulness (CoL) programme is instructive for how notions of informal socio-institutional context and deeper, hidden layers of causality animate the discourse. The CoL approach argues that “training judges and prosecutors, rewriting laws, and building investigative facilities for police are not sufficient” (National Strategy Information Center 2011: 1). Effective state law needs “societal support” (National Strategy Information Center 2011: 1)—an “ethos sympathetic to the rule of law” (Godson 2003: 272). For the critics of technical assistance, corruption was not merely a “government problem”, i.e. a formal–legal, bureaucratic issue (Dobriansky 2004). It was a “social problem” (Dobriansky 2004). “Lawlessness” was rooted in “historic practices” which had to be reformed before state law could work smoothly (Dobriansky 2004). Sound public institutions “on paper” (Lawfulculture.org 2013) were not considered enough: “It does not matter how well designed and administered they might be; these institutions cannot work in a vacuum” (México Unido Contra la Delincuencia 2013: 2, author’s translation). They require certain “psychosocial skills” from the population (México Unido Contra la Delincuencia 2013: 3, author’s translation). In the CoL perspective, anti-corruption is a matter of changing the “widespread public perception” of what is considered “normal” (Godson 2003: 267). If ordinary citizens are “equipped” with the right kind of “values and attitudes” they will simply “reject” or “marginalize illegal behaviour” (México Unido Contra la Delincuencia 2013: 3–4, author’s translation). Rather than modernizing Mexican law enforcement agencies, the CoL approach helped re-centre US policy on the “management of cultural factors”, trying to bring about a “fundamental shift in values” (Godson 2000: 3; 2003: 271).

The key aspect of this sociologising discourse is that it involves a notion of complex endogenous causation. State-building becomes an “endogenously driven process”, rather than depending on international “experts to replicate or import laws and legal institutions from OECD countries” (OECD 2009: 25, 101; see OECD 2011c: 3). This implies that policy solutions need to be formulated “not just *with* input or buy-in” from local stakeholders “but *by* them” (Fukuyama 2005: 120, original emphasis). Once governance problems in Mexico are framed as “complex and deep-seated”, their solutions have to come from within by eliciting the ideas of local communities (Brands 2009: 21). Only those who have been socialised within Mexico’s informal institutional context have the requisite inside knowledge to transform it. International policy action, like the CoL programme, can facilitate and incentivise this process, but it cannot formulate and implement substantive policy answers on its own. Rather than constitutional lawyers and DEA field officers dominating US intervention, Latin Americanists, anthropologists and social psychologists take the lead—not because they know the correct policy solution, but because they are seen as able to include more local voices.

In the Beyond Merida framework, US policymakers assume a “supervisory role” (Acevedo 2014: 253), in which they oversee and help redesign the (formal) policy process, while refraining from the prescription of concrete programmes. US policy may “educate the general populace on their [. . .] responsibilities” (US Department of State 2008), but its influence is naturally limited by the closed character of informal socio-institutional context. As David Chandler points out, local politics operate “out of reach or vision of Western policy-makers and linear social theorists” (Chandler 2014: 85). Here, US responsibility is an indirect, facilitating, one, trying to unleash the “unrealized potential” of Mexican civil society (US Embassy Mexico City 2010). In stark contrast to the ‘War on Drugs’, the burden of responsibility for the success of intervention now falls on the intervened themselves: “In the end, Mexico’s security will depend on the actions and decisions of Mexico” (O’Neil 2010: 3). The US government can only “act as a catalyst to a national process that Mexicans must want to undertake” (Negroponte 2011: 17). In this ownership framework, the “weight of responsibility” for successful governance reform “falls on the Mexican government”; Washington can only “support this process” (US Embassy Mexico City 2009).

Importantly, while Beyond Merida entrenched the idea that governance problems in Mexico were deep-seated and required work from within, it also stimulated a discourse on US domestic issues. Governance deficiencies in Mexico were idiosyncratic and, therefore, needed inside policy efforts. However, they were also part of a trans-American (in)security eco-system, sustained by the US demand for illicit narcotics. Ultimately, US consumer choices were fuelling the hyper-violent and socially corrosive criminal dynamics of Latin America, as the next section demonstrates.

Demand reduction and therapeutic governance: US responsibility as work on the self

Security governance in the Americas is increasingly understood as inter-dependent, involving two related dimensions. First, as internationally renowned Mexican policy analyst Jorge Chabat explains, the US “governing élite” today believes that its country’s security “is more and more linked to that of Mexico” and that Mexico should not be “left out in the rain” (Chabat 2009: 35; author’s translation). US security is put at risk by the Mexican government’s inability “to exercise effective control over its border areas and to contain the violence” within its territory (Benítez 2013: 28; see Bow 2013: 79–81). As a result, bilateral security cooperation aims at producing “a stronger Mexican state” as a sort of international “common good” (Velázquez and Schiavon 2009a: 20, author’s translation).

The second dimension of interdependence is that US consumer habits are accepted as complicit in the process of Mexican governance failure and its negative regional externalities. As Hillary Clinton admitted in a much received press conference in Mexico City in 2009, “[o]ur insatiable demand [. . .] fuels the drug trade” (in Landler 2009). Likewise, former US President Barack Obama

proclaimed self-critically that “[t]he demand for these drugs inside the United States is keeping these cartels in business” (Office of the Press Secretary, White House 2009; see US Assistant Secretary of State for Western Hemisphere Affairs Roberta Jacobson, in US Congress 2010: 18).

By presenting US consumption habits as the source of the problem, the discourse questions Beyond Merida’s narrow state failure framework. The issue is no longer solely one of “drug traffickers and terrorists thriv[ing] in ungoverned or poorly governed areas” (former DEA Assistant Administrator Anthony Placido in US Congress 2008b: 41). Indeed, the argument that the “ultimate solution” to the problem is “respect for the rule of law” in source and transit countries rings rather hollow (Representative Berman in US House of Representatives 2008: 5132). The view of the International Institute for Strategic Studies that drug trafficking “easily took hold in Mexico” because of the country’s weak governance institutions is not invalidated *per se*, but this process is seen as being reproduced by US domestic deficits (International Institute for Strategic Studies 2008: 1). The idea that weak governance in Latin America creates “safe havens for traffickers to pursue illicit activities” remains politically relevant—but only within a framework assigning causal origin or primacy to failed Northern consumers (Representative Benson in US Congress 2011a: 22). Portraying Western consumer habits as causing international insecurity moves beyond the state failure discourse which geographically bounded the “identification and containment” of the threat (Barakat and Larson 2014: 26). The violent criminal actors that undermine Mexican governance, and thus US security, “are not purely a Mexican phenomenon” (Representative Hinojosa in US Congress 2007: 34).

