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COLLECTIVE MORAL RESPONSIBILITY AS JOINT MORAL RESPONSIBILITY

Seumas Miller

Collective moral responsibility is a species of moral responsibility and contrasts, in particular, with individual moral responsibility. However, the notion of moral responsibility, whether individual or collective, contrasts with a number of other notions.

First, we need to distinguish moral responsibility (including collective moral responsibility) from causal responsibility. A person or persons can inadvertently cause a bad outcome without necessarily being morally responsible for so doing. For example, a careful and competent driver who is obeying all the rules of the road might, nevertheless, accidently and unavoidably hit and maim a child who suddenly and unpredictably runs onto the road and in front of the moving vehicle.

Second, we can distinguish moral responsibility from what can be referred to as natural responsibility. Moral responsibility typically requires not only causal responsibility but also an intention to cause good or evil (or at least the knowledge that one’s action will or may well cause good or evil) and an intention that is itself under one’s control (and connects in the right way with one’s action (Davidson 1963)). On the other hand, one is not necessarily morally responsible for one’s actions under one’s control since such action might not have any moral significance. If I get myself a cup of coffee then I am normally responsible for this since the action is entirely under my control; however, arguably, I am not morally responsible for doing so, given the action has no moral significance. At any rate, I assume in this chapter that there is a distinction along these lines to be made between moral responsibility and natural responsibility. I also note that natural responsibility is not the same thing as causal responsibility, since I can unknowingly cause some outcome without intending to do so, or even knowing that I have done so, e.g. when I accidentally spill my coffee.

Third, we need to distinguish moral responsibility from institutional responsibility, e.g. legal responsibility. I might be morally responsible for breaking my promise to meet my friend for lunch without being legally responsible for so doing.

Fourth, I distinguish between moral responsibility and blameworthiness and praiseworthiness (albeit, this is controversial – see Strawson (1962)). If I keep my promise to meet my friend for lunch and doing so is easily done then, although I am morally responsible for keeping my promise, I am neither blameworthy nor praiseworthy. I am not blameworthy since I kept my promise, but nor am I praiseworthy since I was under an obligation to keep it and doing so entailed minimal, if any, cost to myself.
Finally, we need to distinguish prospective or forward-looking from retrospective or backward-looking responsibility. Suppose a thief is morally responsible for his past crimes; this is retrospective responsibility. Now suppose a police officer is morally (and, for that matter, institutionally) responsible for arresting the thief if and when he comes across him; this is prospective responsibility.

As is the case with individual responsibility we can distinguish between collective moral responsibility, on the one hand, and collective causal, collective natural and collective institutional responsibility, on the other hand. (Here I assume that there is some, at least notional, distinction to be made between aggregate causal responsibility and collective causal responsibility, e.g. by virtue of the causal power of the collective per se being greater than the sum of the causal power of each of the contributing agents.) Moreover, we can distinguish between collective retrospective and collective prospective moral responsibility.

Collective moral responsibility is the moral responsibility that attaches to structured and unstructured groups of human persons for their morally significant actions and omissions. Thus, an organised gang of thieves who carry out a million-dollar bank heist are collectively morally – and, for that matter, collectively causally and legally – (retrospectively) responsible for the theft. Again, a number of bystanders – an unstructured group – who act jointly to save a child trapped in a burning house are collectively morally responsible for saving the child’s life. Notice that sometimes it is the members of a group that are said to be collectively responsible and sometimes it is the group or other collective entity per se, e.g. the Mafia might be said to be collectively morally responsible for a crime wave in southern Italy.

There are three prominent kinds of theories of collective moral responsibility. The first of these conceives of collective moral responsibility as a convenient way of referring to what is in fact simply an aggregate of individual responsibilities. I refer to it as the atomistic account. The second holds that it is the group or collective itself which is the bearer of moral responsibility. I refer to this view as the collectivist account (albeit there are different versions of this account). The third theory is a relational account; collective moral responsibility as joint moral responsibility (JMR) (Miller 2001b; Miller 2006). JMR contrasts with collectivist accounts since the only bearers of moral responsibility are individual human persons (or like creatures) and not collective entities per se. However, JMR also contrasts with atomistic accounts since on this third view collective moral responsibility is to be understood in relational terms; joint responsibility is not analyzable into a mere aggregate of individual responsibilities.

In this chapter, I first situate JMR in relation to atomism and collectivism (section 3.1). In section 3.2 I elaborate JMR. I then go on to show how JMR might accommodate at least some of the central categories of collective omissions (section 3.3) and morally significant diachronic institutional action – what I refer to as chains of moral responsibility (section 3.4).

