

Professional Ethics and Complicity in Wrongdoing

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The moral status of those whose role in wrongdoing is complicit rather than primary seems not to be well understood by participants in the professional community. Saint Thomas Aquinas in his *Treatise on Justice* (*S.T.*, Pt. II-II, Q. 62,7) provides a taxonomy of ways in which a person's involvement may constitute complicity in wrongdoing. I believe that his taxonomy can be helpful in better understanding the moral status of those who are not the primary actors in corporate or organizational wrongdoing, and in this article I attempt to show how the work of Aquinas, though written in the thirteenth century, provides considerable illumination upon this area of applied ethics.

In recent years, so-called corporate scandals have generated a great deal of media attention. Much of this attention has been focused upon the behavior of current or former chief executive officers, chief financial officers, or other high-ranking officers of the corporations involved in the wrongful behavior. To a lesser degree the media have reported on the involvement of individuals having a more subordinate status or ancillary role (such as a board member) within these corporations. While a fair amount is said about the moral failures of the big name players, little light is typically shed on the moral status of those whose involvement is overshadowed by that of the big name players. In general, the moral status of those whose role in wrongdoing is complicit rather than primary seems not to be well understood by participants in the professional community.¹

It should be noted at the outset that the law has a great deal to say about complicity in wrongdoing (for example, aiding and abetting perpetrators of crime), but I shall assume that a concern for obeying the law, while commendable, is not

the same thing as a concern for doing what is morally right or acceptable. Thus, there is reason for those interested in ethical professional practices to become knowledgeable about the moral dimensions of complicity in wrongdoing.

One reason why complicity deserves more attention than it has received (and virtually nothing has been written about it in the philosophical literature) is that the primary actors are in most cases enabled to succeed in wrongdoing by those complicit in the wrongdoing. To say that a person enables a primary actor to produce harm is to say that the actions of the primary actor would not produce harm in the absence of that person's involvement and that the person in question is aware that his or her actions may have this effect. Thus, the actions of an enabler are a necessary condition for the production of harm by the actions of the primary agent.²

As will be evident in what follows, not all cases of complicity are cases of enabling harm. Even in the instances where they are not, the complicit agent is either facilitating harm (increasing the likelihood that the actions of the primary agent produce harm) or at the very least the complicit agent is condoning the harm. In Western traditions of ethics, condoning harm has never been treated as particularly worthy of condemnation. Perhaps one of the lessons to be learned from recent scandals is that too many people in positions of power condoning the wrongful actions of their coworkers contributes to a moral climate that ultimately makes wrongdoing more likely to occur.

The taxonomy of Thomas Aquinas consists of nine ways a person can be complicit in wrongdoing: by command, by counsel, by consent, by flattery, by receiving, by participation, by silence, by not preventing, and by not denouncing. Those who play a role in organizational wrongdoing can do so in any of these nine ways, and in the first section of this article, I will provide illustrative examples of each, examples drawn from the realm of professional ethics, broadly speaking. I shall then suggest that not all of the nine ways are equally serious from a moral point of view and that complicity in wrongdoing does not inevitably result in one's bearing moral responsibility for the harm that occurs. In the final section, I introduce the notion of moral taint to shed light on situations where complicit behavior does not result in a person's bearing moral responsibility.

The first way is very straightforward: One who commands another to engage in wrongdoing is complicit in bringing about that wrong. Suppose a supervisor who possesses insider information orders his assistant to share this information with several selected clients. The assistant who carries out this order is guilty of wrongdoing, but the supervisor is likewise guilty of wrongdoing. In fact, the supervisor is arguably more blameworthy than the assistant. Normally the

complicit agent is less blameworthy than the principal agent, but in the case of commanding, the opposite frequently occurs.

The second way, complicity by counsel, occurs when a person's wrongful behavior is made possible by the advice of another. Imagine that an employee is looking for a method to defraud the firm in such a way that the wrongful behavior cannot be electronically traced to her. A coworker who knows her intentions and has a great deal of expertise with the firm's computer system proposes a method, and the employee is subsequently able to get away with defrauding the firm. The coworker then is complicit in the wrongdoing and bears some blame for the harm to the firm.

Consent to engage in wrongful behavior is the third of Aquinas' ways. Here, we might envision a situation where a partner in an accounting firm is asked by a major corporate client to overlook certain questionable irregularities in the annual audit of its books. The partner is inclined to accede to the request but feels that the consent of the other partners is necessary. Fearful of losing this client, they offer their consent. In doing so, they become complicit in the wrongful audit of their client's books.

The fourth way, flattery, involves praising someone for contemplating or committing an immoral act. When an office worker discovers that a coworker has a bottle of liquor in a locked drawer of her desk, he tells her that he admires her boldness in disregarding office regulations. Such praise might strike one as having no negative moral status, but one of the lessons to be learned from Aquinas is that this, too, is a mild form of complicity.

