
Symposia on Gender, Race and Philosophy

Volume 3, number 1. January 2007

<http://web.mit.edu/sgrp>

Transnational Political Responsibility and Global Structural Social Injustice

Comments on Iris M. Young's "Responsibility and Global Labor
Justice"

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Young makes a strong case that people in the affluent Global North have shared political responsibility with respect to the working conditions of distant workers in other countries. She frames the issue within a particular conception of responsibility, namely "political responsibility," as opposed to the dominant conception of responsibility as liability. Her "argument is not that the concept of political responsibility should replace that of a fault or liability model, but [that it] should supplement that model in analyses of responsibility, in relation to structural processes" (Young 2004, 381). Young

is in agreement with contemporary ethical theorists such as O'Neill, Beitz and Pogge that there is moral responsibility between moral agents in different nations and that better-off people in some parts of the world have a responsibility toward globally worse-off people wherever they are. However, Young disagrees with these theorists as to where the grounds of moral responsibility lie. Contemporary moral opinion also divides as to the validity of a claim of moral responsibility towards harm and injustices done to distant workers on the basis of the absence of connection with them or the lack of power over their working conditions.

In this essay I will focus on two issues. The first is the rejection of claims of responsibility for transnational working conditions on the basis of a liability model of responsibility. The second is the question of whether the concept of political responsibility succeeds where the liability model failed to answer satisfactorily the substantive question of whether some obligation of justice extends globally. I side with Young in believing that the liability model of responsibility can be obstructive and agree that her concept of shared –and not simply collective– political responsibility is more convincing. However, I want to propose two corollaries. First, it is my contention that it is possible to claim responsibility within the liability model. Second, I will argue that in addition to the difference in kind between causal responsibility/liability and shared political responsibility there is a difference in degree within political responsibility between global consumers and global workers making the responsibility greater on the part of those whose support is required to secure any success of workers' resistance.

I. Claims of transnational responsibility against causal liability

My first task is to consider what divides Young and her opponents to extending moral obligation to foreign workers

connected to us by the global industry system. These opponents draw a principled line between, on the one hand, those who cause harm –along with those who control or can control them- regarded as directly responsible, and on the other hand, average wealthy Northern consumers who cannot be regarded as responsible. Young argues that “Such a rejection (...) assumes a liability model of responsibility” (368). On this account, responsibility derives from legal reasoning assigning guilt and fault for harm and wrongdoing.

Cause in fact and proximate cause

The emphasis on the cause of the harm--to determine not only who is at fault but also who is responsible for repairing--is justified by a particular understanding of how causation and liability are connected. To that extent, Young is right to notice that liability in the legal tradition can support an argument against responsibility toward transnational working conditions. But as Hart and Honoré defend “It is easy to be misled by the natural metaphor of a causal “chain”, which may lead us to think that the causal process consists of a series of single events each of which is dependent upon (would not have occurred without) its predecessor in the “chain” and so is dependent upon the initiating action or event” (Hart and Honore 1985, 72-3). In their view, an act is the cause of harm if it is both necessary of the occurrence of the harm and sufficient to produce it without the cooperation of the voluntary or deliberate acts of others or abnormal conjunctions of events. Taking causation seriously would make it difficult to establish cause in the case of distant workers due to the indirect collaboration of all. But to say that cause is difficult to prove, perhaps even impossible, does not mean that responsibility or liability cannot be assigned. To regard the role of causation in liability as necessary can be misleading as well. I would argue that the law of tort offers a number of examples where responsibility is recognized even when cause is not proven. The weakening of cause in law and

in legal theory manifests that a liability model of responsibility can accommodate the idea of responsibility--without proven causation--towards foreign workers. In other words, it is not the liability model of responsibility that is inappropriate but “cause” as a necessary condition to liability.

Causal minimalism

In recent years a growing number of cases have taken the position of “causal minimalism” and legal theorists have argued that the causation requirement is irrelevant to the true goals of tort law. By contrast with what Hart and Honoré called “causal maximalism” describing cases of strict liability--when it is not necessary to demonstrate that the defendant failed to exercise her duty of reasonable care--causal minimalism allow exceptions to the requirement of cause.