3.1 Atomism, Collectivism, and Joint Moral Responsibility

Advocates of atomism with respect to collective moral responsibility include H. D. Lewis (Lewis 1948), R. S. Downie (Downie 1969), Stephen Sverdlik (Sverdlik 1987), Jan Narveson (Narveson 2002), and András Szücs (Szücs 2014). (For criticisms see Copp (2006).) The strength of atomism is that it does not postulate supra-human collective entities as the mysterious bearers of moral responsibility and of the psychological states (e.g. beliefs and intentions) necessary for moral responsibility. Moreover, since it ascribes moral responsibility only to individual human beings, it has no tendency to let the members of collective entities, such as criminal organizations or negligent corporations, off the hook by relocating moral responsibility at the supra-human level. The weakness of atomism is that it does not seem to be able to accommodate the full
range of cases in which we pre-theoretically ascribe collective moral responsibility. For example, in our above million-dollar bank heist example, robber A might be individually responsible for planning the heist, robber B for driving the getaway car, C for blowing the safe, D for taking one hundred thousand dollars, E for taking a second hundred thousand and so on. However, arguably none of the robbers was individually causally responsible – and, therefore, individually morally responsible – for stealing one million dollars. Again, we pre-theoretically hold BP morally responsible for the massively environmentally damaging oil spill in the Gulf of Mexico in 2009. But here we seem to be doing something above and beyond simply ascribing individual moral responsibility to each of BP personnel who did something wrong, and aggregating these. BP’s moral responsibility seems to be more than the aggregate of individual responsibilities.

On collectivist accounts “collective responsibility” should be understood as attaching to the collective entity per se. Paradoxically, therefore, collective moral responsibility turns out to be a species of individual responsibility, albeit the “individual” is a collective entity. At any rate, on this collectivist view whether the members of a collective – that is, the individual human persons who constitute the collective in question – are each individually responsible is a separate question and, in any case, not directly a question of collective responsibility. In David Copp’s terminology the collectivist claim is equivalent to the claim that a collective can be an independent moral agent (Copp 2006) (for criticisms of Copp see Miller (2007)). An important corollary of the collectivist view is that collectives are capable of bearing moral responsibility for outcomes, even when none of their members is in any degree individually morally responsible for those outcomes. Other prominent representatives of the collectivist approach include Peter French (French 1984) (for criticisms of French see Velasquez (1983)), Margaret Gilbert (Gilbert 2002) (for criticisms of Gilbert see Miller and Mäkelä (2005)), and Christian List and Philip Pettit (List and Pettit 2011) (for criticisms of List and Pettit see Szigeti (2014)).

Perhaps unsurprisingly, collectivism tends to be regarded as being able to accommodate many of the problems that beset atomism but, nevertheless, to lack the virtues of atomism (Mäkelä 2007). Thus, to return to our examples, collectivism will ascribe moral responsibility to (respectively) the gang of robbers as a collective entity and to BP per se (and not merely to some individual BP personnel for their individual moral failings). However, in so doing it admits supra-human collective entities (the gang, BP), which (somewhat mysteriously) bear moral responsibility (and, therefore, the associated psychological states (but see List and Pettit (2011) and for the rejoinder Szigeti (2014)) and which have the potential to get (respectively) the individual gang members and BP personnel off the moral hook. Potentially at least, BP is morally responsible but none of its managers, employees etc. have any moral responsibility; and the same goes for the individual gang members, at least as far as the theft of the million dollars is concerned (as opposed to, say, driving the getaway car or stealing one hundred thousand dollars). At any rate, on the collectivist account difficult questions arise concerning the relation between the moral responsibility of the collective entity per se and the moral responsibility of each of the members of the collective.

Having situated JMR in relation to atomistic and collectivist accounts of collective moral responsibility, I turn in the next section to its elaboration. Before doing so, I should make it clear that one might hold either a monistic or a pluralist view of collectivist moral responsibility and that this has implications for the theoretical reach of JMR. On the monistic view, JMR provides an analysis of the one and only concept of collective moral responsibility; therefore, its theoretical reach is comprehensive. On the pluralist view, JMR provides an analysis of one of a number of central concepts of collective moral responsibility; therefore, its theoretical reach while still considerable, is not comprehensive. Moreover, on the monistic view, JMR, atomism and collectivism are competing theories of collective responsibility. However, on the pluralist
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view, JMR might be consistent with collectivism (and perhaps atomism, assuming atomism were to abandon its reductionist claim); they are simply different theories because they are theories of different species of collective moral responsibility. In this chapter I take a neutral stance on this issue. I provide an elaboration of JMR as an analysis of one central concept of collective responsibility while leaving it open whether there are other concepts of collective responsibility. However, I note that JMR is well-positioned to avoid some of the main problems besetting atomism or besetting collectivism. Thus, JMR does not postulate supra-human collective entities as the mysterious bearers of moral responsibility, and has no tendency to let the members of collective entities off the moral hook by relocating moral responsibility at the supra-human level. Moreover JMR, being relational in character, seem better equipped than atomistic accounts to provide a plausible account of the ascription of moral responsibility to groups. For instance, in the heist example, while each is individually responsible for his contributory action (e.g. C for blowing the safe), each is also responsible, jointly with the others, for stealing the million dollars. Let us, then, consider JMR in more detail.

