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The Simple Analytics of Accountability

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Abstract

In this paper, the author offers a schematic that distinguishes the actors, interactions, and dynamics of various accountability relationships. A number of distinctions – including those between “responsibility” and “accountability,” moral and legal accountability claims, and socially or governmentally generated demand for accountability – are offered to assist those working on accountability policies or strategies and who may be struggling with generic conceptions of accountability that conflate all of these elements.

The Simple Analytics of Accountability

- 1) Begin with an agent A.
- 2) Agent A has resources and a capacity to act and produce effects in the world
- 3) Agent A is assumed to have the ability to direct and control assets, and to anticipate the consequences of his actions.
- 4) For these reasons, A is assumed to be at least morally responsible, and (to the degree that the law has developed to encode morality and social responsibility) legally accountable for his actions.
- 5) This suggests that the ideas of responsibility and accountability necessarily involve an idea of a relationship in which we say that A has some kind of moral responsibility or legal accountability to some actor other than A (call that agent B), or to something that we might call society as a whole (call that S).
- 6) The idea of moral responsibility and legal accountability as a relationship rather than an individually experienced state certainly makes sense. But it also raises some important issues.

- 7) One could say, for example, that A subjectively experiences his responsibility and accountability as an important obligation and constraint on his choices and actions, or that he does not. In this respect, the idea of accountability could have an individual and subjective as well as a social and objective character.
- 8) Importantly, there is an important empirical question about the relationship between the existence of some kind of social and objective establishment of accountability on one hand, and the subjective experience of accountability on the other.
- 9) On one hand, we might imagine that the social and objective character of accountability is both necessary and sufficient to generate an individual and subjective experience of responsibility and accountability as well; that is, once there is an established objective and social structure of moral responsibility and legal accountability, it necessarily follows that A will subjectively feel some (perhaps even the appropriate!) degree of moral responsibility and legal accountability, and act accordingly. But this is patently false. There is lots of evidence from both corporate suites and mean streets that individuals will not necessarily feel or act in accord with socially constructed (and in that limited sense, objective) concepts of either moral responsibility or legal accountability.
- 10) Moreover, if A acts in accord with a socially established structure of moral responsibility and legal accountability, that result could be produced by two quite different mechanisms that might be morally, legally, and pragmatically worth distinguishing. On one hand, A might have fully internalized the moral and legal claims made on him, and aligned his

consciousness fully with those requirements. A acts without any feeling of restraint (even though constrained) because his individual, subjective conscience is fully aligned with the socially constructed, objective structure of moral responsibility and legal accountability. On the other, A may subjectively have a very different idea of his moral responsibility and even his legal accountability than that suggested by the established moral and legal order. He may nonetheless decide to act in accord with the socially established order because he recognizes that if he does not do so, he will be subject to bad consequences of various types, including both material losses, and losses to his social standing. Of course, both may be at play in A's consciousness, and he may be uncertain what is actually motivating his behavior. His uncertainty is typically mirrored in the uncertainty of the rest of us. We cannot be sure about his motivations, either. The only way we can be sure about his motivation is to imagine what the person would decide to do if he could "get away with it." And it is that thought experiment more than any other that establishes the distinction between what might be called the subjective view of moral responsibility and legal accountability on one hand, and the objective view of moral responsibility and legal accountability on the other. [This difference may also be important in creating what we think of as the felt legitimacy of a moral or legal claim. The closer A is to aligning his conscience with the demands of the objectively established social order, the more we might imagine that he will feel that the social order of which he is a part is a good and just one – one that could animate a sense of responsibility and accountability on just grounds as well as simply through threats of bad consequences.]