The solution, therefore, cannot primarily be to “ground” Mexico in good governance so that it may “fight the battle [. . .] before we are fighting it on US soil” (Representative Bilbray in US House of Representatives 2008: 5137). The battle against illicit narcotics and their detrimental effect on hemispheric security needs to be fought at home, too. The problem is not only “over there”; it is “here, too” (Representative Engel in US Congress 2008b: 4). If followed rigorously, the demand discourse turns the causality of the state failure framework around. Rather than “helping address domestic problems in different countries”, it is US society which has “exported our problems to them” (Representative Souder in US Congress 2008c: 21). Instead of focusing on pathologic social norms in Mexico, the “root” of the problem now “lies in [. . .] consumer nations” (Stephens and de Arimatéia da Cruz 2008: 14). In consequence, US consumers turn from “innocent victim[s]” into the engine of the whole problematic (Shirk 2011: v). In this way, the discourse facilitates a new governance imaginary in which the United States can impact on peace and security in Mexico through “domestic” rather than “foreign policy” (Haugaard 2009: 1). The demand reduction discourse argues that the key to regional peace and development lies in the United States “get[ting] its own house in order” (Haugaard 2009: 1). According to Andrew Selee from the Woodrow Wilson Center, the “most important actions” that the United States can pursue to reduce violence in Mexico are located “on this side of the border” (in US Congress 2009b: 72). It is US money and arms that

“threaten [. . .] to make Mexico a failed state” (Representative Rohrbacher in US Congress 2011b: 5).

The crucial point is that by framing US drug demand as a “*societal ill*”, the discourse redirects the therapeutic governance logic of international state-building—its self-help groups, public awareness raising campaigns, and psycho-social counselling—onto domestic society (Hughes and Pupavac 2005; see Duffield 2007; US Congress 2012: 6). In a psychologising language reminiscent of the CoL framework, the discourse portrays illegal drug use as a “deeply embedded patholog[y]”, requiring “treatment and prevention programs” (Brands 2009: 38; see Meyer 2007: 2). Here, the demand for illicit narcotics appears as a misguided “American appetite” (Representative Rohrbacher in US Congress 2007: 36) or “consumption habit” (Representative Engel in US Congress 2009b: 3). This socially harmful behaviour needs to be “curb[ed]” through aggressive public awareness and anti-addiction campaigns: “Counterdrug programs must focus on and fund drug addiction eradication programs and anti-drug education with the zeal demonstrated by counternarcotics’ military operations in order to effectively reduce drug demand and drug violence” (Abu-Hamdeh 2011: 48). The therapeutic logic of demand reduction policy comes out starkly in the National Drug Control Strategy 2016. In this central policy document, the Office of National Drug Control Policy (2016: 76) writes that the government’s “guiding principle” is that “substance use disorder” is a “brain disease that can be successfully prevented and treated”. Here, prevention, or “early intervention”, takes on special relevance (2016: 1). It is a textbook example of neoliberal policy thinking as it works by modifying the “settings in which young people grow up” (2016: 12). The idea is that by “[t]argeting the environment of young children” their future behaviour can be “positively affect[ed]” (2016: 13). This involves a comprehensive re-education effort to “ensure youth are receiving appropriate and positive messaging to make them more resilient” (2016: 14). In a clear analogy to the CoL program, school-based education and support for local communities are meant to “[e]ngage youth in multiple settings [. . .] to educat[e] them about the importance of staying healthy and about negative influences” (2016: 11). If “young people [. . .] hear [these] messages” from “multiple sources”, in “multiple places” and “continuously throughout their lives”, they will simply “perceive drug use as harmful” and stop it (2016: 11). In sum, similar to Beyond Merida’s anti-corruption framework, governance problems reappear as deviant behavioural patterns open to therapeutic guidance and betterment.

Conclusion

This chapter has worked out how international policy thinking is (re)allocating the causes of international insecurity from failed states to failed Western consumers. The demand discourse posits that US consumer choices stimulate violent conflict and economic underdevelopment in Latin America. It formulates an understanding of governance in which leading Western governments can change the world by enabling more enlightened consumer choices at home. They

can bring about international security by expanding and improving therapeutic capacity-building policies domestically. In this way, the discourse problematises the interventionary frameworks of US anti-drug policy—both the traditional ‘War on Drugs’ model which saw delinquent foreigners as bringing harmful substances to US society, proposing law enforcement and judicial assistance for source countries, as well as the CoL discourse of international state-building which understood drug-related crime in Mexico as reflecting a lack of civic virtue in that country, thus, calling for therapeutic re-education. Crucially, the demand discourse continues with a neoliberal governance logic, working through therapeutic psychosocial counselling.

What is new about the demand discourse is that it proposes a different understanding of the causes of international governance problems. It moves from a view in which failed states produce international security risks endogenously through their informal socio-cultural context to an appreciation of how wealthy US consumers trigger regional instability through their involvement in an illegal international trade. The issue of (in)effective governance in Latin America remains central, but its causes are framed differently.

At first sight, the self-critical problematisation of US drug demand comes across as a historic opening in US–Latin America relations. In Mexico, in particular, the acknowledgement of US demand has been heralded as a major diplomatic breakthrough. For example, former Mexican ambassador to the United States Armando Montaña saw the Merida Initiative as a “success” because the US government had finally accepted that “it’s not a Mexican [. . .] problem”, that it had to “assume [. . .] responsibilities” (cited in Grayson 2011: 238; see Rico 2008). However, while US policy on the drug issue is changing noticeably, the demand discourse reproduces neoliberal policy approaches in US society, infantilising the subject and responsibilising it for international security problems. The problematisation of US demand may be seen as a “new element”, “implying a substantial change in language and discourse” (Velázquez and Schiavon 2009b: 96–97, author’s translation). In political terms, it has opened up room for the Mexican government to pressure its northern neighbour to come through on its international pledges. Seen from this perspective, the inclusion of US demand has spread the responsibility for regional security issues more evenly (see Chandler, Chapter 12). However, as this chapter has demonstrated, this process has in fact reaffirmed the underlying neoliberal policy paradigm (see Joseph, Chapter 10). Here, it becomes apparent how neoliberalism works as a shared *governmentality* and as such is “not usually open to questioning by its practitioners” (Dean 2007: 16).

At the same time, the demand discourse boosts the moral standing and international authority of the already rich and powerful. The realisation that the “United States has helped cause the problem” is quickly taken on-board to argue that “[i]t is thus [. . .] our responsibility to help Mexico” (Pamela Starr in US Congress 2011b: 53). Influential advocacy groups, like the Washington Office on Latin America, argue that, due to the “realities” of drug demand, the United States should “embrace its shared responsibility *in helping its neighbour Mexico*”

(Washington Office on Latin America 2008; emphasis added). And according to Representative Mark Souder, the United States has a responsibility to assist Mexico because it has “aggravated the problem” (in US Congress 2008c: 28). This is a discursive framework in which US policy élites can facetly talk themselves into having a “moral responsibility to help” others (Representative Engel in US Congress 2008b: 1) and, thus, maintain an interventionary international order.

Notes

- 1 This analysis follows Andreas Reckwitz, who has argued against “a strict categorical separation” between practice and discourse (that is discursive practice) (Reckwitz 2006: 44; author’s translation).
- 2 Ultimately, the reason for intervention is that in a neoliberal framework, productive economic (and political) competition is “absolutely not a given of nature” (Foucault 2004: 120). Economic processes are the fragile products of deliberate institutional engineering: “competition as an essential economic logic will only appear and produce its effects under certain conditions which have to be carefully and artificially constructed” (Foucault 2004: 120). Competition and its positive attendants are an “objective” of government, rather than a “natural given” (Foucault 2004: 120). The consequence is that the economy depends on the regulatory framework. The economy (read society) cannot be “left free” (Foucault 2004: 121). It must be “accompan[ie]d from start to finish” (Foucault 2004: 121). In contrast, the term “liberal” refers to the “political philosophy of universal rights derived from rational and self-interested selves and associated forms of state” (Harrison 2004: 44).

