Collective Moral Responsibility

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In Terrorism and Collective Responsibility, Burleigh T. Wilkins argues

I cannot provide a list of necessary and sufficient conditions for holding a collective responsible for the faulty actions of some of its members, but I can perhaps do some of the reflection, which would precede the creation of such a list.¹

In this paper,² I shall address the question: “What are some of the necessary conditions of collective moral responsibility?” In doing so, I assume that collectives are of at least two kinds: aggregates or conglomerates. The former are random groups of persons, whereas the latter are organized, tend to have decision-making structure, etc. Of course, a collective is, say, an aggregate or a conglomerate to one degree or another, and there are collectives that do not fall easily into either of the aggregate or conglomerate categories (e.g., ethnic groups).

What are the conditions of collective moral responsibility? Furthermore, do any collectives satisfy these conditions? It is important to separate these questions. For we must first attempt to devise a plausible analysis of the nature of collective moral responsibility prior to our trying to figure out which, if any, collectives qualify as morally responsible agents. Consider the Principle of Collective Moral Liability (PCML): It is justified for one to ascribe to a collective moral liability with respect to an outcome or a state of affairs to the extent that

(i) the responsible collective is an intentional agent concerning that outcome, that is, that its action or inaction (say, in cases of negligence, where “negligence” is construed as the creation of an unreasonable risk of harm to others) is caused by its wants and beliefs.

(ii) the responsible collective is a voluntary agent concerning that outcome.

(iii) the responsible collective is an epistemic agent concerning that outcome.

(iv) the responsible collective did the harmful thing in question, or at least that its action or omission made a substantial causal contribution to it (i.e., that it is responsible for the harmful outcome in the causal sense).

(v) the causally contributory conduct was in some way faulty (i.e., that it is responsible for the harmful outcome in the blame sense).³

(vi) if the harmful outcome was truly the fault of the collective, the required causal connection exists between the faulty aspect of its conduct and the outcome.⁴
As with individuals, we want to know whether or not collectives may be morally liable for their inactions (omissions) as well as for their actions as they are causes (of one kind or another) of outcomes or states of affairs. I disclaim any intention to deal with (iv)–(vi) in the present paper. Instead, I will try to solve a limited number of questions regarding (i)–(iii). Among the most important matters here are whether or not (i)–(iii) are (independently) necessary conditions of collective moral responsibility, whether or not a collective can act or omit to act intentionally, voluntarily, and/or knowingly, and whether or not a collective does act in such ways. Aside from the analysis of some of the necessary conditions of collective moral responsibility, a naturalized social philosophy is employed to answer the question of what problems might confront any positive claims to collective moral responsibility concerning particular cases. By “naturalized social philosophy,” I mean a social philosophy that appeals significantly to empirical psychology in order to address important questions of a philosophical nature. Let us take on each of these important matters in turn.

Are (i)–(iii) necessary conditions of collective moral responsibility? This is an important question in that one might argue that intentional, voluntary, and epistemic action are required for individual moral liability, yet deny that such action is required for collective moral liability. It might be objected that the PCML wrongly construes collective moral responsibility in terms of what constitutes individual moral responsibility. For example, Virginia Held argues that “[it] is not clear . . . that the best way to decide about corporate responsibility is by adopting the criteria for individual personal responsibility to corporations. We might well need to analyze corporate responsibility on its own terms.” Perhaps, moreover, Held is correct in claiming that

we cannot get by deduction from such judgments as “the corporation did X” or “corporation C is responsible for X,” to judgments about individual responsibility. From judgments about collective entities, nothing follows logically about what any members of such a collective did or is [sic] responsible for. We have to know about the internal structure of the collectivity, and about the roles and activities of its individual members, to assign responsibility to individuals for what corporations do and are responsible for.

Held’s arguments for such a view about collective responsibility are the following. First, she argues that

[i]f it makes sense to say that the corporation “should have known” and hence can be “held responsible,” perhaps we should conclude directly what this means for corporations, without the detour of analyzing what it means to say of individual persons that they “should have known,” and then applying this to a corporation.

