

Moral Obligations of States

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Preliminaries

The starting point of the paper is the frequent ascription of moral duties to states, especially in the context of problems of global justice. It is widely assumed that industrialized or wealthy countries in particular have a moral obligation or duties of justice to shoulder (financial) burdens of poverty reduction or climate change adaptation and mitigation. But can collectives such as states actually hold moral duties? If answering this affirmatively: what does it actually mean to say that a state has moral obligations or duties of justice? In this paper I argue that states can be considered collective (institutional) agents which can hold moral duties. If a collective (for example a state) holds moral duties this entails duties for its individual members. I show how depending on their position within the collective these duties differ.

At this point, it is important to clarify my use of the term *moral duty* or *moral obligation*. In moral philosophy, there exists an extensive debate about collective moral responsibility (E.g. French 1979 & 1984, Held 1970, May 1987 & 1992, S. Miller 2001, D. Miller 2004), which also covers the problem of collective moral agency. This debate often lacks a clear distinction between retrospective responsibility and prospective responsibility. Yet the debate mainly focuses on retrospective responsibility, that is, it focuses on assigning accountability for outcomes if these have not been brought about by an individual agent, but by group agents such as organizations and corporations. In this paper, I am not concerned with the question of (retrospective) collective moral responsibility, but with the question of (prospective) collective responsibility, meaning collective moral duties, or collective moral obligations.² While the former refers to a collective agent's accountability for certain outcomes of actions or omissions in the past on the basis of which blame or praise can be ascribed, and is in this sense retrospective, the latter refers to moral imperatives. On the other hand, to have a moral duty or a moral obligation means that one is morally required to act in a certain way. In contrast to responsibility, the allocation of duties is prospective in character. While the problem of collective responsibility in the retrospective sense has been examined

1 One might distinguish moral obligations or duties from forward-looking, hence prospective, moral responsibility, as for example Iris Young does (Young 2004: 379). She argues that "responsibility differs from duty in being more outcome oriented" and in allowing for (more) discretion. I agree that such a distinction can be made, yet I will not resort to it here but simply use duty and obligation in this wider sense as relating to outcomes and not only prescribing particular actions.

2 I will use the terms 'duty' and 'obligation' synonymously.

in great detail over many decades, there are few contributions so far to the field of collective moral duties (the exceptions being Cripps 2010, May 1992, Murphy 2003, Schlothfeldt 2009, Schwenkenbecher 2011, Wringer 2005, Young 2006) which is why it will concern us in this paper.

Obviously, the bigger and the more complex the problem, the greater is the demand for collective action and the more convincing is the claim that corresponding moral duties are collective in character. This applies above all to moral duties of a global dimension. Many philosophers argue that citizens of wealthier or industrialized countries have positive duties to assist citizens of poorer countries and, possibly duties to save the lives of persons who because of the economic and political situation in these countries are in danger of dying from disease, undernourishment or starvation. In this paper I simply assume that such (cosmopolitan) moral duties can be successfully established. That is, I take it for granted that we do not only have obligations towards those in our proximity, such as family members, friends, and compatriots, but also towards people living far away (though these duties may be significantly diminished in contrast to the duties towards those who are close to us). However, while some cosmopolitans, such as Peter Singer³, ascribe such moral duties (mostly) to individuals, this paper explores the possibility of ascribing these duties to collectives, in particular to states.

1. States as Holders of Collective Duties

A number of authors (among them Erskine 2001 & 2010, D. Miller 2004, Runciman 2004, Wringer 2010) have argued in favour of considering states moral agents and potential holders of moral duties, invoking different criteria for moral agency. In the following I will look at one of these accounts endorsed by Toni Erskine. I will point out one problem with her approach and suggest a possible amendment.

According to Erskine, a 'collectivity' is a candidate for moral agency if it has

- a) An identity that is more than the sum of the identities of its constitutive parts and, therefore, does not rely on a determinate membership;
- b) A decision-making structure;
- c) An executive function linked to the decision-making structure;
- d) An identity over time;
- e) A conception of itself as a unit.

She considers collectives possessing these characteristics 'institutional moral agents'. (Erskine 2010, 264f). It is important to note that to Erskine the morally

3 See for example Singer (2009) *The life you can save: acting now to end world poverty*. Random House. Admittedly, Singer has also argued repeatedly for the necessity of institutional changes and does not only advocate for individual action. Yet, I think it is fair to say that he particularly emphasizes individual action and individual duties to combat the problem of world poverty.

responsible agent is the collectivity: “[...] prescriptions for action might be misdirected if they are targeted at the group’s component membership rather than at the institution itself.” (Erskine 2001, 73).

