

'Ought Implies Can' and the Possibility of Group Obligations

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IT is unclear how to assign moral obligations in situations in which group cooperation is a necessary condition for successfully accomplishing some morally desirable aim. Consider, for example, a case in which someone drowning in a nearby pond can only be saved through the cooperation of four bystanders (Isaacs 2011). Based on the widely held ethical requirement that moral obligation necessitates ability, 'ought implies can', for a given individual bystander we cannot say that they have an obligation to perform the rescue. The ability of any individual bystander to perform the rescue is contingent on the cooperation of the others, and therefore an obligation to perform the rescue is ruled out by this ability requirement.

One answer to this puzzle is that relevant groups themselves have collective obligations, and that we as individuals derive certain obligations and responsibilities from these. So, in the example at hand we might say that the bystanders collectively have an obligation to perform the rescue, and this grounds their individual responsibilities to participate. Such posited group obligations are especially important in grounding obligations in large scale collective action problems, for instance the obligations that groups have to address climate change or global poverty, where individual actors might be unable to make any difference on their own. However, positing group level obligations has come under attack from concerns relating to agency as a necessary requirement for obligation. Roughly stated, the worry is that since only agents can have moral obligations, and groups are not agents, groups cannot have moral obligations. The intuition behind this constraint is itself based on the ability requirement of 'ought implies can': in order for a group to have an obligation it must have the ability to perform an action, but only agents can have abilities.

One prominent strategy to mitigate the force of this argument is to claim that some groups are in fact agents. This is a move particularly spearheaded by List and Pet-

tit (2011), amongst others, who argue that sufficiently organized groups, for instance some corporations, are agents in their own rights and so can bear moral obligations. This paper makes a different move, and suggests that prior literature on collective obligations has ignored or too quickly dismissed work in shared agency in the philosophy of action. From accounts of shared agency we can develop a concept of joint ability, undermining the problem of agency for group obligations.

1 *The agency argument*

According to the agency principle, only agents can have moral obligations. In cases in which we think it intuitive for groups to have moral obligations, it is not clear who exactly the agent is. Does it really make sense to say that a group can be a moral agent? If not, it does not seem like groups can have obligations. We can formulate the agency argument against groups in its simplest form as follows:

*Agency Argument*¹

- P1. Groups are not agents.
- P2. If groups are not agents, they cannot have obligations. (Agency Principle)
- Therefore,
- C. Groups cannot have obligations

The first premise, that groups are not agents, can be subject to doubt in some cases. For List and Pettit, many sufficiently structured groups meet their preferred conditions for agency, and so can be held morally responsible. Alternatively, on Peter French's (1984; 1995) account, groups become 'collective agents' when they possess a collective decision-making structure. However, even on such expansive accounts of agency like these, most groups will be excluded. In the case of the pond rescue for instance, the four previously unconnected individuals who might happen to be walking past the pond and constitute the group of bystanders do not appear to constitute a moral agent in their own right. The strategy considered in this paper aims to encompass groups like these, which we do not typically think of as moral agents.

Turning now to the second premise of the agency argument, the agency principle states that only agents can have obligations. As groups are not agents, they cannot

¹Versions of this argument in a similar form can be found in Wringer (2014b: 175) and (Collins 2019: 60).

have obligations. This principle is intuitive enough: to have an obligation you must be able to fulfil that obligation, and the only kind of thing that can fulfil an obligation is an agent. Since ‘ought implies can’, then as non-agential groups do not have abilities they cannot bear obligations. From this, we can construct an argument for the agency principle for groups, the ability argument:

*Ability Argument*²

- P1. If an entity has an obligation, then that entity has an ability to fulfil the obligation (Ought implies can)
- P2. Groups that are not agents cannot have abilities
- Therefore,
- C. If groups are not agents, they cannot have obligations. (The Agency Principle)

One challenge to the first premise comes from Wringer (2010, 2014a), who suggests that it is possible to be responsible for the obligations of other entities. This is a strange idea at first, but Wringer motivates it with reference to the everyday example of responsibility for children. We might think, for instance, that children in some situations have an obligation to behave themselves, but that it is the parents who have the responsibility to make sure the children fulfil this obligation. Similarly, a collective can have an obligation to Φ but not be able to Φ ; rather, individual members are responsible for discharging Φ on the collective’s behalf.

