COMPLICITY

AND

MORAL ACCOUNTABILITY

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In his 1968 article on collective responsibility Joel Feinberg presents the following example:

Suppose C and D plan a bank robbery, present their plan to a respected friend A, receive his encouragement, borrow weapons from B for their purpose, hire E as a getaway driver, and then execute the plan. Pursued by the police, they are forced to leave their escape route and take refuge at the farm of E’s kindly uncle F. F congratulates them, entertains them hospitably, and sends them on their way with his blessing. F’s neighbor G learns of all this, disapproves, but does nothing. Another neighbor, H, learns of it but is bribed into silence. (684)

Clearly participants C and D are the perpetrators of the crime, and they can be regarded as the principal actors in this scenario. But six other individuals are involved as well in a variety of ways. What can be said about their status as participants in crime?

Those who are involved as contributors in a sequence of events like the one described but not as principal actors are commonly referred to as accomplices. As such, they can be said to be complicit in the events or complicit in the outcome to which these events lead. One of the central themes of this book is that complicity carries with it ethical consequences. A person who is complicit in what another does is morally accountable,
as opposed to legally accountable, for the role he or she plays in the relevant circumstances.

Sometimes people are said to be complicit in outcomes that are favorable or praiseworthy from a moral point of view. For example, someone is organizing an elaborate birthday party for an elderly parent, and several others help out with various details. After the party it would be perfectly understandable for someone to refer to those helping out with details as accomplices.

However, the notion of complicity is nearly always applied to situations in which the outcome has a negative moral status. In fact, labeling one as an accomplice in a situation with a favorable outcome can sometimes be seen as ironic or humorous. In Feinberg's example the accomplices are participants in crime. In other situations people can be described as accomplices in an outcome which is not a crime but which still constitutes or involves moral wrongdoing, as in a mean-spirited plot designed to bring humiliation to someone.

In this book I will restrict the discussion of complicity to situations in which the outcome has a negative moral status. More specifically, I will restrict the discussion to situations in which the negative moral outcome is the result of moral wrongdoing by human moral agents. The paradigm situation under consideration will be one in which an agent (or agents) is the principal actor by virtue of moral wrongdoing and one or more agents contribute to the outcome in a manner that makes them complicit to the wrongdoing of the principal agent(s). A principal actor can then be characterized as one who commits wrongdoing, where at least one moral agent is complicit in his or her wrongdoing.

When someone is complicit in the wrongdoing of a principal actor, then that person is also guilty of wrongdoing. There is something he or she does (or omits to do) by virtue of which he or she becomes complicit in the wrongdoing of the principal actor, and this action or omission constitutes moral wrongdoing. More precisely, this person incurs moral blame for the action or omission by which he or she comes to be complicit in the wrongdoing of the principal actor. One does not become complicit in wrongdoing simply by being in the wrong place at the wrong time or by being a member of a certain clan.
Can there be instances in which the primary agent engages in moral wrongdoing and a complicit agent is morally blameless (that is, blame-worthy to degree zero)? I know of no such instances, but neither do I have a knockdown argument to rule out the possibility that they exist. In what follows I will assume that, if they exist, they are rare indeed, and they will be regarded as lying beyond the scope of the discussion.

Suppose we refer to what a person does which renders him or her complicit in the wrongdoing of another as a contributing action with the understanding that a contributing action can take the form of an omission. Then it is my contention that one bears moral blame for one’s contributing action. Now it is vitally important to recognize that moral blame admits of degrees. Thus, when several agents are complicit in the wrongdoing of a principal actor, they need not be equally blameworthy for the various contributing actions they perform. Nor, for that matter, is the blame borne by the various complicit participants necessarily of a degree equal to the blame borne by the principal actor for his or her wrongdoing.

A distinction can be drawn between the blame one bears for performing a contributing action and the blame one bears for the outcome produced by the contributions of everyone involved. Although I contend that a person who is complicit in the wrongdoing of a principal actor bears moral blame for his or her contributing action, such a person does not necessarily bear moral blame for the outcome produced by the contributions of everyone involved. Throughout the course of the discussion it will become apparent that some forms of complicity in wrongdoing are milder than others. And sometimes a person who is only mildly complicit in the wrongdoing of another bears blame for his or her contributing action but not for the outcome produced by the contributions of everyone involved.