Erskine’s ascription of (a particular kind of) moral agency to the above characterized kind of institutional agents is convincing. If a collective can act as a group – including forming collective goals (that are the goals of their action as a collective, not of individual actions) and acting according to these goals – it should be considered capable of collective action. If it furthermore possesses procedures or mechanisms of moral reflection and the ability to act upon the results of such moral reasoning, it can be considered (a particular kind of) moral agent. The kind of moral agency collective agents have may well differ from the kind of moral agency we ascribed to individual human persons. In particular ‘moral emotions’ – such as shame, guilt, and empathy – are missing in collective agents. However, the (limited) moral agency collective agents can hold suffices to (at least) ascribe moral duties to them.

Even though I agree with Erskine’s argument by and large, there are two problematic points. First, I hold that a collective can have some form of moral agency and thus moral duties even if it does not meet all the conditions Erskine lists. Second, it remains unclear what it means to say that a collective is *ipse/* holding a moral duty as opposed to its members. As to the first problem, it can be argued that groups without the above listed characteristics that Erskine defends can be collective agents and have moral obligations. This criticism is not actually decisive for the issue of states as holders of moral duties⁴, which is why I will not pursue it here.

The second suggested improvement brings us closer to the very heart of the question what it means for a state – or a collective in general – to be a moral agent. Erskine’s account does not clarify what it means to say that the collective duties are duties of the collective itself rather than a duty of its members. This claim generates a somewhat artificial distinction between a collective and its members. If a collective’s duties were entirely distinct from those of its members this would create a gap in moral accountability and in moral motivation. If a collective could hold moral duties in a way that results in no moral duties for its individual members, this would leave us with no one to hold accountable and with no agent who could feel morally motivated to put things right. I agree with Erskine that the collective duty should attach to the collective, and not its members. But I argue that such collective duties necessarily entail corresponding moral duties for its members. The collective, it appears, can only hold moral duties because it is capable of collective action, i.e. more than just aggregate actions, *and* because it consists of individual members who hold corresponding individual (contributory) duties.

It is important to note that what is being said here about collective moral duties may not be valid for (retrospective) collective moral responsibility. If retrospectively establishing responsibility and accountability for a particular outcome that has been brought about by collective action, it may well be that the responsibility attaches

4 It could, however, have interesting implications for the question whether or not the international community or groups of states can hold moral duties.

to the collective itself and does not entail partial (retrospective) responsibility for its members. This is, however, a different problem and will not be discussed here. At this point I will instead turn to one of the issues Erskine does not cover, namely the link between duty-holding collectives and the individuals who constitute the collective.

2. Differing contributory duties

As previously indicated, moral duties or duties of justice ascribed to states are not independent of moral duties of the individuals represented by these institutions or the individuals constituting this state or its institutions, i.e. its citizens, officials, public servants, etc. And finally, it is individuals who must bring about the outcome that the duty refers to, and it is individual agents who must be blamed if that outcome is not achieved. Moral duties held by a collective – for example a state – entail moral duties for individuals that are part of that collective, both occupants of institutional roles (such as politicians) and persons with no institutional role. I call these entailed duties contributory duties. Role occupants have been assigned particular (professional) duties to discharge those collective moral duties. Professional duties entail contributory moral duties, but the latter may extend beyond the former. Also, individuals with no institutional role may well hold contributory duties with regard to a collective duty of their state. I suggest three criteria for determining the magnitude of an individual agent’s or sub-group’s contributory duty to a collective duty: *capacity*, *moral correlation*, and *commitments of oneself and other agents*:

Capacity: The first criterion that influences how much an agent within a collective must contribute to the collective duty is the agent’s capacity. The capacity can depend on how much power or influence over the outcome the agent has. But it also depends simply on the agent’s abilities. The more power or influence an individual agent has or the more she is capable of discharging a duty due to her particular abilities, the larger her contributory duty. This criterion clearly establishes stronger contributory duties for those members of a collective who hold an institutional role. This does not mean that those individuals who are decision makers or functionaries in corporate or institutional structures have to draw on their own financial resources to discharge a moral duty of compensation, for example. But it is they who have to trigger institutional responses to the duty and who have to ensure that these responses satisfy the respective moral demands.⁵

5 Iris Marion Young in her 2006 article “Responsibility and global justice: a social connection model” lists “power” as one of the factors along which individuals should decide over the magnitude of their duties. The problem with how this factor is framed in Young’s approach is that on the one hand it appears to serve to determine which agents political campaigners should focus on in order to bring about changes, but on the other hand it has been introduced as determining how an agent should decide for herself about possible engagement in combating injustices. However, in the context of this section, it is only useful to understand it in this second sense.

