

INTERVENING AGENTS AND MORAL RESPONSIBILITY

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If some bracken has caught fire because someone has thrown a lighted cigarette into it and, just as the flames are about to flicker out, you deliberately pour petrol on them, then you and you alone will be to blame for the ensuing forest-fire.¹ If, as one of Nero's praetorian guards, you take it upon yourself to cut a Christian's throat because the latter has refused to profess belief in the divinity of Augustus, then you and you alone will be to blame for the unfortunate's death.² If you torture a child because your enemy refuses to give you the information you want, then you and you alone will be to blame for the child's suffering.³ If you blow up a building because some reactionary businessman has refused to yield to your demand for money for the poor, then you and you alone will be to blame for the damage that results. If you buy a "lemon" from Big Al, the used-car dealer, even though you know his reputation for bad deals, then you and you alone will be to blame for demolishing a store-window when the car's rear wheel falls off. If you have too many drinks in a bar and kill a pedestrian when driving home, then you and you alone will be to blame for the death.

Thus speaks conventional wisdom; only it is not at all wise and it is, thankfully, becoming less and less conventional. A used-car dealer is legally liable for at least some of the consequences of the bad deals that he makes, even though his clients walk in with their eyes wide open; indeed, "lemon laws" for new cars have recently been enacted in some states in the U.S. Similarly, in some states a bar-owner is now held liable for the misdeeds of those who have shed their sobriety while at his bar. Such liability may be thought by many to be purely strict liability and, for that reason, condemned by some; but this seems to me mistaken. There is good reason to hold the car-dealer and the bar-owner liable, I believe; for they are morally responsible for the harm that they allow. And, in general, I would claim that it is false that, as petrol-pourer, praetorian guard, torturer, terrorist, driver, and drunk, you and you alone will be to blame for the undesirable event in 1 question. I think that the reason why many seem to believe otherwise is that, as petrol-pourer, praetorian guard, and so on, you act in the capacity of an intervening agent; and they think that this confers some special moral status on you and pre-empts conferring this status on anyone else. In this paper I shall challenge this belief.

I

I shall confine my remarks to the question of how moral blame and moral responsibility are to be allocated in cases of the sort just cited; the matter of legal liability requires separate treatment.⁴ While some would say that there is no distinction between blameworthiness and moral responsibility' — and they are surely right, on one understanding of 'moral responsibility'⁵ — I wish here to draw such a distinction. I propose that we say that a person P is to blame for an action A (or its consequence E) only if, but not if, P is morally responsible for A (or

¹ The illustration is borrowed from [11], p.69.

² The illustration is borrowed from [3], pp.49-50.

³ The illustration is borrowed from [17], p.57.

⁴ Nevertheless, one is well advised, when discussing the matter of how intervening agents affect the ascription of moral blame and moral responsibility, to pay heed to what legal theorists say about the ascription of legal liability where intervening agents are concerned. In this regard, see the references in the notes below to [7], [9], [11], [13], and [14].

⁵ Cf. [5], p.188; [19], p.115.

E). Roughly, what needs to be added for the 'if' to be applicable is that A be wrong.⁶ If this condition is absent, then P deserves no blame; indeed, if A is right, then P deserves praise. Moral responsibility as I shall understand it, then, is required by both of, but entails neither of, blameworthiness and praiseworthiness.⁷

It is apparent that an agent may escape blame in one or both of two ways: either by showing that he is not responsible for what he did (or its consequences), or by showing that what he did was not wrong.⁸ I have said that I shall challenge the claim that you and you alone will be to blame for the undesirable event at issue in cases of the sort given above. I should now elaborate: I shall not challenge this by trying to show that you are not to blame for the event; I shall challenge this by trying to show that someone else is (or may be) to blame for it. Even though you are an intervening agent, this does not preclude blaming someone else for what you do (or the consequences thereof). Why should it? It would do so only if either (a) the other person is not responsible for what you do (or the consequences thereof) or (b) the other person does no wrong with respect to your doing what you do (or the consequences thereof). I think that perhaps both (a) and (b) have been endorsed before, especially (a). I shall challenge each, tackling (a) in this and the next three sections, and (b) in the final section.