3.2 Collective Moral Responsibility as Joint Moral Responsibility

JMR takes joint actions as its starting point (Miller 1992; Miller 2001b; Miller 2006; see also Mellema (1988) and May (1992)). According to JMR, at least one of the central senses of collective responsibility is responsibility arising from joint actions (and joint omissions). Roughly speaking, a joint action can be understood thus: two or more individuals perform a joint action if each of them intentionally performs an individual action but does so with the (true) belief that in so doing each will do their part and they will jointly realise an end which each of them has and which each has interdependently with the others (a collective end, in my parlance (Miller 1992)). (For related theories of joint action see Tuomela and Miller (1988) and Bratman (2014).) On this view of collective responsibility as joint responsibility, collective responsibility is ascribed to individuals. Each member of the group is individually morally responsible for his or her own contributory action, and (at least in the case of most small-scale joint action – see below) each is also individually (fully or partially – see below) responsible for the aimed-at outcome, i.e. the realised collective end, of the joint action. (I note that an outcome of a joint action might not be aimed at and, if so, it is not a constitutive element of a successful joint action, i.e. it is not the realised collective end of the joint action.) However, each is individually responsible for the realised collective end, jointly with the others; hence the conception is relational in character. Thus, in our million-dollar bank heist example, each member of the gang is responsible jointly with the others for the theft of the million dollars because each performed his contributory action in the service of that collective end (the theft of the million dollars). I note that if the joint action has no moral significance then the participants have joint natural responsibility for their action but not joint, i.e. collective, moral responsibility for it. Since theft is a morally significant action, our bank robbers are jointly (collectively) morally responsible for stealing the million dollars.

I note that on JMR it is possible that while each participant in a morally significant joint action makes a causal contribution to the aimed-at outcome of the joint action, none of these contributing actions considered on its own is either necessary or sufficient for this outcome (Miller 2006). Consider the following example of a murder. Six men simultaneously (deliberately and without moral justification) stab a seventh (innocent) man, and each does so having as an end to kill their victim. However, each knows that his one act of stabbing will only wound the victim, and that four stab wounds are necessary and sufficient to kill the victim. I further note that on JMR it is possible that in such scenarios – scenarios in which each participant
makes a causal contribution which is neither necessary nor sufficient for the outcome – each participant is fully morally responsible (jointly with the others) for the outcome (Miller 2006). Consider, for instance, our stabbing scenario. First, each of the six men is individually fully morally responsible for the stab wound he inflicted. Second, the six men are jointly morally responsible for killing the man, i.e. they are jointly responsible for murder. Significantly, in relation to this joint responsibility, each of the six is fully morally responsible (jointly with the other five) for the murder (and, assuming there was sufficient evidence, each would in all likelihood be held criminally responsible for murder).

What of large-scale morally significant joint actions and omissions, such as the BP oil spill disaster mentioned above? These introduce a range of issues that are often not present in small-scale, morally significant joint actions and omissions. For one thing, large-scale cases often involve hierarchical organisations and hence the potential for those in subordinate positions having diminished moral responsibility. For another thing, the extent of the contribution to the outcome of a joint action or omission can vary greatly from one participant to another. Indeed, some of those who make a causal contribution to a joint action – and especially to large-scale joint actions – might, nevertheless, not be genuine participants in that joint action because in performing their contributory action they were not aiming at the outcome constitutive of the joint action; they did not have its collective end as their end. On a relational view such as JMR, BP can be ascribed collective moral responsibility for the Gulf oil spill to the extent that BP personnel jointly acted – or, more likely, jointly (and culpably) failed to act (see section 3.4) – in ways that led to the disaster. Here the network of joint actions and omissions could be quite wide and complex without involving (either causally or in terms of their intentions, ends or responsibilities) all, or even most, BP personnel. Moreover, some joint actions or omissions are likely to be of greater moral significance than others, and some individual contributions, e.g. those of the BP managers, of greater importance than others, e.g. those of lower echelon employees (Zimmerman 1985).