Receiving is the fifth way to become complicit in wrongdoing. Here, Aquinas is not referring to receiving stolen property or illicit goods; he is referring to receiving the person who has committed wrongful behavior, as when someone shelters a fugitive from justice. In a corporate setting, receiving can take the form of covering for someone when learning that he or she committed a significant wrongdoing. Suppose that the owner of a retail store is certain that merchandise is being stolen by a store employee. The person given the task of reviewing security tapes to discover the identity of the guilty employee finds that the thief is none other than his ex-wife. Because he knows that the loss of her job will almost certainly increase his alimony payments, he reports to the owner that the guilty party is someone else, a man who has just been dismissed for poor work performance.

The sixth way to become complicit in wrongdoing is by participation. Aquinas describes this as "taking part ... as a fellow evildoer." When an employee proposes the falsification of safety reports to the Office of Safety and Health Administration,

another employee who cooperates in this scheme obviously becomes complicit in the wrongdoing.

The seventh way is by silence. A person can become complicit in the wrongful behavior of another when the person fails to say anything about the behavior. Suppose an employee wrongfully obtains a sticker that allows him to park his vehicle every day in a space reserved for the handicapped. If he boasts about this to another employee, silence on the part of that employee (which includes the failure to notify authorities) can be interpreted as condoning the behavior and can thus render that employee as complicit in the wrongdoing.

Eighth, someone can become complicit in wrongful behavior by not preventing it. Here, Aquinas attaches two conditions: that one is able to prevent it and that one is bound or obliged to prevent it. In a hospital, a nurse is knowingly about to administer the wrong medication to a patient, and another nurse notices the error. The second nurse ought to notify the first nurse of the error. The failure to prevent the first nurse from administering the wrong medicine makes the second nurse complicit in bringing about the harmful outcome.

The ninth and final way is by not denouncing. Suppose that the supervisor of nursing in a hospital learns that one of the nurses deliberately administered the wrong medication to a patient. Instead of denouncing what the nurse has done, she simply tells the nurse in question that this is not something she herself would have done. This statement suggests to the nurse that what she has done is not particularly bad, and we might well find the supervisor blameworthy for not denouncing the behavior. The ninth way differs from the seventh way (silence) in that something relevant is said, but what is said is not enough to escape the charge of complicity.

It is not the suggestion of Aquinas that every instance of these nine activities counts as complicity in wrongdoing. For example, offering words of praise or flattery concerning the wrongful actions of another need not render one complicit if the words are offered insincerely or sarcastically or if they are offered at gunpoint. Rather, I believe Aquinas is urging that every instance of complicity is an instance of one of these nine activities.

It is obvious that these nine ways of becoming complicit are not equally serious from a moral point of view. The most serious are perhaps commanding a person to do wrong, and participating in wrong initiated by another. When a person either commands another to do wrong or willingly participates in wrong initiated by another, the person almost certainly becomes morally responsible for the end result. Normally in these situations, the primary actor and the complicit actor share responsibility for the end result. Thus, in the example where the supervisor commands a coworker to dispense insider information to select clients, they

share responsibility for dispensing insider information. In the example where two coworkers cooperate in a scheme to provide false information, they share responsibility for the deception. (When two moral agents share responsibility for a state of affairs, they need not be equally responsible for it).

Of the other ways of becoming complicit, counseling someone to wrongful behavior or consenting to such behavior is frequently capable of placing one within the boundaries of bearing moral responsibility. This is due in part to the fact that the complicit agents are enabling harm, or at least facilitating harm. Normally one incurs moral responsibility for the outcome of someone else's wrongful behavior when one has counseled someone to this behavior or consented to someone's engaging in it, assuming the consent is something the primary agent believes necessary.

The other five ways of becoming complicit involve less of an active role for the complicit individual, and hence there tends to be less likelihood of this individual's incurring moral responsibility for the relevant outcome. Flattery and receiving involve activity on the part of this individual, but, except for extreme cases such as harboring a fugitive from justice, ordinarily these activities are sufficiently benign that one does not become morally responsible for the outcome for which the principal agent bears responsibility. The person who lies to the store owner to cover for his ex-wife is probably responsible for lying, but it would be difficult to make a case for the charge that he bears responsibility for the missing merchandise.

The remaining three ways of becoming complicit involve little or no activity at all on the part of the complicit person. They are silence, the failure to prevent, and the failure to denounce. Certainly Aquinas is correct in thinking that complicity sometimes takes the form of omitting to act, and certainly failures such as these can lead to one's incurring moral responsibility for the outcome. Thus, if the nurse observing another nurse about to administer the wrong medication took no action, it would be plausible to judge that this nurse bears responsibility for the resulting harm to the patient. After all, Aquinas stipulates that the failure to prevent constitutes complicity when one is bound to prevent what happens. Typically, however, complicity that takes the form of an omission does not warrant the ascription of moral responsibility for the outcome, even when the omission is deliberate. The employee who is silent upon learning of the wrongful use of a coworker's parking permit is not demonstrating exemplary ethical behavior, but we could not reasonably judge that the silent employee bears responsibility for the presence of the coworker's vehicle in a space reserved for the handicapped.