The concept of an intervening agent requires clarification. First, we should note the following: the forest-fire would not have occurred had someone else not thrown a lighted cigarette into the bracken; the Christian would not have died had he professed belief in the divinity of Augustus; the child would not have suffered had your enemy divulged the information you sought; the building would not have been damaged had the businessman handed over the money; no accident would have occurred had Big Al not sold you a "lemon", no accident would have occurred had the bar-owner not served you drinks. In each case, then, it is true that, in some respectable sense of 'consequence', the undesirable event is a consequence of what someone other than you has done. This sense may be understood roughly as follows: event E* is a simple consequence of a distinct event E if and only if E* would not have occurred, had not E occurred. I use the term 'simple consequence' simply to distinguish this sense of 'consequence' from others.

Now, it is of course also true that, in each case, the undesirable event is a consequence, in some sense, of what you have done. Indeed, this sense seems simply to be that of causal consequence, when this is understood roughly as follows: E* is a causal consequence of E if and only if E contributed causally to E*.⁹ And because this is so — because, that is, the undesirable event is a causal consequence of something you have done — your act may be called an intervening act and you an intervening agent. Somewhat more precisely:

(1) Person P2 is an intervening agent with respect to person P1, act A1, act A2, and event E1 if and only if, for some times T1, T2, and T3 (where T1 is earlier than T2 and T2 not later than T3):

- i. P1 does A1 at or during T1;
- ii. P2 does A2 at or during T2;
- iii. E1 occurs at or during T3;
- iv. E1 is a simple consequence of A1; and
- v. E1 is a causal consequence of A2.¹⁰

In this statement, it is of course A2 which is the intervening act. It is controversial whether whatever is a simple consequence is a causal consequence, or vice versa. As we shall see, some philosophers believe that some

⁶ This is roughly stated; refinement would require attention to the distinction between A's being wrong and P's believing A to be wrong. For a further refinement, see note 32 below.

⁷ This understanding of moral responsibility is a common one. See, for example, [2], pp.109 and 134; [5], p.30.

⁸ Perhaps we may say that in the former case he has an excuse and in the latter a justification. The distinction is difficult, though.

⁹ E need not be 'the' cause of E* in order for E* to be a causal consequence of E. See note 15 below.

¹⁰ Perhaps, with respect to clause (v), E1 need only be a simple consequence of A2; this would allow for series of interventions. But I shall leave this matter aside.

simple consequences are not causal consequences;¹¹ and, if there are genuine cases of causal overdetermination, then it would seem that there are causal consequences which are not simple consequences.

But so what? Why is it important, morally, that you intervene between the cigarette-throwing and the forest-fire, between the Christian's refusal and his death, and so on? How does this fact absolve the cigarette-thrower or the Christian of any blame for the fire or the death? (I stress "for the fire or the death". Of course, it is uncontroversial that the cigarette-thrower and the Christian may be to blame for something that occurs in the course of events that culminates in the fire and the death; what is disputed by many, it seems, is that they are to blame for the fire and the death.) The only argument that I have found to be suggested in the literature — but, I hasten to add, not explicitly endorsed — is one which, emphasizing the fact that intervening agents intervene, claims that such agents interrupt the natural flow of causes and thereby pre-empt normal attributions of moral responsibility. In short, the argument is the following (where the variables of statement (1) are used):¹²

(2) P1 is not causally responsible for E1.¹³

(3) P1 is morally responsible for E1 only if P1 is causally responsible for E1.

Therefore

(4) P1 is not morally responsible for E1.