It is important to note here that not only is each agent individually (naturally) responsible for performing his contributory action, each is responsible by virtue of the fact that he intentionally performs this action (and his intention is under his control and connects to his action in the right way), and the action is not intentionally performed by anyone else. Of course, the other agents (or agent) believe that he is performing, or is going to perform, the contributory action in question. But mere possession of such a belief is not sufficient for the ascription of responsibility to the believer for performing the individual action in question. So, what are the agents collectively (naturally) responsible for? As already mentioned, the agents are collectively (naturally) responsible for the realisation of the (collective) end that results from their contributory actions. Consider 10 men jointly pushing a car up a hill. Each is individually (naturally) responsible for his own pushing action, and the 10 men are collectively (naturally) responsible for intentionally bringing it about that the car is at the top of the hill, given that each performed an action which made a significant causal contribution. Perhaps the pushing action of each of the men is necessary if the car is to be pushed up the hill. However, if we assume that the pushing actions of nine of the men would have been sufficient, then although each pushing action made a causal contribution, no single pushing action was causally necessary (or, obviously, sufficient) to realise the collective end. Evidently, as already noted above, in joint actions (as opposed to joint omissions – see section 3.3), while each single constitutive individual action needs to make a causal contribution, none needs to be causally necessary to realise the relevant collective end.

This theoretical point has an important implication for the ascription of collective (i.e. joint) moral responsibility to participants in morally significant, large-scale joint actions, in particular, since typically in large-scale joint actions no contribution of a single participant taken on its
own is necessary in order to realise the collective end of the joint action. Specifically, it is now possible, at least in principle, to ascribe collective, i.e. joint, moral responsibility to participants in morally significant, large-scale joint actions. The fact that in a large-scale joint action the action of each participant taken on its own is not necessary to realise the collective end of the joint action is not, given this theoretical point, a barrier to the ascription of moral responsibility to each participant (jointly with the others) for the realisation of this collective end. Note that it does not follow from this that each participant in a large-scale joint action is fully morally responsible (jointly with the others) for the realisation of the collective end of the joint action. Indeed, this is unlikely given that the causal contribution of each in large-scale joint actions is often very small and the commitment of each to the collective end correspondingly very weak. Rather in such cases each might only have partial moral responsibility (jointly with the others), or perhaps a share in the moral responsibility, for the realisation of the collective end (Miller 2011).

Notice that by analogy with individual natural responsibility for a single action, in the case of collective natural responsibility for a joint action, the collective end is under the joint control of the participating agents and this end connects in the right way with its outcome. Thus, agents would not be naturally responsible for a joint action if the collective end was under the control of some third party or if the collective end caused its outcome by way of some deviant causal chain (Davidson 1963). In relation to the control condition, consider a slave-owner who coerces his slaves to perform a joint action of painting his house. The slave-owner’s coercive efforts are in part directed at ensuring that each has as an end that the house be painted – and has this end interdependently with the others having it. So the forming of the collective end is not something under the control of the slaves but rather of the slave-owner (as, of course, are the individual actions performed by each to realise that collective end). In relation to the condition outlawing deviant causal chains, consider the following example. The collective end of two car drivers going in opposite directions on a road in Australia is to avoid a collision and do so by each steering his car onto the left-hand side of the road (this being the convention in Australia). However, as it happens both drivers have recently arrived from the USA for a holiday in Australia and each is unused to driving on the left. Moreover, neither is wide-awake after their respective long flights and, as they approach one another around a bend but outside one another’s field of vision, each is simultaneously startled by the sudden realisation that he is intentionally driving on the left. The act of being startled by this realisation of the unfamiliar intentional act of driving on the left automatically triggers the involuntary action of switching to driving on the right. The consequence of this is that each is now driving his car on the right-hand side of the road as he goes around the bend, thereby realising the collective end of averting a collision. So there is a collective end to avoid a collision and each has an initial intention to drive on the left in the correct belief that if each drives on the left a collision will be avoided (it being Australia). Moreover, the intentional action of driving on the left – which was itself caused by the prior intention to drive on the left – did cause the realisation of the collective end, i.e. the averting of the collision. However, it did so indirectly via the involuntary action of switching to driving on the right and this was not the intended means to the collective end. Evidently, therefore, the agents were not (naturally or, for that matter, morally) responsible for averting the collision.