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12 Distributed responsibility

Moral agency in a non-linear world

David Chandler

Introduction

It is taken as a truism that today we live in an entangled and interconnected world, but what has been less analysed is the implications that this has for liberal modernist understandings of political and ethical responsibility. Particularly problematic today is the distinction between public political responsibility and personal moral responsibility. The boundaries between the public and the personal, and the political and the ethical, appear much less clear in a world in which we are all more interconnected and interdependent. This blurring is crucial to understanding the emergence of new discourses of distributed or non-linear moral agency in the international sphere. This chapter suggests that new forms of hierarchy emerge with extended moral chains of responsibility, implying that actors have a new indirect duty of responsibility or a duty of care for others. The key point of this chapter is to highlight that this approach implies a very different technique of governance: one that works through consideration of the unintended outcomes of policy frameworks and social interactions. Whereas interventionist regimes in the 1990s involved linear, direct and formalised hierarchies, denying the formal rights of equality and autonomy, new international regimes of moral responsibility enable indirect governance, operating on the basis of a non-linear or reflexive sensitivity to the indirect or unintended consequences of actions. This is highlighted in Table 12.1 below and drawn out further in the section on “New institutionalism and global entanglement”.

New theories of international moral responsibility put the other at the centre of the ethico-political duties of international regimes and international actors but do not imply the problematic claims of direct or linear Western moral and political accountability. Liberal or modernist framings of political responsibility have been challenged by new institutionalist understandings in economics and the social constructivist frameworks of institutionalist sociology and international relations, which have highlighted the problematic nature of rationalist conceptions of the subject. Rather than strict liberal binary approaches separating subjects from the world around them, the social world is understood as mediated by institutional frameworks shaped by historical experiences and the

Table 12.1 Linear intervention versus distributed moral agency

<i>Linear intervention</i>	<i>Shared attributes</i>	<i>Distributed moral agency</i>
Formal	Power inequalities are precondition	Informal
Direct responsibility Governance of the other	Responsibility for the other Govern for the benefit of the other	Indirect responsibility Reflexive self-governance
Rationalist/linear causation	Causal link to outcomes	Distributed/non-linear causation

Source: Author's own table.

social contexts in which actors are embedded (North 1990; Peters 2005; Mahoney and Thelen 2010). In these increasingly dominant post-rationalist non-linear framings, the individual is no longer seen as an isolated actor but rather as a socially, environmentally, and materially embedded subject. It is also argued that our social and material embeddedness means that the consequences of our decisions take on greater importance as our actions are inserted into powerful processes of complex global interaction, extending the impact of our individual actions and choices (Beck 2009; Giddens 2002; Dewey 1927; Latour 2004).

In a globalised world, the most important impacts of our choices and decisions are held to be their non-linear or unintentional consequences—their “side effects” (in the language of Ulrich Beck) evidencing our materially networked “entanglements” (according to French social theorist Bruno Latour)—which mean that “externalities”, previously excluded from the calculations of politics and the market, are now considered as central (Beck 1997; Latour 2003). In this way, global interdependence and interconnectivity are held to pose substantial problems with regard to judging where political responsibility lies for events and situations which concern us. In a global world, political responsibility tends to be reformulated to take account of the fact that the consequences of our actions are dependent on the socio-material processes into which they are inserted (Chandler 2014). This new sociological field, which has opened up in the last two decades, has major implications, enabling the rearticulation of international moral agency. The field of ethical and political responsibility is therefore defined less by the formal public sphere of representation—democracy, rights, and sovereignty—and more by our embeddedness in emergent chains of causality (Connolly 2004; Bennett 2010; Cudworth and Hobden 2011). In a global relational ontology, our political ethical responsibilities stem from the unintended consequences of our relational embeddedness and our duty to become reflexively aware of this.

This chapter seeks to stake out a series of claims with regard to the rise of the international ethics of moral agency, premised upon our embeddedness in complex chains of global interconnection. First, it is concerned with drawing out how understandings of relational responsibility have become increasingly central to mainstream policy and academic thinking, highlighting the conceptual links between new institutionalism and the ontological or ‘new materialist’ turn in

social theory and the rise of post-rationalist or post-Rawlsian thinking more broadly. Second, it highlights how the ethics of global relational embeddedness redistribute ethical and political responsibility in ways which, rather than challenging power inequalities, appear to affirm or reify them. New frameworks of moral agency rearticulate ‘Western responsibility’ for global outcomes on the basis of non-linear or indirect chains of causal interaction, rather than on the linear intentionality central to modernist discourses of moral agency.

The next section considers the rise of non-linear, distributed, understandings of ethical and political responsibility as a shift away from the liberal ‘top-down’ constructions of the 1990s, when global ethics worked on the basis of direct responsibilities, assuming direct (traditional or liberal forms of) political and legal authority over subjects who were denied equal rights (Bain 2003; Barnett 2016). The following sections discuss the evolution of new discourses of moral agency, which work on the basis of non-linear or indirect assumptions of moral responsibility, on the basis of our relational embeddedness in a complex and globalised world. It is important to stress that this type of responsibility cannot be properly understood in either the political or moral terms of liberal constructions. Non-linear moral agency takes us beyond Weber’s contraposition of the grounded “ethics of responsibility” *vis-à-vis* the “ethics of conviction” (Weber 2004). The ethics of responsibility are extended beyond the outcomes of conscious choices and decisions, which initiate an action, to an understanding that the subject is always already embedded in relations which set the ethical framing for responsibility. Distributed responsibility reflects the rise of a relational, material, or ontological ethic: a sociological recognition of the side-effects of complex global associational interconnections and their emergent properties.

Moral agency

Under discourses of global interdependencies and social relationality, power relations can easily evaporate into complex processes of indirect interconnection, where responsibility for the actions of governments, as much as the actions of individuals, are seen to be distributed much more equally. This process of dismantling frameworks of individual and collective responsibility often appears as an enlightened, socially rich, actor-networked perspective (Latour 2007). These richer social ontological approaches—highlighted in the rise of assemblage theory, new materialism, and post-humanism—tend to work on the basis of “flat” or “bottom-up” ontologies of interconnection (Delanda 2006: 28, 32). Here, agency is distributed away from the formal centres of political power (the focus of liberal ontologies) and towards the margins or the ‘everyday’ where the ‘tactics’ of ordinary people contest and disrupt the strategies and understandings of the powerful (de Certeau 1988). In these more fluid ontologies, governing or personal intentionality is much less important than the complex ontological reality of social interconnectivity. The more broadly the connections are drawn, the more diverse are the actors and agents that need to be drawn in to provide an adequate explanation of concrete policy outcomes (Latour 2007). The focus upon the

social relational embeddedness that produces concrete realities, rather than upon the abstract or metaphysical constructions of human purpose and intention, also enables agency to be redistributed beyond purely human or anthropomorphic constructions of intentionality (Connolly 2011; Bennett 2010).