She continues to argue that
For the corporation to be responsible, we may have to suppose the outcome was such that the corporation “could have done other than it did” in some sense. But establishing this may be quite different for corporations than it is for individual persons. Moreover, Held claims that what to think about corporate intention is complex and difficult. Corporate intention may well be very different from personal intention, and yet it may make perfectly good sense to speak of a corporation intentionally doing something, or having an intention to do something.

It is noteworthy, however, that in light of Held’s three statements her own claim that “‘Responsibility’ may be something which is quite different for corporations than it is for individual persons” is dubious. For not only does Held not explicate precisely how collective and individual responsibility differ, analytically speaking, Held’s own claims seem to favor an analysis, not unlike Moral Liability Collectivism, which analyzes individual and collective liability by way of the same conditions. For Held’s “should have known,” “could have done other than it did,” and “intentionally doing something” criteria are congruent with the fundamental analysis of Moral Liability Collectivism’s conditions of collective knowledge, voluntariness, and intentionality, respectively. Thus it seems misleading, if not wrong, to argue that collective and individual responsibility ought to be analyzed differently. For how else ought collective responsibility to be analyzed if not in terms of intentional, voluntary, and epistemic action? And what is the reason for thinking that collective responsibility ought to be analyzed in terms significantly different than these? Contrary to some of her above-quoted claims, other of Held’s statements seem to indicate a basic agreement with the analysis of collective responsibility in terms of intentional, voluntary, and epistemic action.

I argue that to the extent that a collective satisfies the conditions set forth in the PCML, then it is a plausible candidate for moral liability ascriptions. It is possible for certain collectives (namely, highly organized conglomerates such as nations and corporations) to satisfy such conditions. I believe, however, that there are factors that tend to undermine any claim to the effect that a particular collective does in fact typically satisfy such conditions (at least in a strong sense). Consider three related problems with such a claim: the Problem of Collective Intentional Action, the Problem of Collective Voluntariness, and the Problem of Collective Knowledge. Each of these problems makes it difficult to justifiably say that a certain necessary condition for moral liability is satisfied by even the most highly organized collectives. Let us consider each of these problems in turn.

A collective (intentional) action is an action the subject of which is a collective intentional agent. A collective behavior is a doing or behavior that is the result of a collective, though not the result of its intentions. A collective action is caused by the beliefs and desires (wants) of the collective itself.
whether or not such beliefs and desires can be accounted for or explained in individualist terms. Although species of collective action include “shared cooperative activity” involving as few as two parties,\(^{14}\) I am concerned with whether or not it is justified to ascribe intentional action to conglomerates of a numerically larger sort such as (large) nations and (large) corporations. If such conglomerates are not intentional agents, then they are not proper subjects of moral responsibility attributions.

Necessary, but perhaps insufficient, conditions of collective intentional action or omission include official representatives of the collective engaging in a valid rule-governed, goal-oriented (putatively collective) decision-making procedure designed to “act” (or “not act,” as the case may be) for the conglomerate. This procedure should permit a conglomerate to admit and expel members at will according to its valid rule system. This affords the conglomerate the freedom to determine the boundaries of its own membership. Moreover, such a goal-oriented decision-making procedure must be recognized by the official rule system of that conglomerate, be it a corporate or national charter, a legal system, etc. Thus if a conglomerate has a rule-defined, goal-oriented decision-making procedure, then it can be said to have the capacity to do things or refrain from doing them.

But doing things and acting intentionally are quite different. For a conglomerate’s doings to be plausibly construed as actions, it is essential that that conglomerate act intentionally. So if the rule system of the conglomerate eventuates in a decision by official representatives of that conglomerate, and if that decision is an action that is caused by the wants and beliefs of that conglomerate (assuming the plausibility of the fundamentals of Alvin I. Goldman’s theory of human action), then that conglomerate may justifiably be said to have acted (as a secondary agent) intentionally. An example of an action of a conglomerate (a collective action) would be an instance in which a faculty union, via its duly elected representatives, issues a no-confidence vote concerning its chancellor, a vote that, say, clearly reflects the wants and beliefs that a majority number of active union members have about the chancellor. Another example was when the U.S. citizenry voted by a large margin of victory in favor of Andrew Jackson to serve as the President of the United States. It is common knowledge that Jackson had a reputation as a fierce “Indian fighter,” and he campaigned for the presidency on the platform of “Indian removal”—even by violent force. Thus when Jackson commanded the U.S. Army to “remove” the “savages” whose very presence threatened “manifest destiny,” Jackson acted as a representative of the citizens who encouraged, approved of, or failed to protest his commands of genocide against Native Americans. These are examples of collective (secondary) intentional agency. Of course, collective agency admits of degrees. Strong collective agency obtains when what are represented are the wants and beliefs of most members of a conglomerate, whereas weak collective agency obtains when the wants and beliefs represented of a conglomerate are not shared by most (but nonetheless are by some) of its constituent members. Moreover, if the weight of moral reason supports that conglomerate’s being held liable to sanctions as a result of the action or omission, then it is
justified to ascribe moral liability to that conglomerate for that action or omission.