In section 3.1 we distinguished between natural, moral and institutional responsibility, and in section 3.2 we have been discussing collective natural responsibility and collective moral responsibility. What of collective institutional responsibility? For our purposes here an institution can be understood as an organisation or system of organisations constituted at least in part by a structure of roles and by some collective end(s) served by that structure of
roles (Miller 2010; Ludwig 2017). For instance, a business organisation in the construction industry might consist of managers, architects, engineers, carpenters, labourers, salespeople, and so on, and have as a collective end to construct high rise buildings. Notice that the joint actions performed by the occupants of such organisations often consist of layered structures of joint actions (Miller 1992; Miller 2010). For instance, the organisation’s team of architects, structural engineers etc. might design a given high rise building (joint action j1); its team of concrete-layers, crane-drivers etc. might construct the shell of the building according to the designers’ specifications (joint action j2); its team of carpenters, labourers etc. might construct and place the internal walls, windows, doors, etc. (j3). Let us refer to the large-scale, complex joint action that consists in building this high rise as J. J consists of the actions of all the above, i.e. architects, structural engineers, concrete-layers, carpenters etc. Moreover, J consists in the subsidiary joint actions, j1, j2 and j3, and the collective ends of each of these subsidiary joint actions, e.g. to construct the shell of the high rise, ultimately serves the collective end of J, i.e. to build the high rise. Other things being equal, we can now say that all or most of the members of the above teams have, at least in principle, collective responsibility, i.e. joint natural responsibility, for building the high rise by way of their participation in a layered structure of joint actions. Of course, things might not be equal if, for instance and as mentioned above, many of these persons did not perform their actions having as at least one of their ends the construction of the high rise building.

However, institutional role occupants have more than simply natural responsibility (individual or joint) for their actions and omissions. Institutional role occupants are governed by sanction-backed regulations and laws that both constrain and enable the actions that they (institutionally, e.g. legally) ought, and ought not, to perform qua institutional role occupants. If the occupants of institutional roles have institutional responsibilities with respect to their performance of joint actions (or joint omissions) then these responsibilities are collective institutional responsibilities. Note that in some cases these collective institutional responsibilities will be prospective, such as in cases where there is a joint institutional duty to realise the collective end of some joint action. Here the individual duty of each to perform his or her contributory action is interdependent with the individual duty of each of the others to perform theirs. On the other hand, as was mentioned above, collective institutional responsibility can also be retrospective, such as in cases where the institutional actors have failed to do their joint duty. Note also that while institutional responsibilities are often congruent with moral responsibilities, this is not necessarily the case. In apartheid South Africa police were legally, i.e. institutionally, required to enforce morally repugnant laws, such as those banning sex across the colour bar.

There is an important sense of institutional responsibility attaching to those in authority. Suppose the members of the relevant government committee collectively decide to exercise their institutionally determined right to introduce an anti-corruption measure, e.g. mandatory reporting of corrupt and criminally negligent actions. The committee members are then collectively responsible for this policy, and potentially for the untoward consequences of its implementation, e.g. vexatious reporting.

There are a couple of things to keep in mind here. First, the notion of responsibility in question is, at least in the first instance, institutional — as opposed to moral — responsibility. Second, the “decisions” of committees, as opposed to the individual decisions of the members of committees, need to be analysed in terms of the notion of a joint institutional mechanism (introduced and analysed in detail elsewhere (Miller 1992; Miller 2006; Miller 2018)). So, the “decision” of the committee, can be analysed as follows: At one level each member of the committee voted for or against the policy of mandatory reporting. Let us assume some voted in the affirmative and others in the negative. But at another level, each member of the committee
agreed, let us assume, to abide by the outcome of the vote; each voted having as a collective end that the outcome with a majority of the votes in its favour would be realised. Accordingly, the members of the government committee were jointly institutionally responsible for the policy change; that is, the committee were collectively institutionally responsible for the change.

What, then, of collective moral responsibility? According to JMR, collective moral responsibility is a species of joint responsibility (Miller 2001b; Miller 2006; Miller 2007). Accordingly, other things being equal (see section 3.3 for more complex cases), each agent is individually morally responsible, but this is conditional, based on the others being likewise individually morally responsible. There is interdependence in respect of moral responsibility. This account of collective moral responsibility arises naturally out of the account of joint actions. Roughly speaking, according to JMR, if agents are jointly naturally, and/or jointly institutionally, responsible for a joint action (or the realisation of a foreseen or reasonably foreseeable outcome of that action), and if the joint action or the outcome is morally significant, then – other things being equal – the agents are collectively morally responsible for that action or outcome. Moreover, other things being equal, the agents ought to attract moral praise or blame, and (possibly) punishment or reward for realising the collective end of the joint action or for bringing about the outcome.

I note that an action might be morally significant in a number of ways. For instance, the action might be inherently morally right or wrong, or the intention in performing it or its outcome morally good or bad. Note also that the “other things being equal” clauses provide for the possibilities that the agents in question either lack the requisite moral capacities – and so cannot be held morally responsible – or are possessed of moral capacities, but in the circumstances in question have an excuse or justification for their joint actions or for their outcomes. Finally, I note that this account provides a sufficient, but not a necessary, condition for collective moral responsibility. Accordingly, it leaves the way open for other notions of collective moral responsibility.