My strategy will be this. I shall attempt to undermine the conclusion of this argument and certain modifications of this conclusion which readily come to mind, given the comments that I shall be making. I shall end up asking: if (4) and these modifications of (4) are all false, why think any interesting modification of it true (an interesting modification being one which preserves some special moral exemption for P1)? Clearly, this rhetorical question does not itself establish that no interesting modification of (4) is true, but I think it will be seen that the claim that there is some such true modification is, in the final analysis, quite implausible.

Both premises deserve comment. The concept of causal responsibility features in many discussions of moral responsibility.¹⁴ I think it fair to say that it is usually used in this way:

(5) P is causally responsible for E if and only if E is a causal consequence of some action of P's.¹⁵

Given this, why should it be thought that (2) is true, that is, that P1 is not causally responsible for E1? The answer of course resides in the fact that P2 is an intervening agent, that his act A2 intervenes between P1's act A1 and the consequence E1. But why should this matter? Well, this would seem to matter if no one could ever cause anyone to do anything. And this is just what some philosophers say.

Some philosophers say that, when people act, they are causes. On one interpretation of this claim, all that this amounts to saying is that, when people act, they are involved in events which are causes of other events.¹⁶ This seems to me true, but it is of no help to the supporter of (2); for it does not imply that no one can ever cause anyone to do anything. But there is another interpretation of the claim that agents are causes that does have this implication. On this interpretation, to say that agents are causes is to say that, when they act, they are causes of

¹¹ Cf. [3], p.45; [11], pp.121-2.

¹² Cf. [11], pp.69, 129-130; [3], pp.45-7. Note that Hart and Honoré appear to reject the conclusion ([11], p.78); and Donagan in fact explicitly rejects it, as we shall see. Cf. also [13], p.282.

¹³ For simplicity's sake 'is' here — and elsewhere — is used tenselessly, as in (1). Otherwise it would have to be replaced by 'was'. See [10], p.214.

¹⁴ especially [10], pp.214-15; [5], pp.130-2.

¹⁵ Perhaps 'action or omission' would be more accurate. But some claim that omissions are actions anyway (cf. [8], pp.47-8); while others (cf. [13], p.283; [18]) deny that omissions can have causal consequences. It should be remarked also that some philosophers perhaps understand causal responsibility somewhat differently, namely, as follows: P is causally responsible for E if and only if some action of P's is the cause of E. Hart and Honoré in [11] appear often to be concerned with the notion of 'the cause' rather than 'a cause' in their discussion of intervention, but they pay scant attention to this distinction (but see [11], p.128, including n.1).

¹⁶ Many philosophers have interpreted the claim thus. One example: Goldman in [8], pp.80-5.

their actions in such a way that nothing else — no (other) person, no event — causes their actions.¹⁷ If it is true that agents are causes in this special way, then there is perhaps some reason to accept (2). But if it is false, it is hard to see why (2) should be accepted as a general truth.

What of (3)? I think that some are drawn to it because they think that being morally responsible for an event requires being, or having been, in control of it, and that such control is impossible in the absence of causal responsibility. While this certainly seems plausible, the claim is controversial. In particular, responsibility for the outcomes of omissions might appear to provide a counterexample to the second part of the claim.¹⁸

II

The trouble is, (4) is demonstrably false; so either (2) or (3) (or both) must be rejected. Just which is to be rejected is not at all clear to me; further discussion of the notion of causal responsibility is required before this can be determined, and I shall not undertake this here. That (4) is false, however, is obvious when one considers coercion. A bankrobber is to blame for the bank's funds being depleted, even though a teller, acting at gunpoint, was (temporally) a more proximate cause of the depletion. The teller's intervention surely does not block ascription of responsibility to the bankrobber for the depletion.¹⁹

But if (4) is false, perhaps some modification of it is true. Remarks by Hart and Honoré suggest that, while (2) is false, the following is true:

(2a) P1 is not causally responsible for E1, if P2's action is voluntary.²⁰

And this perhaps suggests that (4) may be modified thus:

(4a) P1 is not morally responsible for E1, if P2's action is voluntary.²¹

One problem in understanding (2a) and (4a) is that they are not fully explicit, in that coercion and voluntariness come in degrees. But let us, for simplicity's sake, assume that it is "full" voluntariness that is at issue. Then (2a) would be understood to say that full voluntariness blocks the ascription to P1 of causal responsibility for E1, and (4a) would be understood to say that such voluntariness blocks the ascription to P1 of moral responsibility for E1. Clearly, the case of the bankrobber does not undermine (4a), so understood.