David Copp argues that a theory of collectives must be compatible with the claim that collectives can and do perform actions. He goes on to argue that "collectives are moral agents" (a moral agent is an entity to which intentional agency can plausibly be ascribed and the content of the action of which is moral). One might concur with Copp that certain collectives, namely conglomerates such as nations and corporations that have rule-governed and highly structured decision-making capacities, can be (restructured to qualify as) intentional agents. There are difficulties, however, that confront any claim to the effect that such collectives commonly do act intentionally such that they might qualify as moral agents.

If one necessary condition of moral liability is that the party is an intentional agent, then it is important to ask whether or not conglomerates are plausible candidates for ascriptions of intentional agency, including omissions to act. It might be thought that conglomerates do not act intentionally, and for two reasons. First, they do not act intentionally as individual humans often do. Instead, individual constituents of the conglomerate act on its behalf. Another reason why it might be thought that collectives do not act intentionally is that, it might be argued, it is possible to reduce ascriptions of collective "agency" to attributions of individual agency in congruence with recognized rule systems—without loss of cognitive meaning. This sort of reasoning would lead one to adopt some version of Moral Responsibility Individualism. For if ascriptions of collective "agency" are problematic, so are attributions of collective moral responsibility, since moral liability requires intentional action by or on behalf of the morally liable agent.

It seems clear that aggregates and ethnic groups (qua ethnic groups) do not act intentionally because they do not function according to a recognized formal or informal rule system. Raimo Tuomela, however, argues that even crowds and rioters can properly be said to act:

Crowds . . . can be said to act in virtue of their members’ actions. . . . Thus in a riot the members of the collective typically perform their destructive actions as members of the collective without acting on its behalf. So we are here dealing with groups without much or any structure (and divisions of tasks and activities), . . . with respect to the goals and interests of the group.

The difficulty with Tuomela’s position is that rioters and aggregates such as crowds altogether lack common goals and interests, though their respective members can and do possess goals and interests. Rioters and crowds are aggregates, and aggregates are simply a loose collection of individual human persons. It seems, then, that such collectives are not plausible candidates for intentional action attributions.

But perhaps certain other sorts of collectives (namely, those of the conglomerate type) can act intentionally. In fact, nations and corporations act, though not in a primary way. They are secondary agents. A primary agent is one who has the capacity to act on her own, intentionally. A secondary agent
is one for whom another acts according to a legal or moral rule system, intentionally (as in the cases of the faculty union vote and the commands of Jackson, noted above). In the case of secondary agency, both the one on behalf of whom the action is performed and the one performing the action “in her name” are intentional agents, but in different respects. The secondary agent, for whom the act is carried out, must have the capacity to have the action carried out according to her beliefs and desires. The one acting “in her name” must be capable of performing “her action” such that her own doings are caused by her wants and beliefs. For example, an attorney acts on behalf of (or “in the name of”) her clients, and states, corporations, and even nations have attorneys. This makes at least some conglomerates secondary agents to the extent that their agents properly represent their putative aims and purposes (according to an official rule system).

Moreover, there seems to be no conceptual barrier to construing secondary agents as intentional ones. This seems to imply that if it is possible to reduce the language of collective action to that of individual action, this poses no logical problem for the justifiedness of collective agency ascriptions.\(^\text{19}\)

In light of this consideration, it might be objected that to deny the very possibility of collective moral responsibility fails to take into account the fact that some conglomerates, such as corporations, do act intentionally via their respective Corporate Internal Decision Structures.\(^\text{20}\) These structures are official regulations concerning the way in which the corporation should operate.\(^\text{21}\)

Now to this line of argument it might be replied that there is no doubt that nations and corporations (and other highly organized collectives) often behave (without intention) according to official rules of their respective systems. But it is unclear that behavior resulting from such decision making is the result of the intentionality of the conglomerates themselves or whether it is the consequence of the intentionality of certain powerful decision-makers in those collectives.\(^\text{22}\) What the first objection needs is an independent argument adequately supporting the claim that such collectives do in fact exhibit intentional agency.