However, as Schwenkenbecher (2013) points out, this account conflates two different obligations. The first is the obligation of the children to keep quiet, or in the collective case, to address the problematic situation. The second is the obligation of the parents to keep the children quiet, or in the collective case, for members to do their part in making sure the collective addresses the problematic situation. Parents are not responsible for discharging their children’s obligations; rather, they discharge their own separate obligations towards their children. It is still the case that having an obligation implies having a corresponding ability to fulfil that obligation. If a child genuinely does not have an ability to be quiet, for instance, then we would not say they have an obligation to do so.

The ability argument relies on the second premise: groups that are not agents cannot bear abilities. Yet sometimes it seems that groups do have the ability to do things.

²This is a slightly modified version of Collins’s presentation of the argument (Collins 2019: 61).

Lawford-Smith (2012: 463–4) poses a consideration of whether the German military had the ability to overthrow Hitler in a military coup. The German military was physically close to Hitler and had sufficient weapons and training; as such, if any group had the ability to overthrow Hitler, the German military did. For (Lawford-Smith 2012), group ability is determined with reference to group members' abilities; individual members of the group have certain abilities, and these determine the collective ability in aggregate. This method of determination becomes clearer when we consider what it would mean for a group not to be able to do something. We might think that collective action is ruled out if enough members cannot perform their contributory action such that the minimum subset of individuals doing their part needed for the action is not met. For any individual soldier, had they attempted to do their part in overthrowing Hitler, perhaps by planning a coup, they would have been met with swift execution. As such it does not seem that the individual members of the German military did have the ability to do their part in overthrowing Hitler, and it therefore seems wrong to say that the German military as a group had the ability to overthrow Hitler.

Such a formulation perhaps leaves open that groups might have abilities and thereby still have obligations in more permissive cases in which members can perform their contributory actions. Later, however, Lawford-Smith (2012) strengthens her account. What the ability argument is getting at here is just the principle that 'ought implies can'. Furthermore, when we invoke the ought-implies-can constraint to reply to supposed obligations, by 'can' we do not just mean nomological or metaphysical possibility. For instance, if it would be morally desirable for me to attend a protest in London but my train from Oxford breaks down midway and I am unable to make it in time, it would be inappropriate to say that I was failing to act on my obligation just because my attending the protest would not violate any laws of nature. What 'can' means here concerns agency specifically, so we should ask, 'Would the group be likely to succeed in acting if it tried?' (Lawford-Smith 2012: 234–235). Asking this question of groups does not make sense, however; groups do not even have the functional equivalence of the relevant intentional states involved in intentional action. As groups that are not agents cannot have abilities, they therefore cannot have obligations.

2 Shared agency and joint intentionality

The mistake Lawford-Smith makes here is assuming that abilities need to be held by a single agent. Many abilities are not held by any individual agent, as is obvious for

actions exercised under shared agency. Consider Gilbert's (1990) famous example of the act of two people walking together. We might go for a walk together, but neither of us individually has the ability to go for a walk together. I cannot make it the case that we go for a walk together, and similarly, you cannot make it the case that we go for a walk together; only *we* can make it the case that we go for a walk together.