Consider the disapproving neighbor G in Feinberg’s example. Certainly G is morally blameworthy for failing to notify the relevant authorities that bank robbers are taking refuge at a nearby farm. In the eyes of the law his silence qualifies as a misdemeanor. On the other hand, his complicity is mild compared to that of some of the others, for example, the one who supplied weapons or the one who drove the getaway car, and it seems counterintuitive to judge that he bears moral blame for the
successful bank robbery. While it was in his power to place the success of
the bank robbery in jeopardy, his failure to do so does not seem sufficient
for concluding that he bears blame for the outcome produced by the
contributions of everyone involved. Of course, some might not be con-
vinced by this line of argument, and more will be said about it in subse-
quent portions of the discussion.

Frequently one who is complicit in the wrongdoing of another is
blameworthy both for one’s contributing action and for the outcome.
Typically this will be the case when one’s complicity is more than just
mild or where one’s contributing action makes a substantial contribution
to the outcome in question. Suppose, for example, that a young teenager
is struggling to move a heavy park bench and requests my help in mov-
ing it so as to trap his little brother in a telephone booth (for the pur-
poses of this example, suppose that I too am a teenager). I offer my
assistance, perfectly aware that the small child will be forced to remain
there, possibly for a long period of time. In this situation judging that I
bear blame both for moving the bench and for the entrapment of the
child seems correct.

When one person is complicit in the wrongdoing of another and
this person bears moral blame for the outcome (as well as for his or her
contributing action), typically this person bears less blame for the out-
come than the principal actor. The example in the previous paragraph il-
ustrates this point. Although I bear blame for the entrapment of the
child, it is reasonable to judge that I bear less blame than the child’s
brother. After all, it was his idea to move the park bench in a position
that would trap his little brother in the telephone booth. He would
gladly have moved the bench with no assistance had he been able to do
so, but instead he requested my help. By offering my help I became mor-
ally blameworthy for the entrapment of the child, but the blame he bears
for this state of affairs is plainly greater.

Most of the time the blame borne by the principal actor for the rele-
vant outcome is greater than that borne by someone complicit in the
wrongdoing of the principal actor for the outcome (and the degree of
blame borne by the latter, as pointed out earlier, might be zero). There
would be nothing surprising in someone’s pleading for leniency on the
grounds that he or she was a mere accomplice in what happened. Nor
would it be surprising for someone to judge that a man deserves little if any leniency on the grounds that he was the principal actor in a certain situation.

Nevertheless, there are rare occasions in which the moral blame borne by the principal actor for the outcome in question is less than that borne by someone complicit in the wrongdoing of that agent. As will be seen in the next chapter, one of the ways in which someone can be complicit in the wrongdoing of another is by commanding that person to engage in a particular form of wrongdoing. The person who does what he or she is commanded to do becomes the principal actor in the situation, while the person who issues the command becomes complicit in the wrongdoing of the other. In circumstances such as these the blame incurred by the person issuing the command for the outcome might well exceed that of the person carrying out the command, even though the latter is the principal actor in the sequence of events.

Consider the following example of this phenomenon. A manager in a financial institution orders a subordinate to release insider trading information to several selected clients of the firm, and the subordinate complies. The subordinate realizes that what he is doing is wrong, and hence he bears moral blame for the release of the information, but he also feels caught in a bind. He is aware that a refusal to carry out an order carries with it the possibility of his employment being terminated. Depending upon the precise details of the situation, it is easy to imagine that the degree to which he bears blame for the release of the information is less than that borne by the manager who issues the order.

One of the noteworthy aspects of this example is that a person who is complicit in the wrongdoing of another can actually be an agent who initiates the chain of events leading to the outcome. Accomplices are normally thought of as agents who contribute to an effort initiated by someone else. But once the action of commanding is acknowledged as a form of complicit behavior, we can see that agents complicit in the wrongdoing of another can sometimes serve as the instigators of a series of events that produce an outcome. And because the degree of blame one bears for an outcome is normally increased by virtue of playing the role of an instigator (which is to say that, other things being equal, being an instigator makes one more blameworthy for the relevant outcome),
situations are possible in which a complicit agent bears more blame than a principal actor.

It is worth emphasizing that complicity in wrongdoing cannot occur in the absence of one or more principal actors. Suppose that several people spontaneously combine their efforts to bring about harm, the type of harm that might take place during a riot. In situations of this nature no member of the group might be identifiable as a principal actor, and someone might be tempted to describe them as accomplices of one another. But a group of people combining their efforts does not automatically qualify them as accomplices. They may well share responsibility for a common outcome, but this is not enough to justify labeling them as accomplices. What is needed to justify labeling them as accomplices is the presence of some type of central figure who plays the role of perpetrator or principal actor.