However, it is important to note that non-linear moral agency does not merely problematise the understanding of individual responsibility and bring the contingency of assemblages of interconnection into play, but also articulates a new framing of international hierarchy, which builds upon these ontological understandings of associational embeddedness. This is because moral agency works through establishing the ontological power of social-relational interconnection but then rearticulates the gap between conscious intention and concrete outcomes in terms of the ethical demand for self-reflexivity. Moral agency works back from the appearance of the world to enable an embedded ethical reflexivity to guide the subject's own self-transformation (Connolly 2011: 145–146; Chandler 2013). In this framing, the problems of the world can be reinterpreted as ethical lessons for self-growth and self-awareness. The indirect ethical responsibility derived from self-reflexivity can thereby be neither understood as instrumental (it is the self-reflexive responses to outcomes which are important rather than the outcomes per se) nor as deontological (ethics are derived from external consequences). In this way, in a more interconnected world, Western agency can be rearticulated in terms of this distinct form of indirect ethical responsibility. Western powers can claim responsibility for the world, but rather than these claims of responsibility generating moral opprobrium or demands for political accountability, they can be used to produce new, reflexive forms of ethico-political authority.

To explain how this inversion works, it is worth recalling a point emphasised in the work of Hannah Arendt on how agency works in relation to 'guilt'. As Arendt noted, when we claim that "we are all guilty" we are actually expressing "solidarity with the wrong-doers" rather than the wronged (Arendt 2003: 148). This is the mirror-opposite of direct relations of political solidarity with the wronged, which suggests that we support their challenge to power in righting those wrongs. I wish to draw out, in particular, how this inversion works in relation to capitalism or market relations. In modernist framings, political solidarity was often demonstrated in understanding a common cause of struggle against market relations and its enforcement through the coercive political power of capital. In today's understandings of embedded associational responsibility for the unintended consequences of our actions, we are more likely to see our lifestyle or consumption choices as responsible for inequalities, conflict, or environmental problems (Dobson 2003; Cheah and Robbins 1998). In an age of political complexity, when it is "easier to imagine the end of the world than the end of capitalism" (Jameson 2003: 76), in effect, responsibility is recast or internalised, displacing capitalism as the problem through vicariously seeing ourselves as responsible: understanding capitalism as merely a complex emergent process of exchanges in which we are embedded to differing extents and therefore indirectly responsible. In an age where the overthrow of capitalism seems unimaginable,

capitalism is transformed as the sociological vehicle of connection, displacing the conscious and direct chains of politics.

If we were to trace a genealogy of new understandings of non-linear moral agency as a technique of governance, which only begins to enter the field of international regimes in the 1990s, we would therefore need to start with the rise of corporate social responsibility, whereby economic actors needed to demonstrate an awareness of the indirect or unintentional consequences of their economic actions. Discourses of corporate social responsibility blur the line between economic, political, and ethical concerns, recasting large corporations as social and embedded actors with chains of embedded causality impacting upon their social and environmental context, not merely upon their workers or direct suppliers and consumers. Discourses of embedded and relational responsibility thus ‘politicise’ actors, actions, and relations, which were previously excluded from the political sphere in traditional liberal or modernist understandings. This process of politicisation has no ‘natural’ spatial or temporal limits; how far and how deeply the indirect consequences of large corporations extend through multiple chains of production and consumption is a matter of contestation (see, for example, Barry 2013).

Moral agency and international relations

In the international sphere, the articulation of political and ethical responsibilities has become transformed since the end of the Cold War. In the early 1980s, US President Ronald Reagan controversially described the Soviet Union as the “Evil Empire” in an attempt to reinvigorate the ideological certainties of the geo-political divide, but no one in the West assumed that Western governments or citizens were in any way responsible for the acts of the Soviet Union or for those of other governments or societies. The concept of a Western moral or ethical responsibility for the actions of others only began to arise in the 1990s, initially with the articulation of global moral or ethical understandings underpinning the liberal internationalist foreign policies of Western governments and giving content to the doctrines of humanitarian intervention and human rights enforcement. Discussions of humanitarian atrocities from Rwanda to Srebrenica focused on individuals and élites held to bear individual moral and political responsibility for war crimes and human rights abuses (Ainley 2008), but also on the West’s responsibility to intervene to prevent these atrocities and to protect basic human rights. While the West was not held to be responsible, it was held that there was complicity through non-intervening, which was seen as allowing the crimes of human rights abuse in sub-Saharan Africa or the Balkans. It was argued that the globalised world was increasingly becoming one community with shared norms and values and that foreign policy was not merely about national interests but liberal universal concerns of laws and rights (Linklater 1998; Held 1995; Falk 1995).

In the 1990s, the ethical or political responsibility of the West was generally cast in the direct terms of linear intervention to prevent human rights abuses by

'others'. The articulation of responsibility in a global world was couched in the universal rationalist terms of liberal discourse. Crimes of war or massive human rights abuses were held to constitute an ethical and political 'right' of intervention (even if this right was not formally upheld in international law) (Chesterman 2001; Welsh 2004). The liberal discourse of rights and law pitted intervention directly against rights to sovereignty (Kaldor 1999). Western states not only acquired the new rights of intervention, to take responsibility for preventing human rights abuses, but were held to acquire new ethical duties to enable their new charges to reconstruct their states and societies. The liberal internationalist discourses of the 1990s thereby made claims of exceptionalism, based on the incapacity of states and their loss of rights to sovereignty, to justify both intervention and post-interventionist protectorate or semi-protectorate regimes, clearly manifested in the international powers over Bosnia, Kosovo, and Timor-Leste. The liberal internationalist understanding of political and ethical responsibility was sharply bifurcated: responsibility for war crimes and human rights abuses was restricted to individuals or discrete groups of 'others'; responsibility for the outcomes of intervention was restricted to the international 'saviors' bringing peace, development, and democracy (Orford 2003; Mamdani 2009).

After the 1990s, this linear, liberal framing became increasingly hollowed out with responsibility, both for crimes and interventionist outcomes, becoming distributed more equally. In the sphere of international relations, the sociological logic of a non-linear or indirect responsibility initially emerged in distinction to the rationalist logic of international liberalism, for example, in works in the tradition of the English School. In Robert Jackson's influential study, *Quasi-States: Sovereignty, International Relations and the Third World*, published in 1990, the discursive logic of societal interrelations is clear. It is the conceptualisation of non-linear responsibility that I wish to heuristically focus upon here. Jackson did not argue for the return of colonial paternalism, but for what might be seen as a new type of non-linear responsibility (Jackson 1990: 187; see also Thaler and Sunstein 2009: 5): a recognition that the problems of post-colonial states were not merely of their own making but a problem of emergent causality—a "side-effect" of the attempt to instigate an international constitutional order on the basis of equal sovereignty. This international constitutional order was held to have stacked the deck against domestic development and democratisation and was argued to have unintentionally encouraged despotism.

Jackson argued against the idea, popular at the time, that the West should take formal "moral or legal responsibility" (Jackson 1990: 187) for post-colonial states on the basis of their incapacity. Instead, the new problematic which emerged in his work was one of recognising the unintended consequences of institutionalist frameworks, held to be a barrier to development and democracy in these states. The key point about the emergence of non-linear ethics is that in recognising responsibility for the problems caused by the 'side-effects' of shared institutional frameworks, there was an understanding of a new type of material ethical responsibility. This was neither moral nor political—the institutions were established for the best of reasons (for example, in the case of the United Nations and the UN

Charter's enshrining of non-intervention, the prevention of war)—but an associational, networked, or indirect and unintentional 'ontological' responsibility. Moreover, the consequences of this new relational and indirect responsibility were not clear until actors became 'aware' of them long after their initial institution.