III

But whether or not (2a) is true, when so understood, (4a) is clearly false. Alan Donagan, himself a staunch supporter of the claim that there is something special about the moral status of intervening agents, gives a clear counterexample to (4a):

Consider the following case. A poisoner orders that a chocolate cake be made. While it is being made, he distracts his cook's attention and adds powdered arsenic to the sugar the cook is about to use. He then engages a parcel service to box and deliver the cake to his victim: whereupon one person takes the order, another collects the cake, another boxes it, and yet another delivers it. After it has been delivered, the victim's servant, believing his master to have ordered it, serves it at supper. Pleased, the victim cuts a slice,

eats it, and dies of arsenic poisoning. Obviously, it would be absurd for the poisoner to disclaim causing the victim's death by poison; and yet there can be no doubt that his own action in adding arsenic to his cook's sugar only led to his victim's death by way of a long series of intervening actions . . .²²

¹⁷ See [15], pp.109-12; [1], pp.69-70 and 73-6; [3], pp.46-7.

¹⁸ On this point, see [12], pp.324-6.

¹⁹ Cf. [11], p.71.

²⁰ See [11], p. 9. Cf. [6], p.140. This principle is attacked in [5], ch.7.

²¹ I do not think that Hart and Honoré would accept (4a), even if they accept (2a); there is reason to believe that they would reject (3). See [11], p.78. Cf. [7], p.367.

Donagan's commentary on this case implies that he believes that the poisoner is to blame for his victim's death, and surely he is right in this. Hence (4a) is false.

Which of (2a) and (3) must be rejected, then? This again is not clear to me. It is remarkable that Donagan himself rejects (2a) and apparently accepts (3) — remarkable, because he is one of those philosophers who think that agents are causes in the special way discussed above.²³ I shall not dwell on Donagan's preferring (3) to (2a), however; what I wish to do at this stage is examine the modification of (4a) that he urges us to accept.

Donagan notes that, in his example, there is a special relationship between the poisoner and the intervening agents. The poisoner may be called the principal agent and the intervening agents his secondary agents. It is in virtue of this special relationship, Donagan contends, that the poisoner is to blame for the death of his victim.²⁴ (Indeed, this special relationship also explains how a coercer is to blame for the misdeeds of the one whom he coerces; for the coerced is the secondary agent of the coercer.) And it is clear that Donagan, while rejecting (4a), wishes to accept this modification of (4):

(4b) P1 is not morally responsible for E1, unless P2 is P1's secondary agent with respect to E1.

And Donagan would thus modify (2) to read as follows:

(2b) P1 is not causally responsible for E1, unless P2 is P1's secondary agent with respect to E1.)²⁵

Clearly, neither the case of the bankrobber nor the case of the cake undermines (4b).

IV

But (4b) is demonstrably false, too. To appreciate this, we need only consider what it is to be a secondary agent. Donagan himself says the following in this regard:

A man becomes the voluntary and witting agent of another, either by agreeing to do something at his request or at the request of his accredited representative, or by acting as a functionary in an institution whose services the other engages . . . [A] man acts as the unwitting agent of another when that other takes advantage of something he does by anticipating that he may do it and surreptitiously intervening in such a way that his doing it will subserve some purpose of the other's.²⁶

While this account of the concept of a secondary agent is not fully explicit, I think it fair to say that, according to this account, the following is true (at least for those cases where the principal's association with the secondary agent is not by way of some "accredited representative" who has been accorded a certain degree of discretion by the principal in the way that he carries out the principal's wishes):²⁷

(6) If P* is P's secondary agent with respect to E, then P intends that E occur.