The examination of cases of shared agency has generated three broad strands of analysis. The first, championed by Gilbert (1990, 2009), is that the subject of any of these joint actions is a kind of collective agent. However, this strand would invoke a wildly permissive sense of agency, and as such Gilbert's view tends to be rejected in the contemporary literature. The other two strands analyse cases of shared agency in terms of joint intentionality. The second accounts for joint intentionality in terms of individual intentions. This account is primarily the project of Bratman (1999, 2009, 2014), who analyses joint intention as the interlocking of individual intentions, where this cooperation is common knowledge and individual sub-plans mesh with regards to the joint activity. For example, if we were to plan a trip to New York, my sub-plan might be to book the flights, while yours might be to book the hotel. As such, Bratman's account reads as follows:

We intend to do *J* if and only if:

1. (a) I intend that we *J* and (b) you intend that we *J*
2. (b) I intend that we *J* in accordance with and because of 1a, 1b, and meshing sub-plans of 1a and 1b; you intend that we *J* in accordance with and because of 1a, 1b, and meshing sub-plans of 1a and 1b.
3. 1 and 2 are common knowledge between us (Bratman 1999: 121).

The third strand of analysis is to posit a distinction between intending in the I-mode and intending in the we-mode. What this means differs slightly between proponents. For Searle (1990, 1995), we-mode intending is a kind of psychological state, such that even a brain in a vat could intend that, for instance, we go for a walk. For Tuomela (2003, 2005), we-mode intending is a matter of intending to act as a member of a group due to having group-level reasons. A group then has a joint intention to *X* when (a) each agent has a we-intention to perform *X* and (b) there is a commonly held belief that (a) (Tuomela 2005).

Rather than coming down on one side or the other, my claim here is that however we analyse joint intentions, we can extend such an analysis to give an account of joint intentional action. To return, then, to Lawford-Smith's insistence that the problem is

that it does not make sense to ask whether the group is likely to succeed if it tried, after consideration of these cases it now seems that it really does make sense that groups can try. The orchestra can try to play the symphony, the football team can try to win the match, and we can try and go to New York together. Accounts of shared agency like Bratman's or Tuomela's can be naturally extended to specify what we would mean. For instance, we might say, 'We try to Φ just in case we act on our intention to Φ '.

3 *Towards an account of joint ability*

Can we say something more concrete of joint abilities? One account has been provided by Pinkert (2014). The intuition predicating this account comes from consideration of cases in which there is a lack of clarity about how to coordinate. In many cases of group action, it is unclear what members are expected to do. For example, consider Pinkert's example of the concert audience:

A concert audience is awaiting a performance. Just before the performance starts, the conductor tells the surprised audience that the performance is interactive, which requires that in each row of seats, precisely half of the audience simultaneously stands up at the opening chord. (Pinkert 2014: 190)

There is no obvious way for half of the individuals to jointly stand without some deliberation. It seems clear in this case that what the individuals in the audience should do is deliberate with each other to generate some procedure concerning how to organize such that half stand up. They might, for example, agree that starting from a particular end of each row, every other member of the row should stand.

Sometimes a group may be immediately able to perform an action. For example, in the pond rescue case, it might be obvious what the group needs to do: each bystander needs to jump in and help save the person drowning. However, cases like the concert audience are more complicated: there is more than one salient way for the group to act, so the situation requires deliberation. Given this distinction, Pinkert devises the following conditions for an 'immediate' and 'mediate' joint ability for a group of agents '*aa*':

Immediate Joint Ability: Agents *aa* are immediately jointly able to Φ if and only if there is exactly one salient possible collective pattern of actions of the relevant *aa*-s that constitutes *aa* Φ -ing, and which is such that every relevant agent believes of the action which is her part in that

pattern that she needs to perform this action if aa is to Φ . (Pinkert 2014: 194)

Mediated Joint Ability: Agents aa are at t_1 mediatedly jointly able to Φ_n at t_n if and only if

1. They are at t_n immediately jointly able to perform action Φ_1 at t_1 , where
2. performing Φ_1 at t_1 makes it the case that aa are at $t_2 > t_1$ immediately or mediatedly jointly able to Φ_n at t_n , and
3. the relevant members of aa believe at t_1 that aa performing Φ_1 at t_1 has this effect, and that if aa is to perform Φ_n at t_n , they will perform Φ_1 at t_1 (Pinkert 2014: 200).³