- 11) It is equally clear that A could feel both moral responsibility and legal accountability without any agreed upon social standards, or any effective method by which agents outside A could make moral or legal claims on A. A could feel morally responsible for treating children well even if his culture allows him to tyrannize them, or if the law allows him to beat them, and if there is neither audience to condemn him, or enforcement agent to bring charges against him. Indeed, A can feel moral and legal accountability for actions quite different from those that society as a whole expects and demands.
- 12) It is clear, then, that we have to distinguish between A's subjective experience of his moral responsibility on one hand, and the socially constructed, objective system of moral responsibility and legal accountability on the other. This means that we can treat the idea of moral responsibility and legal accountability as an individual experience of A, as well as an account of the objective social relationship between A, B (another individual agent), and S (society as a whole).
- 13) We also have to treat as problematic the relationship among these ideas both as an empirical and a normative issue. (Society will not always be able to shape individual conceptions of responsibility and accountability. Society will not always have better judgment about a just or fair system of responsibility and accountability. In fact, it may be that society needs arguments between A and B about their obligations to one another as a way of improving its judgment about the objective nature of moral responsibility and legal accountability)

- 14) To the degree that ideas of moral responsibility and legal accountability lie (at least partly) outside of agent A – in the judgments of actor B, or in the judgments of S (society as a whole), we have to begin thinking about the ways in which A’s accountability to B or to S is constructed and enacted as a social phenomenon.
- 15) Let’s begin with the idea that there might be many social actors (including but not limited to B) who have interests in the conduct of A (call these C, D, E, etc.). This isn’t very hard to imagine, for we have a commonly accepted name for these actors. We call them “stakeholders” with respect to A. The quality that all actors identified as stakeholders with respect to organization A have in common is that they have an interest in some aspect of A’s conduct.
- 16) Presumably, B, C, D, and E have a practical interest in trying to shape A’s conduct – to bring it more closely into alignment with what each of them wants from A.
- 17) One of the practical means they might seek to use to influence the conduct of A is to demand moral responsibility or legal accountability to them as agents, or to the purposes and values B, C, D, and E claim to represent.
- 18) We could call those stakeholders who make public a claim of moral responsibility or legal accountability of A to them and their values “accountability agents.” They decide to “call A to account,” and to do so in a private or public way (with the private claim often

holding behind it a threat of a public claim). (They can also follow up their private or public demand for account with actions designed to punish or reward A)

19) It is important, I think, to recognize that there are many agents who are free to call A to account, and who have an interest in doing so.

20) The motivations of “accountability agents” can be more or less honorable. That is, they can call A to account because they genuinely believe that A is morally or legally accountable to them, or the cause for which they stand. Or, they can decide strategically to call A to account even if they do not think A is justly or fairly held accountable to them. The demand accountability even though they are uncertain of the justice of their claim against A.

21) The claims of accountability agents can also be more or less closely aligned with the existing social understanding of A’s moral responsibility and legal accountability to B, C, D, E. That is, the claims of B, C, D, and E, can find more or less sanction in S.

22) At this stage, it might be useful to make several distinctions in S. At a minimum, we might want to distinguish S’s moral and ethical ideals from S’s laws to capture the distinction that we have so far been fudging between moral responsibility on one hand and legal accountability on the other. Lets call the prevailing moral sentiments of a community S(m). Let’s call the existing laws governing the actions of A and the rights of B, C, D, E to make claims of various kinds against A S(l).

- 23) There is actually a strong dynamic relationship between the struggles of A against B,C, D, and E on one hand, the development of S(m), and S(l) on the other. The reason is that there is a broader audience for the concrete struggles between the particular actors that constitutes the base of S(m) and S(l). Let's call that social audience SA.
- 24) SA is by definition, heterogeneous, with respect to the views of individual members of SA about issues of the moral obligations of A to its active accountability agents on one hand, and to S as a whole on the other. At any given time, however, it has both a central tendency, and a distribution, and a distribution weighted by intensity of opinion. The state of SA constitutes S(m), and is often influential in shaping S(l). The dynamics of both S(m) and S(l) are importantly shaped by movements within SA occasioned by political strategies of the accountability agents B, C, D, and E.
- 25) Importantly, A becomes more or less objectively vulnerable to particular accountability agents (in the short run) B, C, D, and E via several different mechanisms. First, A can find himself persuaded that the claims made by B, C, D, and E (or some subset) are just and fair, and that he ought to comply with their demands on moral grounds. (In a sense, A, as part of SA, moves and changes the weight of moral sentiment). Second, A can see that the claims made by B, C, D, and E (or some subset) are morally supported in S(m), and that might help persuade A that the moral claims made against him by B, C, D and E should be given significant moral standing in his own mind. To the degree that A thinks the views of S(m) are aligned with the claims made by B, C, D, or E, he may also have