²² [3], p.47.

²³ Donagan's strategy ([3], pp.47-8) is to note that the intervening agents are all secondary agents of the poisoner, who is the principal agent; he then claims that the actions of secondary agents are all actions of the principal. Thus, even though the principal does not cause the actions of his secondary agents — nothing but they themselves cause their actions, according to Donagan — still the consequences of their actions are consequences of actions attributable to the principal. This strategy seems to me seriously mistaken, even though it is admittedly common to talk of principals "acting through" their agents; but I shall not pursue the matter here. Cf. [5], p.233, on the "transferral" of agency.

²⁴ Cf. [6], p.123, on servants and responsibility.

²⁵ See note 23 above. It should be stressed that, while (4b) appears to have been accepted by Donagan at the time of writing [3], he has since indicated (during the conference mentioned in the final note) that he would reject (4b); he has also indicated that he would accept some further modification of (4), but just what this modification is, I am not sure.

²⁶ [3], pp.47-8.

²⁷ Cf. [5], p.226-7, on the distinction between "bound" and "free" agents.

Now, (6) seems to me true; that is, it seems to me to be in keeping with the way we normally think of the relation between principals and their (secondary) agents. But (6) and (4b) conjoined yield the following:

(7) P1 is not morally responsible for E1, unless P1 intends that E1 occur.

But (7) seems to me quite clearly false; hence I reject (4b).

Here is a case that shows (7) to be false. A father lets his young child run in the street, and an accident results. The father does not intend that the accident should occur; he is nevertheless to blame, and hence responsible, for it.²⁸

But, it might be said, this case only shows that (7) and (4b) are not sufficiently carefully formulated. In the father-child case, only the father is responsible; the child is only a child, after all. But in the original cases of petrol-pouring, throat-cutting, and so on, the intervening agent is responsible for the undesirable event in question; hence the original agent is not responsible for this event. Thus, we may say:

(4c) P1 is not morally responsible for E1, if P2 is morally responsible for E1.

"Hence"? Why think this? One reason might be put as follows: "Our idea of responsibility requires that it should be uniquely ascribed."²⁹ But this is false. If two people pick up a heavy rock and chuck it on a third person's head, both will be responsible for the consequent injury. But, it might be retorted, in such a case the responsibility is shared, while in the original cases it is clear that the intervening agent is fully responsible; hence the responsibility cannot be shared; hence the original agents are not responsible. This, too, seems to me clearly false. To say that someone is fully responsible is not to say that he is solely responsible; responsibility is not to be cut up, like a pie, so that the more people that join in a wrongdoing, the less responsibility to be allocated to each. On the contrary, responsibility may be multiplied; for to be fully responsible is to be totally without excuse, and many persons may each be totally without excuse with respect to one and the same event.³⁰ This seems to me clearly true in the rock-throwing case, and I see no reason to think that a secondary agent cannot be fully responsible for what he does qua agent. (Surely we have learned not to automatically excuse someone who was "only following orders", even though we also blame the one who gave the orders.)

I suppose that someone might seek to "combine" (4b) and (4c) thus:

(4d) P1 is not morally responsible for E1, if P2 is not P1's secondary agent with respect to E1 and P2 is (fully) morally responsible for E1.

But, again, why accept this? If I knowingly give a murderer an opportunity to murder — not intending that he should murder, mind you, but "merely" waiting to see what he will do, given the chance — surely I am to blame for the death that results.³¹

Perhaps someone will want to modify (4) along lines different from any that (4a)—(4d) pursue. But why? After all, if (4) is false, then whatever plausibility that (2) and (3) may have is already punctured; and why else believe that intervening agents have some special moral status, one that blocks the ascription of moral responsibility for certain events to those agents whose actions have given rise to a course of consequences into which the intervening agents have intervened? I can find no good reason for doing so.

²⁸ [6], p.123 and [11], pp.70, 94, and 251 on negligence and Intervening agency. Cf. also [14], pp.172-3.