Pinkert's account of joint ability is compelling, but I think that Pinkert's approach to developing an account of joint ability around the intuitive immediate/mediate distinction is mistaken. Rather, we should extend a joint intention account of shared agency such as Bratman's or Tuomela's into an account of joint ability in just the same way as we would in developing an account of ability for an individual agent with individual intentions. For instance, on the conditional analysis of ability, S has the ability to Φ if and only if S would Φ if S tried to Φ (Maier 2018). Extending this analysis to a group of agents, and using Pinkert's ' aa ' notation, yields the following: aa have the joint ability to Φ if and only if aa would Φ if aa tried to Φ . Further, utilising the account of joint trying that I have outlined, we can therefore give a corresponding account of joint ability, the joint intention account:

Joint Ability (Joint Intention Account): A group of agents aa are jointly able to Φ if and only if, given that each agent in aa acted on their intention that aa Φ , then aa is likely to succeed in Φ -ing.

This formulation seems to me to be preferable to Pinkert's, since it does not require joint ability to be anything fundamentally different from individual abilities. Furthermore, the intuitions that Pinkert aims to capture with his immediate/mediate ability distinction are also captured by my approach. Consider an example of immediate and mediate abilities for an individual. For instance, we might say that I have a

³Pinkert combines the two into a single larger formulation but keeping them separate here helps elucidate Pinkert's idea.

mediate ability to make a pizza for dinner if I first need to travel to the shop to buy one. The fact that it is clear that I need to buy a pizza from the shop first means that this intermediary action is part of my trying to make a pizza for dinner. We do not need to invoke the immediate/mediate distinction when theorising about individual ability. Similarly, the joint intention account means that this distinction is unnecessary; the intuition of a group often needing to organize first to perform an action, which Pinkert is trying to capture, is implicitly allowed. If it is clear that the group needs to organize first before Φ -ing, then the group's organising is part of the group's acting on the intention to Φ .

Furthermore, it seems that there are cases of joint ability where nobody is coordinated. For instance, Wringe (2019) gives the example of a sinking ship carrying a group of individuals. A subset of those people can swim, and by swimming to shore they can stop the boat from sinking. It may be obvious that this is what needs to be done, and so the swimmers do this without coordinating or communicating in any way. It seems clear here that the swimmers have a joint ability in just the same way as we have the ability to take a walk together. The joint intention account captures cases like this nicely, as by jumping off the ship, the swimmers are indeed acting on the intention that the group jumps off the ship such that they will prevent the ship from sinking.

The simple conditional analysis of ability that I have used to develop my account of joint ability has well-known objections.⁴ However, the underlying point here is that whatever modifications are necessary for an account of individual ability will apply in the same way to joint ability. The main reason there has been reluctance to attribute abilities to groups is that groups are not agents and do not have the capacity for intentional action, which is intuitively necessary for abilities. Utilising accounts of shared agency and joint intentionality allows us to see that groups of agents can jointly possess abilities and that these abilities are grounded in individual accounts of ability.

4 Conclusion

Group obligations are often disregarded on the basis that groups do not constitute moral agents. This paper has argued that accepting that groups of individuals can act jointly—and, as such, can have joint abilities—defeats objections to collective obligations based on the rule that 'ought implies can'. Further, an original account of

⁴One of the most famous objections to the simple conditional analysis of ability is Lehrer's (1968) counterexample of being offered a bowl of red sweets but, having an extreme fear of red sweets, declining to take one. It might be true that if he had tried to take a sweet, he would have done. Yet this surely does not mean that he is able to take one of the sweets.

joint abilities, the ‘joint intention account’ has been sketched. The utility of this manoeuvre is clear; if it is successful, then many commonplace attributions obligations become intelligible. ‘Humanity has an obligation to prevent the worst effects of climate change’ for instance could come out as true, since humans may jointly be able to accomplish this aim, rather than false from the outset since ‘Humanity’ is not a moral agent. Groups that are not agents can have abilities because they are joint abilities, shared by a group of agents. We should reject the second premise of the ability argument and as such reject the second premise of the agency argument. Groups ‘can’, and as such, groups ‘ought’.

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