With this new type of non-linear responsibility comes an imperative to ethically reconsider international institutions in the knowledge that the institutional framework shapes the possibilities and actions of others (in this case, 'quasi-states'). Once the associational link is established, through the connective framework of effects, then it is argued that Western states and actors have the ethical/political responsibility to reflexively consider a different set of institutional practices which may more positively affect the outcomes in post-colonial states. This non-linear framing of moral agency argues that, like it or not, powerful states shape international institutions and therefore bear responsibility for their unintended consequences. The argument then follows that if international institutional frameworks have a deleterious effect on 'quasi-states', others, which could have a more positive effect, should be considered. While not assuming political responsibility for post-colonial states, as in the top-down direct responsibility of colonialism or of 1990s liberal internationalism, the non-linear responsibility confers upon the West the right to intervene *indirectly*, through the institutional framework, to positively affect the outcomes at the level of the post-colonial state. This is neither the formal inequality of colonialism nor the equal legal sovereignty of the post-colonial period but the recognition that inequality (the fact that powerful states shape the international institutional frameworks) gives Western states responsibility because they indirectly shape the outcomes for other (weaker) states.

In the framework of non-linear moral agency, there is therefore no such thing as non-intervention. Intervention is no longer understood as the formal undermining of sovereignty, as in colonialism. Intervention is seen to take place indirectly, without conscious intent, through the institutional frameworks and agreements of the international arena, and therefore the West is understood to be always indirectly intervening in the domestic politics of the post-colonial world through the institutional shaping of both economic and political relations. It is on the basis of this non-linear understanding that Western states and their citizens then have the ethical/political responsibility to reconsider this international institutional framework with regard to these outcomes. In passing, it should be noted that there is a similar ethic at play in the argument that states have a duty to reflexively influence the private choices of citizens (Thaler and Sunstein 2009; John *et al.* 2011). Once there is an assumption that in an interconnected world there is no sphere of autonomous choice-making, there is then no barrier to the rise of the non-linear ethics of intervention through indirect means.

New institutionalism and global entanglement

It is important to highlight that the consequences of a more sociological approach—which understands responsibility as a product of associational links, actor networks, or assemblages—are that discourses of distributed responsibility

are neither political nor moral but ontological. Responsibility is ontologised, spread much more thinly but also in context-specific ways, so that responsibility is always a shared but fluid concept. For example, it could be argued that we are (at least in part) responsible for the impacts of our carbon footprint (through taking cheap package holidays) or for the continuation of exploitative labour practices (through purchasing cheap trainers). Considering the vast web of interconnections and interdependencies involved in the reproduction of modern life it is clear that our ontological embeddedness extends far into time and space. For theorists like Morton (2013), our entangled age means that our distributed responsibilities tend to make hypocrites of us all as the problematic appearances of the world mean that ethico-political boundaries can never be squeezed back into a modernist binary ontology. Being in-itself is an ethico-political state, in which the big picture of global warming and global inequality is always in tension with the smallness of individual contributions. Distributed framings of responsibility go to the heart of the questions of ethics and politics in our contemporary age.

This is very different from modernist understandings of responsibility, which operated to demarcate spheres of ethical understanding: political responsibility stopped with the sovereign or government, moral responsibility stopped with the private conscience. Ontological non-linear or distributed responsibility knows no political or private subjects, only subjects always and already embedded in fluid and complex networks of association. It is the networks of association that distribute the ontological responsibilities to actors. Responsibility no longer emerges from the decisions of the subject, itself to be legitimised in instrumental or deontological terms. The ethical responsibility is non-linear, indirect or secondary: to reflexively adapt to the unintended outcomes of structures and processes in which actors are embedded.

The sociological, institutionalist sensitivity articulated by Robert Jackson remained at a fairly abstract level, typical of the English School approach, concerned with drawing a sociological “third way” between the rationalisms of realism and liberalism in international relations theory. The field in which these understandings have been much more highly developed in the policy arena is that of new institutionalism (see, for example, DiMaggio and Powell 1983). The sociological approach of new institutionalism is heuristically drawn out in more depth below in an analysis of the conceptual framework deployed by Oxford academic and World Bank policy advisor Paul Collier. Collier’s work is highlighted as an example, which begins to draw out more clearly the implications of a non-linear or distributed understanding of moral agency. These framings are notable in that they remove the liberal rationalist ethics of responsibility from policy areas and understandings (for example, of state collapse, conflict, economic or environmental crisis, or human rights abuses) by posing the problems of conflict and lack of development as matters of formal and informal associational connections, in effect, reducing both politics and economics to sociological understandings of embedded context.

Collier suggests that the direct responsibility approach of liberal internationalism is an ineffective one: Western or international actors cannot resolve problems

by taking a traditional linear approach, telling others what to do, or throwing aid money at them. Change “must come predominately from within; we cannot impose it on them” (Collier 2007: xi). However, we can help in terms of our own reflexivity about the international institutional frameworks which rich Western countries support and have established. Changing others ‘from within’ can thereby be done if change also comes, reflexively, ‘from within’, at the international level; rethinking the unintended consequences of trade regulations or of not having international agreements on extractive industries or the arms trade. This non-linear or indirect approach of intervention works on the basis of Western states and international institutions reflexively working to address the unintended consequences of their actions rather than directly intervening or claiming the right of intervention in other states.

Collier, together with his Oxford colleagues, is well known for the development of the “greed and grievance” model of conflict in the mid-2000s (Collier and Hoeffler 2004; Collier *et al.* 2006). This model should be seen as marking a clear break from the bifurcated framework of responsibility justifying liberal internationalist interventions in the 1990s. In this indirect framing of responsibility, there is a much richer model of social interaction, developing an understanding of post-colonial or post-conflict societies as shaped by the choice-making context in which actors are embedded. In their critique of theorists who sought to understand conflict in the linear, rational terms of political rights (struggles over grievances), Collier and his team sought to analyse conflict in terms of the non-linear institutional constraints upon individual choice-making. In this framing, political causation no longer becomes an explanatory or a legitimating factor, but rather it is the opportunity for rebellion that has explanatory value. Essentially, if finance is easily available (for example, due to easy access to primary commodity exports) and there is little opportunity cost (i.e., few other avenues to earn income, if access to secondary education is low and the economy is stagnant) then “conflict entrepreneurs” will arise who do not necessarily have any stake in furthering the interests or needs of their alleged constituents (Collier and Hoeffler 2004).

Political or ethical responsibility for conflict and war crimes is radically redistributed in the new institutionalist model put forward. In this approach, what is key is the associational interconnections which shape the choice-making environment: “where rebellion is feasible, it will occur without any special inducements in terms of motivation” (Collier *et al.* 2006: 19); “motivation is indeterminate, being supplied by whatever agenda happens to be adopted by the first social entrepreneur to occupy the viable niche” (Collier *et al.* 2006: 20). Once conflict is understood as the product of the societal context shaping the choices of individuals, the possibility of reshaping the formal and informal institutional context, and therefore the outcome of decision-making, arises. This approach of indirectly influencing the conduct of communities and of individuals on the basis of the international influence upon these frameworks highlights the indirect consequences of associational connections at the expense of the political responsibility of both local actors and international interveners.