reason to be practically concerned about the consequences of resisting these claims. If S(m) includes many individual agents who can take actions that can injure A, even if he disagrees with the moral judgments of the accountability agents (B, C, D, E), and the wider judgments of the social audience (SA which is creating S(m)), he might find it prudent and practical to decide to align himself with S(m). Third, just as the claims of B, C, D, and E could be morally supported by the wider society in S(m), they might also and legally supported by the laws of society in S(l). The fact that the claims of B, C, D, and E align with S(l) also tends to amplify the weight of the claims made by C, D, and E on A. The legality of the claims of B, C, D, and E, makes an independent moral claim on A's moral judgment by adding a legal as well as a moral claim. The fact that there is a legal as well as a moral claim exposes A to wider public condemnation, and to other bad consequences if A is found in violation of the law. What this means is that when the demands of particular accountability agents are aligned with and sanctioned by the moral sentiment of the community and the laws of the community, the claims can be expected to become both more normatively and behaviorally compelling with respect to A.

- 26) It is important that the converse is also true: both S(m) and S(l) give a certain amount of protection to A when the demands of B, C, D, and E are not sanctioned by S(m) and S(l). If B, C, D, and E are making demands for accountability on A that are viewed as not within the moral or legal responsibility of A, then A can tell the accountability agents to go to hell, and count on S to back this claim.

- 27) What stands between SA and S(l) is politics and government. (Also evolution of law in courts)
- 28) What helps to construct SA, and influences the ways in which SA acts to shape S(m) and S(l) is the motivations, processes, and institutions of civil society.
- 29) We can view this system from at least three different vantage points.
- 30) First, we can view it from the point of view of A. This emphasizes the idea that agents from whom accountability is demanded (which is all social agents) can, to some degree make strategic and moral choices about their own accountability. (They can do this conceptually, and then they can enact those decisions in various ways having to do with how they expose themselves and their organizations to the demands of others,) They can decide what they think are reasonable moral and legal claims, and which they will honor. They can calculate the consequences of resisting claims made by accountability agents, more or less closely aligned with S, S(m) and S(l). They can make their choices. To the degree that the S(m) and the S(l) they confront is contrary to their own understanding of their duties or their interests, they can engage in political and social strategies to seek to change. They can do so by advancing their own views, or undermining the legitimacy of the claims made by others.
- 31) Second, we can view it from the point of view of those who would like to demand accountability (that is from the vantage point of B, C, D, and E). They have to think

about their interests, and the legitimacy of the claims they can make. Like A, they have to understand their relationship to S(l) and S(m). Not only can they do it, but what legitimacy they have.

32) Third, we can (to some degree) think about S, S(l) and S(m) against some ideal of just, fair and effective social organization. Presumably, all social governance regimes – both the moral commitments and the legal requirements – can be evaluated against some normative standards of both justice and fairness on one hand, and social utility and effectiveness on the other. Implicit in this is the right to arbitrate the claims of accountability agents. Society is not obliged to take an agent's demand for accountability as a just and fair one. There is more work to be done at the social level in deciding what counts as a just and effective accountability system at the social level.

33) Accountability is often viewed as a socially objective thing. It is not. It is something that is constructed in a continuing political, moral, legal, practical dialogue about what social actors can reasonably demand from one another. This conversation can go on without either the protection of the state, or through the state's capacity to mediate and resolve the disputes. Accountability agents, and S(m) can create a morally important and behaviorally effective kind of accountability even without a state. The state does provide a focus for a debate about a just and effective system of accountability, and can also provide an enforcement mechanism for both concerting and making effective a social level accountability system. That may or may not be better than a more ad hoc system of

accountability which operates more like a strategic game between accountability agents on one hand, and those from whom accountability is demanded on the other.

34) Note that the idea of principal agent accountability is one in which someone (presumably society!) concludes that the interests and values on one party to a contractual agreement (the principal) are worth more than the interests and values of the other party (the agent). But the question of who is the principal and who the agent should be the focus on a social/political conversation; not assumed in advance.

35) Note also that contract accountability can arise from agreements made between interdependent actors. Presumably, the consent, as well as the improved capacity to help each party to the contract get what they want, gives legitimacy to contract accountability. But one has to be concerned with differential powers going into the negotiation about the contract.