Against this reply it might be argued, as Copp does, that some collectives such as nations (in signing treaties) act “for a reason,” which is sufficient for a collective’s acting intentionally.\(^\text{23}\) This counter does not, however, suffice as an answer to the previous query. For what is questioned concerning collective intentionality also arises at the level of collective “reasons.” That is, it is unclear whether it is the collective itself that “acts for a reason” or whether it is merely a certain powerful individual representative or member of that collective (or group of them) who “acts for a reason.” If we assume, as I do, that intentional action is that which is caused by the beliefs and desires of the agent,\(^\text{24}\) then even if collectives such as nations and corporations can and do act “for a reason,” it is not obvious that this is sufficient for collective intentional action.

Nor will it do to argue, as does Copp, that some collectives in fact act as secondary agents:\(^\text{25}\) If a corporation’s attorneys successfully defend that corporation against all suits brought against it for its alleged corporate
wrongdoing, then it is not misleading to say that the corporation vindicated itself in the midst of such charges.

But even if Joel Feinberg is incorrect in arguing that this line is misleading, and even if it does make some sense to say that the corporation vindicated itself from the said charges leveled against it, it does not necessarily follow from this that what the corporation did constitutes an action. At best it is a doing or a doing-related event. Actions entail intentionality, doings do not. And Copp’s point, even if well taken, requires an independent argument to show that what a conglomerate does amounts to an action, that is, that what it does is caused by its own wants and beliefs and not merely the wants and beliefs of certain powerful individuals of that conglomerate. For only then can such a collective hope to satisfy the conditions of being the subject of justified retrospective moral liability ascriptions.

Another attempt to rescue the notion of actual collective intentional agency argues that collective intentional agency supervenes on individual intentional agency. The argument states: “actions by collectives supervene on the actions of the operative members of the collective.” This view may be construed as a response to my previous point requiring an argument for the claim that collectives have their own wants and desires requisite for intentional agency. Tuomela accepts that “collectives may be said to have wants and beliefs and to act for a reason, [and] the concepts for these mental states seem to acquire their meanings basically (or at least to a great extent) from the individual case.” Moreover, he argues, the actions of a collective supervene on the actions and joint actions performed by its members or representatives, and this involves two claims. First, whenever the collective does something, it does it via some actions of its members. Second, suitable actions by the members or representatives of the collective will (conventionally, legally, etc.) determine the collective’s action. Tuomela intends his view to apply to both organized and unorganized collectives (or to what I refer to as “conglomerates” and “aggregates”). Thus, Tuomela argues, the properties of collectives—such as intention, belief, desire—are “embodied in” and “determined by” the properties of individual members or representatives of that collective.

Tuomela’s position is problematic, however, for he begs a crucial question pertaining to the problem of collective agency: Do collectives act intentionally, do their own beliefs and wants cause their actions? As Tuomela himself admits, he assumes that collectives have the intentional properties of belief and desire. But the moral responsibility individualist demands that collective intentionality be proven by independent argumentation, and this requires the establishment of collective beliefs and desires that cause a collective’s doings, forming a collective action. And this holds true whether or not collectives are construed as primary agents or as secondary agents. As Max Weber writes, “Social action is not identical either with the similar actions of many persons or with actions influenced by other persons.” Even as a secondary agent, a collective must have the capacity to believe and desire such that members or representatives may act for it, in its name.

Tuomela’s argument for collective action is based on his analysis of “we-intentions.” But for his argument to succeed in showing that collectives
act intentionally, it must be successfully argued that such collectives also have “we-beliefs” and “we-wants” (or “we-desires”) that can and do some-how causally generate a collective’s doings and “convert” them into actions. Thus it is still unclear whether or not conglomerates as a class of entities commonly act intentionally. In turn, it is not clear that they are (typically) legitimate candidates for moral liability ascriptions.