The work of Collier and his team has been reflective of and also influential upon the policy developments of the World Bank, which, keen to take up new positions of non-linear reflexive responsibility, has been focusing on unintended consequences of institutional structures in a world of political complexity, rather than political or ideological concerns (de Herdt and Abega 2007; Fritz *et al.* 2009; World Bank 2008). On an international level this more sociological framing works in a very different register from liberal debates on intervention and sovereignty where Western responsibility recalls traditional hierarchical understandings, formalising inequality, and a denial of rights, such as the Liberian government's subordination of financial control to a coterie of international donors (Collier 2010: 216) or the Responsibility to Protect (R2P) doctrine, a "full-frontal assault on the concept of national sovereignty" (Collier 2010: 218). Here, there is not intervention (as legally and politically conceived) but merely 'interference': the reflexive understanding of associational interconnection. Such institutional reforms of the international order do not directly undermine sovereignty but seek to interfere in non-linear ways that support progressive ends rather than work against them, for example in contractual relations to deter coups where there is a democratic mandate, support for financial probity, or in linking aid with military spending (Collier 2010: 202–227). This sociological framing focusing on distributed moral responsibility takes us beyond the liberal rights framings contra-positioning intervention and sovereignty and enables "a compromise between positions that are currently deadlocked" (Collier 2010: 226).

New institutionalist approaches have been a key dynamic in conceptually articulating indirect ethical responsibilities and the policy practices which flow from these, in distinction to the direct, linear interventions of liberal internationalism (for example as expressed in the politics of conditionality of the World Bank and the International Monetary Fund, which sought to bend post-colonial states to their will in terms of particular policy outcomes). The focus of new institutionalist approaches, already implicit in the work of IR scholars, such as Jackson, is much more indirect, highlighting, for example, that it is the international institutional framework itself which unfairly makes reform or development difficult. Despite the fact that change can only come from within, international states, institutions, and private economic actors can assist in ensuring that in their associations with these states they facilitate progress rather than shore up corrupt and failing regimes.

In effect, the self-reflexive ethics of non-linear moral agency politicises all associational connections between external actors and the states viewed as problematic or failing. It does this through the ethic of sociological association: that any contact or connection, no matter how indirect, has unintentional effects. These connections, which previously would not have been understood as political, but as private contractual relations of trade, are then 'politicised' in terms of where the wealth goes and how it is distributed. From the sociological perspective of embedded relationality there is no limit to the ethical injunction to reflect upon how one's associational connections 'interfere' with others.

The problematic of distributed moral responsibility insists that 'they' in the failing or post-colonial states are not entirely to blame for conflicts and

underdevelopment but neither are 'we' in the rich West (Collier 2007: 157). However, as Collier draws out this logic to argue: "I am now going to pin some blame on citizens of the rich world, who must take responsibility for their own ignorance about trade policy and its consequences" (Collier 2007: 157). The blame upon Western states and citizens is one of a lack of self-reflection upon unintended consequences. Addressing these unintended consequences means, for example, becoming aware of the impact of tariff protections, which prevents less-developed countries from diversifying their production (Collier 2007: 160) and of the refusal to strengthen institutional frameworks, which could diversify state monopolies over wealth and resources or guarantee intervention if a democratic regime is overthrown. From the new institutionalist perspective, the struggle of the poorest bottom billion "is not a contest between an evil rich world and a noble poor world. It is within the societies of the bottom billion, and to date we have largely been bystanders" (Collier 2007: 192). The intimation is that we in the rich West have an indirect responsibility for the outcomes, that our actions and choices at the moment favour the side of corrupt élites, conflict, and poverty, and that we could make other choices which would favour the side of progress and development.

The new institutionalist framing denotes a very important shift in understanding, one which privileges the importance of non-linear or unintended consequences over those that are intended. Rather than advocating a set of direct policy interventions, which would formally or informally reconstitute a relationship of hierarchy, starting from an ontology of distributed agency, new institutionalist approaches argue that Western states and international actors need to first reflexively consider the unintentional effects of their relational embeddedness: first of all in terms of the unintended effects of formal institutional arrangements based on abstract notions of universal equality and, second, in terms of the externalities of economic trade and financial arrangements. Essentially, under this framing, formal political understandings and respect for the economic and financial relations of contract are not alone adequate to conceptualise moral responsibility in an interconnected world. Awareness of global interdependencies means that political agreements and economic contracts do not exist in separate self-contained worlds but have non-linear chains of distributed causal effects which have previously been excluded from calculation and consideration. Just as large corporations were called upon to draw up agreements of social, environmental, and human rights responsibilities and to account for externalities, so should international institutions and other international actors, no matter how large or small.

Conclusion

Once we lose the understanding of the autonomous, liberal subject and instead understand the morality of the world on the basis of formal and informal institutional structures, in the everyday reproduction of which we are all complicit, then it is clear that responsibility for human rights infringements has a much

broader, flatter, or distributed ontological basis. We are all then to differing extents responsible for what might appear—not as the commissions or remissions of others (the concern of Arendt, 2003: 147)—but as indirect non-linear market outcomes, outside any individual's direct responsibility. Once we understand that indirect responsibility lies in the framing of social institutions and social systems—societal interrelations, with their unending chains of complex causal connection—responsibility is inevitably transformed, minimising the importance of the liberal or modernist understanding of political or ethical responsibility.

It is interesting to note the secular trend involved in the extension of the ethical world through the logic of association. It seems that the more responsibility is spread, the less interest there is in the specific problem itself and the more attention there is to the ethical self. In the bifurcated liberal ethics of responsibility in the 1990s, the attention was squarely on the problem of human rights abuse and war crimes, problems which non-Western 'others' were morally and politically responsible for and therefore lost their rights to political and legal equality in the instantiation of direct regimes of intervention and the abnegation of sovereign rights. In the work of new institutionalists, political responsibility is eroded through being sociologised: they, the non-Western 'others', are less responsible for the contexts in which choices are made and external interveners share less responsibility as direct intervention shifts to indirect 'interference', which does not undermine formal legal and political rights.

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13 Conclusion

Practising the politics of responsibility

Cornelia Ulbert and Elena Sondermann

Introduction

While we were compiling this volume, the year of 2017 began with Donald Trump moving into the White House as the newly elected President of the United States, followed by general elections in the Netherlands, presidential elections in France and the first general election in the UK after the vote to leave the EU in 2016 ('Brexit'). In all of these campaigns and elections narratives of blame in the sense of attributing responsibility to 'others' for things gone wrong played a decisive role. And always, these narratives of blame have entailed a very simplified notion of causality. As the *Washington Post* commented: "Presidents have long liked to play the blame game. But President Trump has shown unusual range in the number of people and institutions he's targeted."¹ Among them the Democrats, the Obama government, 'the establishment', the media, Mexico, foreigners and immigrants, foreign countries (e.g. Germany) for trade imbalances, etc.