3.3 Collective Moral Responsibility for Omissions

JMR looks to be generalisable to, at least, some central categories of collective moral responsibility for omissions and, in particular, morally significant joint omissions. Assume that there are multiple persons, A1, A2, A3 etc., whose lives are at high risk, but that there are multiple bystanders, B1, B2, and B3 etc., who could, if they performed a salient joint action, J, save these lives without significant cost to themselves. So, the bystanders can perform J, and if J was performed it would, in fact, save the lives of A1 etc. (Miller 2001a; Miller 2006; Clarke 2014: 125–32). Here I am assuming that all this is a matter of mutual true belief among the bystanders, e.g. B1 truly believes that performing J would save the lives of A1 etc., B2 truly believes that performing J would save the lives of A1 etc., B1 truly believes that B2 truly believes that performing J would save the lives of A1 etc. (Smith 1982). The bystanders in such scenarios have a collective, or joint, moral responsibility to save those at risk by virtue of the (aggregate) positive rights of the latter. Moreover, this collective moral responsibility is (under some more or less adequate description, e.g. the notion of a joint responsibility or a positive right might not be fully understood) also a matter of mutual true belief among the bystanders. Accordingly, each bystander has an individually possessed moral obligation to perform his individual action as a contribution to the joint action, and thus to the realisation of the collective end of saving the multiple lives at high risk. However, this obligation is possessed interdependently with the others; it is a joint moral obligation. So joint moral obligations can be derived from collective moral responsibilities to realise morally required collective ends. Roughly speaking, the
realisation of such a collective end calls for the performance of some salient joint action. The
determination of this joint action, in turn, enables the specification of the contributory indi-
vidual actions, and thereby the generation of the individual moral obligations of the participants.
Each participant has a moral obligation to perform a contributory action. However, just as the
action of each participant is performed interdependently with the actions of the others, so are
the corresponding individual moral obligations interdependent. This is because each individual
action is only part of the means to realise the collective end, and its performance would have no
point if the others refrained from performing their contributory actions. Accordingly, the moral
obligation of each to perform his contributory action would lapse if the others did not perform
theirs; hence these moral obligations are joint moral obligations. At any rate, in cases of this kind,
if the agents omit to perform the joint action then – other things being equal – they have failed
to discharge their joint obligation and, therefore, they are collectively morally responsible for
their omission. This is so whether or not each intended not to perform his or her contributory
action or merely failed to form an intention to do so. I note that even if each failed to form
an intention to perform his contributory action, each did believe that he ought to perform his
contributory action (supposing the others performed theirs). Moreover, the performance of his
contributory action is something that “comes to mind” to each; at the very least, it occurs to
each that he could perform his contributory action (Clarke 2014: 35–87).

Notice that there can be cases where the morally significant collective end of a joint action
is realised, yet one individual (or a minority) fails to successfully perform his contributory
individual action, and cases where the morally significant collective end of a joint action is
not realised because most fail to perform their contributory actions, yet one individual (or a
minority) successfully performs his contributory individual action. What are we to say about
collective moral responsibility in such cases?

Consider the cases in which one individual (or a minority) fails to successfully perform his
contributory action. (Note that the arguments below are also valid in the case of minorities, as
opposed to individuals. However, to reduce verbal clutter, I won’t refer to minorities on every
occasion.) Assuming the individual (or minority) had the collective end in question (and, there-
fore, tried, albeit unsuccessfully, to perform his individual contributory action), the individual
shares in the collective moral responsibility for the realisation of the collective end, notwith-
standing his individual failure to perform his contributory action. For, as was the case with the
other agents, the individual had the collective end in question. Moreover, as was also the case
with the other agents, the individual indirectly causally contributed to the realisation of the col-
lective end, notwithstanding his failure to perform his contributory action. He made an indirect
causal contribution since the other individuals acted in part on the basis of their beliefs that the
individual in question would perform his contributory action. Nevertheless, the failure of such
an individual to perform his individual contributory action reduces his share of the collective
moral responsibility for the realisation of the collective end.