²⁹ [18], p.9.

³⁰ See [19] for an extended discussion of this issue. Cf. [14], pp.286-9, where there seems to be some doubt expressed that legal liability can be multiplied.

³¹ Cf. [9], p.249 and [11]; p.78.

V

But, it might be said, one very good reason for doing so is that we are otherwise committed to saying that the Christian is responsible for his own death, the reticent enemy for the child's suffering, and so on; and surely this is outrageous.

But we are not committed to this and, anyway, it is not outrageous. Two important points must be borne in mind. First, to say that the original agents may be morally responsible for the simple consequences of their actions is of course not to say that they must be. Whatever conditions generally must be met in order for one to be morally responsible for an event must of course be met here also. (These conditions are presumably to be spelt out somehow in terms of freedom, foresight, and control, but I shall not go into this here.) I am not trying to saddle original agents with any more moral responsibility than they would have under more normal circumstances where no intervening agent has intervened. In particular, it often — though by no means necessarily — happens that the actions of intervening agents are difficult to foresee and control, and this renders many of the simple consequences of our own actions difficult to foresee and control. In such a case, responsibility is presumably diminished accordingly — just as one would expect in cases of diminished foresight or control where intervening agents are not involved. Thus nothing that I have said in fact commits me to saying that the Christian is responsible for his own death, the reticent enemy for the child's suffering, and so on. Secondly, to say that an original agent is morally responsible for some simple consequence of his action is not to say that he is to blame for this consequence. I shall now briefly address this point.

It might seem outrageous to say that the Christian is to blame for his own death. Perhaps this is right. I would still say both that you, the praetorian guard, are to blame for it and that he, the Christian, given that he acted freely and with the full expectation that his death would follow on his refusal to bow down before Augustus, is responsible for his death. But perhaps he is not to blame for it; if he acted rightly in refusing to bow down, surely he is not to blame for it.³² But perhaps he is to blame for it; if professing belief in Augustus' divinity were taken lightly by everyone but Nero, if the Christian had a family of twelve to support, and so on, then I for one would say that he acted wrongly in not professing the belief in question and I for one would blame him for his death. Others would not, of course; they might claim that the end never justifies the means, or something of the sort. I shall not debate this here; for it is a matter of general moral import and not tied to the issue of intervening agents in particular.

Consider the case of the forest-fire. Perhaps I have deliberately set the fire, knowing that you cannot resist pouring petrol on flaming bracken; then, I would say, I too am to blame for the conflagration. Similarly, if the information you seek is something which in fact is common knowledge and, moreover, cannot benefit you or harm anyone else, then your enemy, I would say, surely is to blame for not divulging it and for the simple consequence thereof, to wit, the child's suffering. So too, if the amount of money you have demanded is a paltry five dollars, then the businessman, I would say, surely is to blame for refusing to yield to your demand and the harm that follows from this — especially if there is strong evidence that no one will mimic you and every indication that you will be captured forthwith.³³ In the same way, Big Al and the bar-owner may well be to blame for what you do and the consequences thereof. The fact that you are also to blame for these events does not let them off the hook; the fact that you are an intervening agent does not let them off the hook. There is, I contend, nothing special about intervening agents with respect to the allocation of blame.³⁴

³² I would not go so far as to say that, if he acted rightly, he is to be praised for his own death. There seems to be something inappropriate about praising someone for something bad, just as there seems to be something inappropriate about blaming someone for something good.

³³ Thus, in my opinion, the claim that some terrorists sometimes make, to the effect that those who refuse to yield to their demands will be to blame for the consequences, is sometimes true. Of course, this does not imply, as they might like to think, that they themselves are not also to blame.

³⁴ It should be noted that my conclusion here appears to be in accord with certain remarks made in: [4], pp.49-50; [5], pp.180-1; and [16]. Cf. also [14], p.170ff. and p.274ff., where a similar conclusion about legal liability appears to be reached (except on pp.286-9, as remarked in note 30 above).

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