European elections and political debates have been marked by narratives concerning the global refugee crisis and national consequences of immigration. Across different countries, immigrants are blamed for today's or future economic and societal problems. In light of terrorist attacks in various European countries security concerns are understandably high on voters' agenda. Yet, instead of discussing the multiple contributing factors, populist politicians of all camps successfully create a more simple narrative of blame, targeting the anger and frustration on immigration. The Brexit campaign in the UK successfully convinced a majority of the electorate that the 'others'—the EU and 'Brussels'—were constraining and holding the UK back. All these examples share a narrative of simple causality, of blaming 'others' and thereby finger-pointing and creating strategies around notions of walls, dams, and boundaries. These images and narratives have important implications for the tone of political debates and the justification of policies. However, in the wake of the French presidential elections, we could also witness a very different narrative succeeding against 'the blame game' when Emmanuel Macron won against Front National's right-wing leader Marine Le Pen. Macron repeatedly promised to take leadership, thereby claiming responsibility not only for French national politics but also for European matters.

This brief survey of current political debates reflects a view on the politics of responsibility as a struggle over blaming and claiming responsibility. Taking the narratives which inform these ‘blame games’ seriously led us to scrutinise the construction of causality, agency, and responsibility relationships. Therefore, the chapters in this volume focus on how moral agency is constituted in complex networks of interactions and what effects diverse practices of responsibility might have.

In line with a relational perspective on agency, already explicated in the introduction, the majority of contributions in this volume do not regard agency as a property of an actor. Instead, as Rebecca DeWinter put it, “moral agency is best conceptualized as an effect of social-historical interactions that reflect processes through which the boundaries of an actor as a moral entity are drawn and justified” (DeWinter 2001: 100).

As the empirical cases in this volume show, responsibility designates actors as rights- and duty-bearers. Today’s social, political, and even technological realities, however, do not lend themselves to clear lines of causality and plain moral chains of responsibility. This is why assigning responsibility is a deeply political process: defining what is right and wrong, making someone ‘answer to’, and blaming her for an action entails an element of power that does not necessarily rest on causal accountability. Responsibility, too, is not an individual property but something that characterises social relationships. Hence, practices of responsibility help to socialise individuals and collective actors into specific kinds of agents through assigning praise and blame. However, once you are acknowledged as moral agent, in practising responsibility these agents can (re)define what responsibility means in a specific case and what kind of obligations it entails.

Consequently, in our concluding chapter we will highlight the interrelatedness of practices of responsibility and the constitution of moral agency, and the relevance of conceptualising responsibility as a space that leads to different forms of assigning responsibility.

Practices of responsibility and the constitution of moral agency

A starting point for many of the authors in this volume is the acknowledgement that there is no clear distinction between public political and personal moral responsibility (any more), because the modern world is interconnected and interdependent. Although, in terms of politics, we like to think of public actors—like the state or international organisations—to be in charge of taking over responsibility, even to designate those bearers of responsibility has evolved into a complex task. Through establishing who is responsible and through holding actors accountable new forms of hierarchy develop with extended moral chains of responsibility.

In contrast to the notion of traditional agency that rests on the assumption of rational autonomy in a world characterised by intentionality and causality, the concept of social agency is based on a different ontology—one that perceives the

social world as mediated by institutional frameworks shaped by historical experiences, and with an emphasis on the social contexts in which actors are embedded. It is exactly the social embeddedness of actors which leads to an extended impact of individual actions and choices, especially with respect to their unintended consequences.

In particular, the chapters of Jonathan Joseph, Peter Finkenbusch and David Chandler in the last part of the book focus on deconstructing what responsibility means in an interconnected world. They look upon practices of responsibility as a specific technique of governance, according to David Chandler “one that works through consideration of the unintended outcomes of policy frameworks and social interactions” (Chandler, Chapter 12). Assigning responsibility from this point of view works as a governance tool: there is an ethical demand for self-reflexivity that creates “new, reflexive forms of ethico-political authority” (Chandler, Chapter 12). This “devolution of responsibility” (Joseph, Chapter 10) is criticised as reinforcement of regulation through encouraging a more responsible self-governance at the micro-level.

Interestingly, from an individualistic starting point grounded in a specific perspective of contemporary analytical philosophy Sebastian Köhler, Neil Roughley and Hanno Sauer arrive at a similar conclusion: responsibility, ultimately, still rests with the individual—although it might be difficult to assign appropriate shares of accountability in each case in question. This uncertainty of assigning responsibility, emphasised by Joseph, Finkenbusch and Chandler, however, leads Joe Hoover and Neta Crawford to a different conclusion. Their focus does not rest with the ‘governmentality’ aspect, but with ‘responsiveness’ and the idea—along the lines of Köhler *et al.*—that the individual is able to take decisions. This capacity, however, rests on a number of conditions on which we have to work to enable individuals to contribute to social change. Instead of framing “the duty of care for others” (Chandler, Chapter 12) as a burden and means of regulation, Hoover—building on Iris Marion Young’s social connection model of responsibility (Young 2006, 2011)—thinks of responsiveness as a prerequisite to move from individualised liberal to democratic moral agency. This is a different type of agency which emanates from social practices that take into account how social interactions enable injustice and how communities of individuals are implicated in social harms (see Hoover, Chapter 2). Realising unintended consequences of individual and collective action embedded in social structures, however, may have a liberating effect on individuals: they do not think of themselves as ‘victims’ or ‘perpetrators’ any more. On the contrary, they might be empowered to alter harmful social practices. Similarly, Crawford emphasises that individuals are able to enhance not only institutional but also their individual capacities to promote responsible moral agency. Again, moral agency is not framed as individual property of an agent but as depending on “the substance of moral responsibilities and how responsible agents are judged and reformed, specifically, how responsibilities are assigned, performance is assessed, and shortcomings in either the moral agents or their actions are repaired” (Crawford, Chapter 3).

The implications of how moral agents are constructed by practising responsibility are particularly instructive with respect to collective actors, be it states, international or non-governmental organisations, or companies. As the empirical cases presented by Cornelia Ulbert, Christian Scheper and Tobias Debiel in their respective chapters show, assigning responsibility (or withholding it) constructs moral agents in very specific ways bestowing the capacity to act on certain groups of actors or denying other groups this capacity to act. These processes of inclusion and exclusion lead to asymmetric relationships and power imbalances. As a consequence, the group of actors designated to bear responsibility may fail to live up to the political and moral expectations, as was the case with the Kyoto Protocol. Or those actors may even infringe upon specific sets of universally valid norms like human rights in general or labour rights specifically, as in the case of privatising security provision and peacebuilding or with respect to practices of ‘moral lead firms’ in the garment industry.

The latter case also highlights how private companies use the attribution of responsibility as a means of power and legitimacy. In practising responsibility, they ‘appropriate’ the meaning of responsibility according to the logic of buyer-driven supply chain management and according to a specific supply chain ethics. Therefore, what the company is responsible for changes and new relationships of responsibility emerge. Ultimately, by attributing *moral* agency to business actors they may also acquire *political* authority by (re)interpreting moral claims in specific ways, thus shaping rules and regulations with consequences for a community as a whole (Mondré *et al.* 2017).

As the discussion in this section shows, practices of responsibility and the constitution of moral agency do always occur in a wider setting, shaped by contested normative claims and complex interactions based on changing meanings of responsibility. This is why it seems adequate to think of responsibility as a space.