But even if a solid case could be made for the claim that some conglomerates are commonly intentional agents, it is doubtful that the typical nation or corporation is a morally responsible agent, because collective intentionality is at best only a necessary condition of collective moral responsibility. Significant levels of collective voluntariness and knowledge are also required for collective moral responsibility.

If, as Harry G. Frankfurt argues of individual moral agents, having a higher-order volition is necessary for acting freely and sufficient for moral responsibility, then, I would argue, conglomerates must have the capacity for having such volitions if they are to be seen as plausible candidates for moral liability attributions. And this holds true even if conglomerates are viewed as secondary agents.

One might argue that the sometimes highly sophisticated and complex goal-oriented decision-making structures of certain conglomerates like democratic nations and corporations are indicative of a kind of higher-order cognition. For in such processes, certain choices are weighed and balanced against others, where in the end a higher-level decision is reached between competing lower-level alternative desires. This implies that some collectives do act freely and thus are morally responsible agents.

But this line of reasoning runs into the same trouble, which arose in regard to intentional agency. How does one know whether the putatively higher-order volition or metamental assent that is present in such conglomerates is that of the conglomerates themselves, or merely that of certain powerful individuals acting within the rules of the conglomerates’ decision-making structures? If the former is true, then it seems justified to ascribe higher-order volitional action to some collectives. But if the latter is true, then it is unclear to what extent, if any, collectives are volitional agents. What is required by the moral responsibility collectivist is an independent argument rendering plausible the claim that conglomerates are volitional agents in the requisite sense.

Thus there seem to be at least two skeptical concerns with the position that collectives are indeed morally responsible agents. The first is that it is unclear that the intentionality present in conglomerate activities is the intentionality of the conglomerate itself (conceived of in the “strange entity” sense). Second, it is difficult to understand how to separate conglomerate voluntariness from the voluntariness of certain powerful decision makers in the conglomerate.

But even if collective intentionality and voluntariness obtained in a given circumstance, collective moral responsibility would not accrue unless some significant measure of collective knowledge also obtained therein. To the extent that acting knowingly is a condition the satisfaction of which is crucial for moral liability, it is unjustified, normally, to attribute moral liability
to such collectives. I say “normally” because there are cases in which a moral agent’s ignorance does not exculpate.\textsuperscript{37} This point is not inconsistent, however, with the fact that collectives are not clearly epistemic agents at all, at least in a sense that qualifies them as agents that act knowingly. To the extent that collectives are not clearly epistemic agents, they are not morally liable ones.

Concerning collective belief and truth (belief and truth are normally considered to be conditions of human knowledge), Margaret Gilbert writes that “there is no obvious reason to think that group beliefs in general have a high probability of truth, or that they are likely to be superior in this respect to the beliefs of individuals.”\textsuperscript{38} More specifically, there is the Problem of Social Epistemic Reliability. This is a problem for collective knowledge attributions. There are at least three empirical problems with the claim that collectives such as conglomerates are plausible candidates for knowledge or belief acquisition based on collective decision making, rendering problematic any collectivist account of social knowledge, which is based on the reliability of collective decision-making. Collectives can adversely affect the decisions of individual cognizers in at least three ways, which question the reliability of collective decision making: by the group polarization effect, by pressure toward group consensus, or by deindividuation.\textsuperscript{39} The Problem of Social Epistemic Reliability not only poses a difficulty for a conglomerate’s satisfying the collective knowledge condition (ii), it also poses a challenge to the collective intentionality condition (i) in that intentional action is caused (in part) by the agent’s beliefs.

Thus there exist three wide-ranging difficulties with any claim that group knowledge or justified belief arrived at on the basis of group decision making is likely. For this reason, I argue that conglomerates typically do not act as epistemic agents. This does not, however, deny the possible epistemic status of some conglomerates.

The upshot of the Problem of Social Epistemic Reliability is that there is good reason to doubt the plausibility of group beliefs’ being reliably produced by a collective decision-making process. If collective knowledge depends in part on collective belief (and assuming, as many contemporary analytical epistemologists argue,\textsuperscript{40} that belief is a necessary condition of knowledge), and if justified collective responsibility ascriptions are contingent on there being collective knowledge, then collective moral responsibility attributions are dubious to the extent that collective knowledge and belief are doubtful. So even if Margaret Gilbert is correct in arguing that some attributions of beliefs to certain collectives as “plural subjects” are justified or reasonable,\textsuperscript{41} it would not follow that such collectives are epistemic subjects in the requisite sense of their acting knowingly.