Throughout the discussion I have spoken frequently about agents incurring moral blame for the outcome produced by the actions of various individuals. Some may have been led to believe that complicity cannot take place in the absence of some identifiable outcome, but this is not the case. A person can be complicit in the wrongdoing of a principal actor where an ongoing sequence of events has not yet resulted in a recognizable outcome.

In Feinberg’s example we could plausibly identify the outcome as the successful robbery of the bank. During the period of time that the principal actors take refuge at the farm it is too early to judge that the robbery is successful. At that point the possibility exists that someone in the neighborhood of the farm will learn that the bank robbers are hiding at the farm of the getaway driver’s uncle. As Feinberg constructs the details of the story, the success of the bank robbery depends upon the cooperation of two neighbors. Until their cooperation has been secured, the outcome has not yet taken place. Nevertheless, the uncle can still be identified as an accomplice in the wrongdoing of the bank robbers. Thus, one can be complicit in the wrongdoing of principal actors before any type of outcome has taken place.

Perhaps a weaker claim is reasonable. Perhaps a person can be complicit in the wrongdoing of someone else only if the contributions of everyone involved produce a sequence of events that will ultimately lead
to an outcome. Perhaps some type of harm must ultimately result for complicity in wrongdoing to take place. For the purposes of this discussion I will neither affirm nor deny this claim. I will proceed on the assumption that normally or typically some type of harm will eventually result from the contributions of everyone involved when complicity in wrongdoing occurs, but I will not regard the occurrence of this harm a foregone conclusion. Whether such harm ultimately takes place will remain an open question.

In Feinberg’s example several agents are complicit in the wrongdoing of both principal actors. But in situations where two or more principal actors are involved, someone who is complicit in the wrongdoing of one need not be complicit in the wrongdoing of another. Two people might plan a crime and divide the task between them. Each of them engages in different activities leading up to the successful execution of the crime. Subsequently, someone else becomes complicit in the wrongdoing of one of the two people planning the crime but has no involvement whatsoever in the activities of the other person. In a situation of this type the person who is complicit in the wrongdoing of one principal actor is not complicit in the wrongdoing of the other. And when this happens the person can still bear moral blame for the outcome of the crime.

A corollary of this point is the following. Since someone complicit in the wrongdoing of one principal actor need not be complicit in the wrongdoing of another, two people can be complicit in the wrongdoing of principal agents attempting to bring about a common outcome and have nothing to do with one another’s activities. The two people dividing the tasks of executing a crime might be aided by persons who become complicit in their wrongdoing, and those complicit in the wrongdoing of one principal actor might have no involvement in the activities of those complicit in the wrongdoing of the other.

Earlier I remarked that someone can become complicit in the wrongdoing of another by omitting to act. This in fact is how neighbor G in Feinberg’s example comes to be complicit in the wrongdoing of C and D. Neighbor G contributes to the success of the bank robbery by remaining silent. The contribution of G is not a causal contribution, but it is a weaker type of contribution. Saying that G caused the success of the bank robbery seems clearly false, but G nevertheless can be said to
Contribute to the success of the bank robbery. Throughout the discussion I will assume that contributing to an outcome need not take the form of causally contributing to the outcome, and I will assume that the contributing act by virtue of which someone becomes complicit in wrongdoing can take the form of contributing to the outcome in this weaker manner.

Not just any omission can qualify as a contributing act, of course. If neighbor G had no means by which to contact the authorities about the bank robbery, and that is the reason for his omission, he would no longer be complicit in the wrongdoing of the bank robbers. A certain level of ability to disrupt the activities of the principal actors is required if one’s omitting to act is to qualify as complicity in their wrongdoing. Similarly, the inaction of G would not qualify as a contributing act if he were unaware that guests were staying at the nearby farm or unaware that the guests at the nearby farm were bank robbers. A certain amount of knowledge regarding the wrongdoing of the principal actors is required if one’s omitting to act is to qualify as complicity in their wrongdoing. More will be said about this matter later in the discussion.

An agent can be complicit in the wrongdoing of another without it being his or her primary intent to be an accessory to what the other is attempting to accomplish. The contributing action one performs by virtue of which one is complicit may be motivated by something quite different than contributing. Recall the example in which the manager of a financial institution orders a subordinate to release insider information to a few select clients. Suppose that the manager orders a second subordinate to assist the first subordinate in dispensing the information. The second subordinate has no desire of his own to assist in releasing the information. The second subordinate has no desire of his own to assist in releasing the information, but he does so because he is ordered to do so. His contributing action is motivated solely by his desire to do what he is told to do.