Having seen that not all instances of complicity in wrongdoing lead to a person's bearing responsibility for the relevant outcome (the same outcome for

which the principal actor bears responsibility), it is time to explore moral taint. The basic idea is that a person involved in moral wrongdoing frequently taints those with whom he or she is closely connected. Thus, an entire family comes to be tainted by the acts of a son who commits a terrible crime. The reputations of the family members are damaged by the son's actions, but taint seems to imply something deeper as well. It seems to imply that their moral integrity is affected.

The notion of moral taint was first explicated in the philosophical literature by Anthony Appiah.³ On his account, moral taint results when harm is produced by others, and the contagion of their wrongdoing is transferred to a person who had no involvement in bringing about the harm. Ordinary German citizens during World War II bore no moral responsibility for the events of the Holocaust, according to Appiah, but they were nevertheless tainted by the actions of the Nazi officer. According to Appiah, a person who is tainted by the wrongdoing of others experiences a loss of moral integrity. A person's own moral integrity is affected when someone else who happens to have some connection to this person produces harm. In this way, moral taint is a concept that involves community and a person's links to others in the community.

Appiah believes that moral taint is helpful in analyzing the issue of divesting shares of stock in companies doing business in South Africa in the 1980's. A shareholder in these companies was not responsible for the harmful effects of apartheid, but he or she was nevertheless tainted by those who practiced apartheid. As a result, shareholders in these firms experienced a loss of moral integrity. Appiah believes that it is appropriate for someone to feel shame when tainted by the wrongful acts of others. Feeling guilt, on the other hand, is not appropriate to the situation for one has no personal involvement and one bears no moral responsibility for what happens.

Paul Ricoeur describes what is essentially the same phenomenon in terms of defilement. According to his account, defilement is a symbol of evil. "Defilement is to stain or spot what lustration is to washing.... It is a symbolic stain."⁴ If I am defiled by the stain that attaches to my criminal brother, the defilement that attaches to me is symbolic of the stain. Thus, what Ricoeur describes as stain seems to capture roughly what Appiah describes as taint.

My suggestion is that the notion of moral taint can be helpful in understanding situations where a moral agent is complicit in producing harm but nevertheless fails to bear moral responsibility for the harm. We have seen that when one's complicity takes the form of command, counsel, consent, and participation, one normally becomes responsible for the harm that is produced. When someone's complicity takes one of the other five forms, one's role in the overall pattern of

events might be sufficiently meager that one escapes being morally responsible for the outcome. When this happens, one might be tempted to believe that one has done nothing wrong and that one's moral integrity is unaffected. But, as Appiah has argued, it is possible that a person's moral integrity is affected as the result of being tainted by the actions of others.

This is an important lesson for those in professional careers, one that is easily overlooked, even by those conducting ethics seminars or workshops. When someone else is the principal agent in producing harm, an accomplice may be tempted to suppose that his or her contribution to the harm is negligible in comparison. When the role of the accomplice does not take the form of command, counsel, consent, or participation, he or she may be particularly tempted to suppose that nothing of moral significance can be attributed to his or her actions. However, when another is engaged in wrongdoing, it is normally within one's power to distance oneself from the wrongdoer or to refrain from actions that can be perceived as condoning or encouraging the wrongful behavior.⁵ The failure to take such actions as these can render one tainted by the others' wrongful behavior, and, as Appiah has pointed out, this is something that affects one's own moral integrity. The realization that this is so can perhaps motivate many to aim higher in the moral conduct of their professional life.

When primary actors in a business organization embark upon wrongful courses of action, this activity is often quite apparent and liable to draw attention from both inside and outside the organization. By contrast, the actions of those who are complicit in this activity tend to be less noticeable and are less likely to draw attention. Partly for this reason, the notion of complicity has been neglected in the moral literature. It has been my suggestion that complicity in wrongdoing is an important area of moral analysis. The taxonomy of Saint Thomas Aquinas provides a helpful framework for engaging in the moral analysis of complicity, and I hope to have indicated how it can provide practical advice to those who are not the primary actors but who are contemplating the role of an accomplice. It is easy to believe that one's role as an accomplice is of little or no moral significance. Such an attitude is dangerous, and those in business organizations are well advised to become knowledgeable about the moral implications of their involvement. To the extent that awareness of these implications becomes more common in business organizations, people may well come to realize that it is more prudent not to come to the aid of coworkers engaged in dubious activities.⁶

Notes

1. Of course, in corporate wrongdoing, the primary role is sometimes played by someone of subordinate status, and high level executives sometimes play a lesser role in wrongdoing, but these cases are the exception, especially in the scandals that have received the most media attention.
2. For more detail on this point see my "Enabling Harm," *Journal of Social Philosophy* 37 (2006): 214–20.
3. Anthony Appiah, "Racism and Moral Pollution," in *Collective Responsibility*, ed. Larry May and Stacey Hoffman (Savage, Md.: Rowman and Littlefield, 1991), 219–38.
4. Paul Ricoeur, *The Symbolism of Evil* (New York: Harper and Row, 1967), 36.
5. For more on this matter see my "Responsibility, Taint, and Ethical Distance in Business Ethics," *Journal of Business Ethics* 47 (2003): 125–32.
6. I am grateful to members of the Calvin College philosophy department for helpful criticisms and advice.