The following question might now be asked of a would-be participant in a joint action who
tried but failed to perform his contributory action. What if the other individuals did not for
some reason act even in part on the basis of their belief that the individual in question would
perform his contributory action. If so, then the individual would not even have indirectly caus-
ally contributed to the collective end. In such cases it seems that the individual does not share in
the collective moral responsibility for the realisation of the collective end. For, on the one hand,
the individual did not make any actual causal contribution to the realisation of the collective
end; but only attempted to do so. On the other hand, while he presumably believed that his end
was an integral element of the collective end; it was not. The others possessed and successfully
pursued the collective end independently of his possession and pursuit of that end.
Now consider cases in which the morally significant collective end is not realised due to the fact that most fail to perform contributory actions, yet one individual (or a minority) performs his. Once again, assuming all the individuals had the collective end in question (and, therefore, tried, albeit unsuccessfully, to perform their contributory actions), then the individual shares in the collective moral responsibility for the failure to realise the collective end, notwithstanding his individual success in performing his contributory action. For, as was the case with the other agents, the individual had the collective end in question, and that end was not realised; in short, each agent, including the individual in question, failed to realise an end each had (the collective end), and each failed to make a causal contribution to that end. Nevertheless, the success of such an individual in performing his own individual contributory action reduces his share of the collective moral responsibility for the failure to realise the collective end, at least in cases in which each would not have been fully morally responsible (albeit jointly with the others) for the realisation of the collective end supposing it had been realised (and it is not clear that there are cases of collective, i.e. joint, morally responsibility for omissions to perform a joint action in which each would have been fully responsible for the realisation of the collective end of the joint action, supposing it had been realised). In response to this it might be argued that the individual cannot have a share in the collective moral responsibility for the failure because, after all, he had the collective end in question and performed his contributory action; he did all that he could reasonably have been expected to do. Certainly, he is not morally culpable or blameworthy, but then neither are the others morally culpable or blameworthy, given they tried to perform their own contributory actions. The theoretical conclusion to be drawn at this point is twofold: (1) moral responsibility, including collective moral responsibility, should not be equated with culpability/non–culpability or blameworthiness/praiseworthiness (Miller 2007); and (2) agents can be (individually or collectively) morally responsible for failing to realise an outcome, even if they did all that can be reasonably expected of them; responsibility is not simply a matter of possession of the relevant subjective states, such as intentions and ends.

It is consistent with this that if an individual (or minority) culpably failed to realise his or her individual end yet knew that the collective end would nevertheless be realised, then that individual does not share in the collective moral responsibility for the successful outcome, since, for one thing, the individual did not, in fact, have the collective end. It is also consistent with the above that if an individual (or minority) culpably failed to realise his or her individual end in the knowledge that, as a consequence of this culpable failure, the collective end would not be realised, then the individual (a) does not have the collective end, and (b) is individually morally responsible for the collective failure (of the others) to realise the collective end. So, there is no collective moral responsibility, let alone collective moral culpability, for the failure.

3.4 Chains of Moral Responsibility

Let us now consider whether JMR can generalise to, at least, some central categories of morally significant diachronic institutional action.³ Here I note that while JMR relies on a theory of joint action, some theories of joint action are not serviceable in this role. In particular, theories of joint action, such as Bratman’s (Bratman 2014), that hold that participants in a joint action intend one another’s contributory actions – rather than merely believe that they have performed, are performing or will perform these actions – are not serviceable. The reason for this is that in such diachronic joint actions it is often the case that a later participant is not a participant at the time when some earlier participants made their contributions. (See Miller (1995) on this point.) Consider the construction of the Sydney Harbour Bridge. This complex joint action, indeed layered structure of joint actions (Miller 1992 and 2018), was performed over a number
of years. Now assume that Jones was involved in building the foundations of the bridge that were laid on the shores on either side of the harbour, but retired and then died before the arch of the bridge was started. Caranti, on the other hand, migrated to Australia from Italy after the foundations were completed, and he was involved in working on the arch of the bridge (but not the foundations). However, Caranti had not even heard of the Sydney Harbour Bridge project before arriving in Australia. Accordingly, he had no intentions with respect to the work of those, including Jones, who worked on the foundations, since they were completed before he arrived in Australia and intentions, unlike beliefs, are necessarily forward-looking; one can have beliefs in the present about the past, but one cannot intend in the present what has already happened in the past.

Let us now turn to the application of JMR to morally significant diachronic institutional action. Consider a team of detectives investigating a major crime. Let us assume that the team is engaging in a joint institutional action, namely, that of determining the identity of the Yorkshire Ripper. So, members of the team gather physical evidence, interview witnesses and, in particular, the main suspect, Peter Sutcliffe. Moreover, they do so having as a collective end to determine the factual guilt or innocence of this and other suspects. At some point the detectives complete this process and provide a brief of evidence to the prosecutors according to which, and based on all the evidence, Sutcliffe is the Yorkshire Ripper. So far so good, but the criminal justice processes do not terminate in the work of the detectives. For there is now the matter of the trial; that is, the determining by the members of a jury of the legal guilt or innocence of Sutcliffe. Let us assume that the members of the jury perform the joint (epistemic) action (Miller 2018) of deliberating on the legal guilt or innocence of Sutcliffe, and jointly reach the verdict of guilty (as in fact happened). The question that now arises concerns the institutional relationship between the joint institutional action of the detectives and the joint institutional action of the members of the jury. It is here that the notion of a chain of institutional responsibility is illuminating (Miller 2014).