Moral correlation: The second criterion that influences the magnitude of individual contributory duties is what I call the ‘moral correlation’ of the agent to the problem that the collective duty aims to address. ‘Moral correlation’ covers both moral (retrospective) negative and positive responsibility⁶ for the problem. Accordingly, individuals (or sub-collectives) that have moral responsibility for the occurrence of the problem have to contribute more to solving the overall problem than others, other things being equal. The criterion of moral correlation may cover other forms of moral links between the agent and the problem which gave rise to the collective duty such as associative ties between two agents or groups.

Commitments of oneself and other agents: How much an agent or sub-group has to contribute depends on how much the other agents contribute and how much the agent has publicly committed herself to contribute. If I have made it clear to other members of the collective that I will take on a particular contributory task in the context of discharging a collective duty, I have a stronger obligation to do so than if I had not announced this, because I make others believe that they need not undertake this contributory task. It is also now more likely not to be undertaken at all, should I not do it.⁷ Furthermore, knowing that some members of the collective are not going to contribute their share to the overall outcome may well influence the magnitude of my individual contributory duty. I then may have to take on a larger burden, that is, more than what would be my fair share if everyone else complied with their contributory duty⁸ (within reasonable limits, of course, up to the extent that complies with capability and costliness constraints). However, the individual or sub-group that has contributed more than their fair share then has justified claims of compensation against the other members of the collective. This right to posterior redress, however, leaves the moral imperative to take on more than one’s share in case of non-compliance of others untouched. That is the fact that taking on more than my fair share is unjust and gives me the right to demand some kind of compensation from fellow group members, is not a reason that justifies me refusing assistance on the basis that others do not contribute their part.

Two of these determinants of the magnitude of contributory duties – *capacity* and *commitment* – indicate that those who are in a position of power within a state, usually politicians, above all the government, but also other influential figures of public life, have the strongest duties to contribute to discharging the moral duty of the state. Hence individuals who fail to discharge their contributory duties in an obvious way – for example politicians who ignore the problem of climate change or even deny it – are morally liable to punishment as individuals. But the second

6 Positive responsibility for a harm here means to have contributed to a harm by an action while negative responsibility for a harm means to have failed to prevent a harm when one could and should have prevented it.

7 This is particularly the case for institutional agents, i.e. persons with institutional duties covering collective moral duties or contributory duties. Again, a very similar idea is expressed in Bob Goodin’s notion of special duties. (Goodin 1988)

8 This means I contradict the famous claim made by Liam Murphy that “Demands on an agent under partial compliance should not exceed what they would be (all other aspects of her situation remaining the same) under full compliance from now on.” Murphy 2003, 75.

criterion – *moral correlation* – suggests that persons with limited power and with no explicit (professional) commitment, who are in some way responsible or benefit from the problem the duty addresses, have contributory duties as well.

3. Summary and Outlook

In this paper I have shown that states can be considered moral agents in the global sphere and can hold moral obligations. To say that a state has a moral duty ultimately means that its members, politicians, public servants and ‘ordinary’ citizens have duties to contribute to achieving the collective end the collective duty entails. The magnitude of a group member’s contributory duties depends on the individual agent’s capacity to influence the collective outcome, his or her moral correlation to the problem that generated the moral duty, and the commitments he or she and the other contributing individual agents have made.⁹

However, there remain a number of open questions which cannot be addressed here. The first concerns the external conditions that have to be in place for an agent to be ascribed moral duties. As Erskine in her 2001 “States and Quasi-States” article rightly pointed out, some states are so restricted in their actions, that is, they lack (independent) agency to an extent that they cannot be considered moral agents and hence cannot have moral duties.

Furthermore, just like with any other moral agent, states have limited capacities to comply with moral demands. They need to weigh competing demands against each other and decide which obligation they spend their energy on. It will presumably always be a matter of debate whether or not a particular state has done enough to discharge a certain duty.

Another matter is to what extent duties of global dimension attach to various states, if not a group of states. Most scholars argue that in fact the international community is not an agent in the relevant sense for attributing moral responsibility or moral duties to it (among them Erskine & Runciman). Yet, it would be another project to look into whether such views are justified and what the conditions could be for the international community to qualify as a moral agent.

9 Another concern is that of competing duties and how to establish which one to give priority. I cannot go into detail on the question here, but in the context of collective obligations it is worth mentioning a suggestion made by Iris Marion Young. In her 2006 article “Responsibility and global justice: a social connection model”, she convincingly establishes collective ability as one of four factors for determining which moral obligation to give priority in the face of a multitude of competing moral demands. Young argues that “the relative ease with which people can organize collective action to address an injustice can be a useful decision principle.” What she suggests is hence an efficiency criterion which helps the agent decide between competing duties. I agree with Young that in a situation of limited resources the agent should support the aim that he can most efficiently support, other things being equal.

Acknowledgement

The author wishes to thank the German Academic Exchange Service (DAAD) for funding her research 2010–2011 project on “Collective Obligations and Climate Change.”

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