Responsibility as space and its forms of assignment

It is commonplace now to think of responsibility as a relational concept that is characterised by a dynamic relationship between someone, a subject, who is responsible for something, an object. Assigning duties and prescribing roles, however, never takes place in a vacuum. Individual and collective responsibility rest on normative claims which are contested, and thus, cannot be understood outside the institutional contexts within which the assignment of responsibility takes place. As Antje Wiener reminds us, “in the global terrain agents operate under the condition of unequal access to agency” (Wiener, Chapter 6), since agency does not only rest on shared normative understandings but also on political capabilities. Consequently, “when enjoying regular access to contestation, a stakeholder obtains the option to contribute and change normative validity claims through proactive engagement with norms” (Wiener, Chapter 6). Therefore, practising responsibility opens up a space, which does not only enable or constrain the exertion of moral agency. It is also decisive for how successful responsibility as a practice may be in terms of effects. This is something, Aidan

Hehir points out with reference to the Responsibility to Protect. It does not suffice to specify obligations but you also have to verify whether norm addressees actually do comply, and sanction cases of non-compliance (see Hehir, Chapter 5). Then, this space can evolve into a distinct landscape, an outcome that Cornelia Ulbert described as “geography of responsibility” using the example of how the principle of Common but Differentiated Responsibility developed in the climate regime (see Ulbert, Chapter 7). Similar to the evolution of climate regime, the changeful history of development cooperation exemplifies how shifts in rights and duties will lead to different constructions of who is responsible, and thus bestow (moral) agency upon a different range of actors altering the space in which relationships of responsibility unfold.

In the beginning, ‘modern’ development cooperation² was characterised by the dual relationship of donors and recipients and the idea of fiscally strong ‘developed countries’ taking on responsibility for providing ‘aid’ to independent ‘less developed countries’. This was only possible as the agency of countries, their self-understanding as much as the external ascription of their rights and duties, had changed after World War II: the beginning of the decolonisation process meant that the world was not shaped by great powers and ‘their’ colonies any more but by a growing number of sovereign states. While sovereignty was initially also linked with independency from external aid, a growing awareness of international community and solidarity as well as the emerging international institution-building altered the notion of sovereignty. Thus, allowing for the ideas of non-interference and help (in the form of international assistance and cooperation) to coexist—something which was also enshrined in the International Covenant on Economic, Social and Cultural Rights.

Technical and financial assistance grew (against the background of the Cold War) and with the extending aid programme, the agency of donors became more powerful and more refined: *they* set the terms and norms of engagement, defined the ever-growing conditions of programmes, and judged their success. In the meantime, the role of recipients was passive as the one receiving and, more critically, being ‘thankful’. This was—to a limited extent—changed by the aid-effectiveness debate in the 1990s which brought the norm of ownership to the top of the development agenda. Accordingly, the ‘responsibility’ for development was shifted to recipients, donors should (and this is not to say they actually did) merely align their capacities behind the ‘leading’ recipients. Nevertheless, even though it introduced the idea of accountability to international development aid, the core of the cooperation practices as “a duty for the responsible paternalistic development of the other to a standard of civilisation” (Crawford, Chapter 3) remained untouched (Müller and Sondermann 2017). The same can be said about the Millennium Development Goals (MDGs) which, influential as they have been, left the hierarchical relationship and paternalistic notion of responsibility unchanged.

However, in the last decades, the picture has become more complex as ‘new’ donors—emerging country donors as well as non-state actors—have received increasing attention. With an acknowledgement of their important role in development cooperation several things are happening which are relevant in the

context of our discussion. The agency of countries once categorised as recipients is changing as they are also acting and being addressed in their capacity as donors (e.g. China and South Africa). At first sight, this is about rather technical questions of exchange, streamlining programmes, and ultimately making aid more effective. Yet, at the core lie struggles over the meaning, norms, and institutions which govern development cooperation. The follow-up conferences on aid effectiveness (or as it was later called 'development effectiveness') as well as the process of finding subsequent goals to follow the MDGs (now called the Sustainable Development Goals, SDGs) exemplify these multi-layered conflicts. While access to the 'donor club' has been celebrated by some emerging donors, others have been very cautious about accepting this newly 'bestowed' agency, claiming the responsibility that comes along with it (e.g. China). The crucial question remains whether 'new donors' (state as much as non-state actors), with their better access to agency, are strengthened in their capacity to voice new and critical opinions and champion alternative development models, or if they are integrated into existing chains of responsibility and thereby subordinated to the traditional and powerful ideas of agency in development. The SDGs (and the process leading to them) have included new groups and individuals and allowed for a different narrative of responsibility in development cooperation: one that moves beyond the 'duty of help' and the 'duty to be thankful and to develop according to a given idea' to 'traditional' donors acknowledging their duty to change and pay tribute to past failures, and an acceptance of a more diverse set of development models. However, as implementation of the goals has only just begun and no more profound institutional changes have occurred in the space of development cooperation, it remains questionable whether 'the geography of responsibility' will really be overhauled in the end.

As the example of development cooperation and others presented in the chapters of this volume show, interrelated governance arrangements form a network of norms, institutions, and different power relationships. And it is from and within these networks that actors can infer moral authority, and claim and attribute responsibility. But in these networks responsibility may change its meaning; and, further, is defined and attributed in context-specific ways. As Tobias Debiel elaborates in his chapter, responsibility is assigned very differently according to the normative framework on which it rests. There may be a consensus on the normative basis, which leads to common principles for policies, and then responsibility may be shared. In cases where norms and principles are characterised by ambiguity, responsibility will be blurred and has to be (re)negotiated permanently. If, however, norms and rules are contradictory and disconnected from the prevailing normative consensus, not only the notion of responsibility will be contested but the complete landscape that is shaped by responsibility will be rife with conflict.

Conclusion

With the contributions of this volume, we wanted to uncover the politics of responsibility as a process in which moral agency and notions of responsibility are

constituted, challenged and changed. Therefore, the chapters dealt with questions of how to assign retrospective responsibility and how to frame forward-looking responsibility in a way that the ones who are to be held responsible are able to act accordingly.

Looking at different practices of responsibility led the authors to manifold conclusions about the politics at play: assessments ranged from responsibility as governance tool to an instrument of empowerment of individuals for social change. Achieving the enhancement of individual and institutional capacities for acting responsibly, however, is no easy task and rests on a number of prerequisites and conditions. Different forms of assigning responsibility, which lead to blurred, contested or contradictory notions of responsibility, result in severe normative challenges for the actors in the international realm. In particular, a remarkable grey zone is emerging in terms of who takes responsibility for human rights issues and to whom actors are accountable. Since both moral agency and responsibility are constructed in practising responsibility, with respect to justice and fairness the ultimate aim of an 'enlightened' or 'democratic' politics of responsibility must be to strengthen the bargaining power of underprivileged groups, which have to be taken seriously in their critical capacity and respective moral agency. Only then, will a politics of responsibility live up to its name.

Notes

- 1 www.washingtonpost.com/news/on-leadership/wp/2017/02/21/the-problem-with-donald-trumps-blame-game/?utm_term=.654784beef42.
- 2 See for a history of development cooperation and its roots in colonialism Rist 2008.

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