Let us assume in what follows that the collective end of the criminal justice process comprised of both the investigating detectives and the members of the jury (as well as others, but here I simplify), is that the factually guilty be found legally guilty (and the factually innocent not be found legally guilty). Note that from the perspective of this larger institutional process the collective end of the detectives (that of determining the factual guilt or innocence of a suspect) is merely proximate whereas that of the members of the jury is ultimate. (It is, of course, only penultimate from the perspective of the criminal justice system more broadly conceived, given the need for sentencing and incarceration.)

Moreover, in all this there is an institutional division of labour and segregation of roles which involves each type of institutional actor, e.g. investigator, prosecutor, judge, jury etc. making a contribution to the further (collective) end of identifying and appropriately punishing the guilty and exonerating the innocent. However, unlike many institutional arrangements, the criminal justice process is predicated on strict adherence on the part of institutional actors to the segregation of roles on pain of compromising this further end. I emphasise that this segregation of roles is consistent with all of these actors, each with their own different and segregated role, having a common further aim; agents can have a common aim and yet it be a requirement that each is to make a different and distinct contribution to that aim, and not perform the tasks assigned to the others, and do all this in the service of that common aim.

In respect of this segregation of roles, the relationship between the institutional actors, including investigators, in the criminal justice process is unlike that which holds between (say) a manager, a waiter and a barman in a small pub. There is no reason why, for example, the
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manager and the waiter might not assist the barman in doing his job of pouring beers during a rush period or even stand in his place when he is called away. But there is good reason why the prosecutor should not also be the judge or the investigator the jury; in an adversarial system any such conflation of roles would constitute a structural conflict of interest and, as such, would be likely to undermine the administration of justice.

Institutional arrangements, such as this, in which there is a segregation of roles (and associated responsibilities) but, nevertheless, a common further end involve a chain of institutional responsibility. In chains of institutional responsibility all the participants aim (or should be aiming) at the further end in addition to undertaking their own roles (and, therefore, aiming at the end definitive of their own particular role). (Naturally, there are institutional arrangements consisting of role structures in which this is not the case; these do not consist of chains of institutional responsibility in my sense.) Moreover, all the participants (at least, in principle) share in the collective responsibility for achieving that further end (or for failing to do so). Let us work with our example of Peter Sutcliffe, the Yorkshire Ripper, who was ultimately convicted of 13 counts of murder (the victims being prostitutes working in Yorkshire in the UK).

The detectives involved were (collectively in the sense of jointly) institutionally responsible for gathering and analysing the evidence that identified Peter Sutcliffe as the Yorkshire Ripper; they acquired the required knowledge of Sutcliffe’s factual guilt and, thereby, realised the collective end of their institutional role as detectives. On the other hand, members of the court and, in particular, the members of the jury were (collectively) institutionally responsible for finding Sutcliffe legally guilty and, thereby, realised the (collective) end of their institutional roles as jury members. So far so good, but what was the ultimate end that was realised by the detectives and the members of the jury (as well as the other actors involved in the institutional process, e.g. the judge)?

Presumably the end in question is for the factually guilty to be found legally guilty (and the factually innocent not to be found legally guilty) and this is an end (a collective end) that is realised by the detectives working jointly with the members of the jury (and the other relevant institutional actors). It is not an end that the detectives could achieve on their own; they can only arrive at knowledge of factual guilt. But equally it is not an end that the members of the jury could realise on their own; for they rely on the knowledge provided by the detectives. (Chains of institutional and moral responsibility consist of a process in which the completion of one stage institutionally triggers the commencement of the next stage, e.g. arrest is followed either by the suspect being charged or released within a specified time-frame.) Moreover, it is a morally significant end. Accordingly, other things being equal, the members of the detective team and the members of the jury are collectively (i.e. jointly) morally responsible for the realisation of this end (the factually guilty being found legally guilty and the factually innocent not being found legally guilty).

3.5 Conclusion

In this chapter, I have elaborated the theory of collective moral responsibility as joint moral responsibility (JMR). Roughly speaking, other things being equal, participants in a morally significant joint action are collectively morally responsible for that action, i.e. they are jointly morally responsible for it. Moreover, I have extended the reach of JMR beyond morally significant small-scale joint actions to large-scale ones, to some central categories of morally significant omissions to perform joint actions, and also to some central categories of morally significant institutional actions involving chains of institutional responsibility, i.e. to chains of moral responsibility.
Seumas Miller

Notes

1 An earlier version of the material in this section appeared in Miller (2001a).
2 Thanks to the editors for thinking of this possibility.
3 An earlier version of the material in this section appeared in Miller (2014).

References