It is unclear, then, that it is justified to ascribe intentional action, voluntariness, and knowledge (or belief) even to conglomerates such as nations and corporations. Again, I do not deny the possible intentional, voluntary, and/or epistemic status of conglomerates. So it is not that conglomerates such as nations and corporations cannot ever satisfy the conditions of collective moral liability. Rather, it is that, given a certain prevalence of a social cognitive nature, it is dubious whether such conditions do (commonly)
obtain when it comes to collective intentional, voluntary, and/or epistemic agency.

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Notes

3 This condition is related to the notion of collective feelings of guilt based on collective wrongdoing. For an incisive discussion of collective guilt, see Margaret Gilbert, “Group Wrongs and Guilt Feelings,” Journal of Ethics 1 (1997): 65–84.
4 This notion of collective fault (iv–vi) is borrowed from Joel Feinberg’s notion of individual liability [see Joel Feinberg, Doing and Deserving (Princeton: Princeton University Press, 1970), 222].
6 It is not my aim here to defend a naturalized social philosophy, though a defense of it might follow along the lines of the defenses of naturalized epistemologies found in J. Angelo Corlett, Analyzing Social Knowledge (Totowa, N.J.: Rowman and Littlefield, 1996); and Alvin I. Goldman, Epistemology and Cognition (Cambridge: Harvard University Press, 1986). Epistemological naturalism is also discussed in Robert Almeder, Harmless Naturalism (New York: Humanities, 1997).
8 Ibid., 165.
9 Ibid., 166–67.
10 Ibid., 166.
11 This is a Goldmanian account of collective action based on the analysis of human (individual) action of Alvin I. Goldman. For suggestive remarks about whether or not


16 Ibid., 268.

17 Such collective rule systems may be enacted formally, as in a national or corporate charter, or informally, as when the rules of the system are unwritten, but members of the collective understand and abide by them (as in the case of an academic association or society such as the American Philosophical Association).


19 Copp writes,

> A collective, one might say, could not have any “immediate impact” on the world, but can only have impact “through” the actions of persons. Alleged actions of collectives can always be explained ultimately in terms of the actions of persons. The question here, of course, is why should we regard this as showing that collectives do not act, rather than merely as showing how their actions can ultimately be explained?


22 This point against French’s argument for the moral responsibility of some corporations is found in Corlett, “Corporate Responsibility and Punishment,” 4. (For a more recent assessment of French’s theory of collective responsibility, see Corlett, “Corporate Punishment and Responsibility,” 86–100.) This argument counts also against Larry May’s argument for a version of Moral Responsibility Collectivism, in which he asserts that the key to corporate intentionality lies in the redescriptions of actions of corporate individuals into acts of corporations themselves (see May, *Morality of Groups*, 65f.).


27 Ladd argues that there is a “logical” way to distinguish a collective’s actions from those of its constituents, especially in highly organized collectives (see John Ladd, “Moral Reality and the Ideal of Rationality in Formal Organizations,” *The Monist* 54 (1970), 492–96). This logical distinction is blurred, however, in the actual world of collective decision making, where it is often difficult to distinguish between a conglomerate and its constituents as intentional or as teleological (goal-oriented) agents. To the extent that this is true, the notions of collective intentional action or teleological agency are problematic as a foundation for Moral Responsibility Collectivism, that is, where such a view pertains to a collective’s actually being an intentional and morally responsible agent.


The plausibility of collective belief attributions is considered below.

It is assumed, of course, that the Goldmanian notion of human action is an adequate model for collective intentional action.

It might be argued that collectives themselves need not act intentionally for collective intentional action ascriptions to be justified. Instead, one might argue, collectives are intentional agents to the extent that their members share an intention. This point, however, assumes the plausibility of the idea of the intersubjectivity of intentions, a notion that is itself problematic [see Wilfred Sellars, *Science and Metaphysics* (London: Routledge & Kegan Paul, 1968), 217f.].