In some cases an agent complicit in the wrongdoing of another might actually desire that the outcome of the other’s wrongdoing not occur. This phenomenon might take place in a situation where the agent perceives that the only way to prevent a great harm from occurring is to assist in the production of a lesser harm. Suppose that a man is about to fire a revolver at another man in a public place such as a museum. A bystander perceives that the only way to prevent the shooting is to push the stranger down from behind. To accomplish this, he requests the assis-
tance of another bystander. They foresee that pushing the shooter down will result in the destruction of an antique vase, but they judge that the destruction of the vase is preferable to someone’s being shot. Thus, the second bystander who assists the first bystander is complicit in the destruction of the vase, but he aids in the destruction of the vase only to prevent the shooting. He regrets playing a role in the destruction of the vase and apologizes to a museum official for his role in destroying it.

Someone might object that this is not an example of complicity in wrongdoing on the grounds that destroying the vase does not qualify as wrongdoing in this example. To meet this objection we can follow one of two options. First, we can imagine that the bystanders could easily push the shooter in a direction that would spare the vase, and they simply do not take the trouble to do so. The second option is to imagine that the first bystander, unlike the second bystander, has a malicious desire to destroy the vase. According to this scenario, the first bystander primarily wishes to stop the shooter and is delighted to see that he can do so in a manner that will also destroy the vase.

An agent can be complicit in the wrongdoing of another without knowing that this is the case. One way this can happen is through the agent believing that he or she is the principal actor, while in reality another person is the principal actor. One friend encourages another friend to engage in a particular kind of wrongdoing, perhaps spreading false stories about someone in order to ruin her reputation. The second friend declines. Some time later the second friend, forgetting his earlier conversation with the first friend, engages in that wrongdoing. Eventually the person’s reputation is ruined as the result of rumors spread by both friends. In this example the second friend is aiding the first friend in producing the desired outcome, but the second friend, due to his loss of memory, believes that he is acting alone in producing the outcome.

Another way in which an agent can be complicit in the wrongdoing of another without realizing it is for the agent to be confused about the identity of the principal actor. A high school teacher walking in the school’s parking lot witnesses a student letting the air out of the tires of another teacher’s automobile. The teacher, who is positive about the identity of the student, finds this highly amusing and decides not to turn the student in to the assistant principal. Thus, the teacher believes that
he is complicit in the wrongdoing of the student, in much the same way that the silent neighbor in Feinberg’s example is complicit. However, the student guilty of the wrongdoing is actually the twin brother of the student the teacher thought he recognized. Hence the teacher is complicit in the wrongdoing of the twin brother without realizing it.

Being complicit in the wrongdoing of another without realizing it does not negate the fact that one bears moral blame for one’s contributing action. The friend who spreads false rumors is blameworthy for doing so regardless of his loss of memory, and the teacher who declines to report the guilty student is blameworthy for his omission regardless of his confusion about the identity of the student.

In summary, the main points covered so far are as follows. When someone is complicit in the wrongdoing of one or more principal agents, it is by virtue of performing a contributing action. A complicit agent is always morally blameworthy for performing a contributing action but not always blameworthy for the outcome produced by the contributions of everyone involved. In some cases the contributing action takes the form of an omission. When the complicit agent bears moral blame for the outcome, the degree of blame is typically less than that borne by a principal actor. However, when complicity takes the form of commanding, the reverse is sometimes the case. An agent can be complicit in a sequence of events where the outcome to which the participants are directing their efforts has not yet occurred. Sometimes an agent is complicit in wrongdoing without its being the agent’s primary intent to play this role. Finally, an agent can be complicit in the wrongdoing of a principal actor without realizing that this is the case.

In the next chapter the discussion will concentrate upon Saint Thomas Aquinas and the nine ways in which he believed moral agents can be complicit in the wrongdoing of another. The nine ways are as follows: by command, by counsel, by consent, by flattery, by receiving, by participation, by silence, by not preventing, and by not denouncing. I believe that this classification scheme is a good place to begin in diagnosing the multiplicity of ways in which complicity occurs in human life. While the nine ways may not be totally comprehensive, and while some overlap seems to occur in this scheme, it is a fitting place to begin the discussion. The second half of this chapter deals with the relative serious-