How can this help the argument for transnational responsibility and global justice? If judgments about who or what causes an injury should play little or no role in determining who is to be held responsible for harmful conducts and if the difficulty of transnational responsibility is to establish who is at fault, then responsibility for harm done to distant workers can be claimed on the basis of harm and injustices and corrective justice. Most arguments in favor of this view are made by legal theoristsⁱ influenced by economics to whom the fundamental purpose of tort law is to bring about an efficient allocation of social resources and a cost-justified level of accidents and safety. On that account responsibility can be established and loss compensated without referring explicitly to the cause of the harm. It can be argued against my point that justifying transnational responsibility on the basis of efficiency will prove extremely difficult and this might be true. But, the point here is that when corrective justice is at stake what matters in the end is the compensation for loss or harm and therefore the ability to bear the cost of repair; what matters is the outcome. My

purpose is to suggest that if the argument against transnational responsibility is based on a liability model of responsibility there are good reasons within that model--including the weakening of cause in tort--to question its validity. It is worth noticing that the refutation of causality is not limited to legal theory influenced by economics.ⁱⁱ As J. J. Thomson pointed out "Many people think that if cause declines in law, law to that extent departs from morality. It therefore seemed (...) worth drawing attention to the fact that there has been a decline of cause in moral theory too" (Thomson 1987, 150).

II. *Shared Political Responsibility*

My second task is to consider what divides Young and other defenders of transnational responsibility. Young argues that the claim of responsibility is valid to the extent that "The many agents (...) have responsibilities for harmful or unjust conducts in a different sense which I will call "political responsibility" (Young 2004, 381). I am sympathetic to Young's position but I would add that consumers' responsibility ought to be greater to the extent that they have the means to repair and the power to act as opposed to the workers who can only react.

Responsibility for what one has not done

Young uses Arendt's label of "political responsibility" despite her disagreement on the grounds of this form of responsibility. In Arendt's account political responsibility extends to members of the same nation-state, in Young's account it extends to people faraway, the term political being understood as "not limited to government" and as "activities in which people engage collectively."

I will focus on two of the features of political responsibility: (#4) it is open regarding actions that count as taking up the

responsibility and (#6) it is distinct from blame. According to Young, political responsibility does not define or limit the forms responsibility may take. In that respect responsibility is not a duty. Indeed, if I have a duty not to torture, the forms of fulfilling that duty are limited to what it means to torture and by extension not to torture. And to say that I have--with others--a responsibility toward inhuman working conditions in other countries leaves unlimited--and perhaps undetermined--the courses of actions that might qualify as "taking responsibility."

Another characteristic is that political responsibility is distinct from blame. Young insists on not connecting political responsibility with "blame-oriented language" and emphasizes her disagreement with Pogge on this issue. I agree with her that such language would encourage reversion to a fault-liability model and make the distinction between the two layers of responsibility confusing. But I am not convinced that such worry, although legitimate, is sufficient to exclude all reference to blameworthy conducts. Wouldn't it be praiseworthy to "take responsibility"? Could refusal to take responsibility be regarded as morally neutral? Couldn't it be argued that taking responsibility is morally required when harm is confirmed? Such questions require further analysis and cannot be addressed here but are worth noticing at this point of the analysis.

Political responsibility of victims

Young argues that distant workers also have political responsibility. Since fault and blame are not regarded as essential features of political responsibility and political responsibility is shared rather than collective, it makes sense not to exclude the victims and to make them part of the process of bringing out the outcome, namely just working conditions. Shared responsibility is "personal responsibility for outcomes produced by a group of persons". It is not

responsibility that people have by virtue of being members of a group. It is responsibility that people take for outcomes produced by a group. This responsibility seems to be divided and distributed among those who take responsibility. It seems that people do not *have* responsibility but take--or do not take--responsibility. Such a perspective raises several questions. Would responsibility be only permissible and not required? How much of the expected outcome will effectively be produced under these circumstances? Shouldn't a new standard of reasonable care be defined? Wouldn't such standard be required to avoid the repetition of harm elsewhere? It seems that this responsibility can be consented to or not and I wonder if this consent can be a sufficient condition to actual change in working conditions for distant workers.

Young also insists that "In the case of labor exploitation the workers themselves ought to resist if they can by means of their own collective organization. Without the support of others taking responsibility for working conditions in ways that support them however, they are less likely to succeed" (Young 2004, 375). In other words, all things being equal, workers are required to resist but their resistance is likely to fail without the support of global consumers. Young does not make the support of others a necessary condition to the success of the workers but it seems reasonable to see a difference in degree between a responsibility that will produce a resistance that is "very likely" to fail without global support and any other actions that could generate the expected outcome with or without local resistance. In my view political responsibility ought to be greater on the part of global consumers.

Young makes an important contribution to how we can think of a moral obligation to distant workers in particular and to strangers in general. She urges us to depart from the liability model of responsibility and offer a new model of shared

political morality. I argue that the liability model can accommodate claims of transnational responsibility and emphasize some of the challenges faced by her model.

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ⁱ See Landes and Posner 1983, p. 109, 131, and Calabresi 1975, pp. 106-7.

ⁱⁱ See Kelman 1987, p. 579.