Collective responsibility and national responsibility

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In his recent book, *National responsibility and global justice*, David Miller conceptualizes and justifies a model of national responsibility. His conceptualization proceeds in two steps: he starts by developing two models of collective responsibility, the like-minded group model and the cooperative practice model. He then proceeds to discuss national responsibility, a species of collective responsibility, and argues that nations have features such that the two models of collective responsibility also apply to them. In this article I focus on the question whether Miller’s like-minded group model and the cooperative practice model are plausible and convincing models of collective responsibility. I will argue that the like-minded model does not provide a plausible conceptualization of collective responsibility, while the collective practice model provides a good model for collective responsibility but is not particularly helpful in conceptualizing national responsibility.

**Keywords:** collective responsibility; David Miller; agency; state responsibility

Introduction

The concept of individual responsibility is one of the cornerstones in law and political philosophy. Within criminal law and the law of tort the attribution of individual responsibility for an act is essential in ascribing guilt or liability. Within luck-egalitarianism, individual responsibility guides the central distinction between outcomes resulting from choices and outcomes generated by unchosen endowments. In some recent debates the notion of collective rather than individual responsibility has gained prominence. Legal debates have emerged on the question whether corporations, churches, political parties, or private associations can collectively be held responsible for specific outcomes of their actions. Can these entities be held responsible as a collective – distinct from the individuals that constitute them?

In his book *National responsibility and global justice* (2007), David Miller defends a specific form of collective responsibility, namely *national responsibility*. He asks whether it makes sense to hold nations responsible for the
benefits they create for themselves and the harms and losses they inflict on themselves and others (p. 81). His conceptualization and justification of national responsibility proceeds in two steps: he starts by developing two models of collective responsibility, the like-minded group model and the cooperative practice model. He then proceeds to discuss national responsibility, a 'species of collective responsibility’ (p. 81) and argues that nations have features such that the two models of collective responsibility also apply to them.

Miller’s defense of collective responsibility deviates in two ways from other approaches in the field. Firstly, many defenses of responsibility – whether individual or collective – presuppose agency as a prerequisite for ascribing responsibility. Although Miller presupposes such a link between individual agency and individual responsibility, his two models of collective responsibility are not (explicitly) couched in such agency arguments. Secondly, most defenses of responsibility are phrased in terms of causal responsibility, whereas Miller focuses on outcome responsibility.

In this article I focus on the question whether the like-minded group model and the cooperative practice model are plausible and convincing models of collective responsibility. An answer to this question is necessary before we can ask whether these models are helpful in Miller’s own argument for national responsibility. I will argue that agency is an important prerequisite for responsibility, both for individual persons as for collectives of persons. Any defense of collective responsibility must presuppose some form of collective agency. Therefore I am not convinced that Miller’s two models of collective responsibility are helpful in an analysis of national responsibility. The like-minded model does not provide a plausible conceptualization of collective responsibility, while the collective practice model provides a good model for collective responsibility but is not particularly helpful in conceptualizing national responsibility.

The plan of the paper is as follows. The second section summarizes several elements of Miller’s work that are central for the argument in this paper: his two models of collective responsibility, the distinction between national and state responsibility, and his conceptualization of responsibility as outcome responsibility. The third section describes the more traditional agency-based conceptualization of individual and collective responsibility. In the fourth section, Miller’s models of collective responsibility are discussed by comparing their merits to the agency-based model. In the concluding section I elaborate why my conclusions on Miller’s two models of collective responsibility undermine his defense of the concept of national responsibility.

**Miller’s defense of a collective responsibility of nations for outcomes**

*Two models of collective responsibility*

In chapter five of *National responsibility and global justice*, Miller introduces two general models of collective responsibility. The first model,
the *like-minded group model*, applies to groups that share aims and outlooks in common. Miller gives the example of a mob rampaging through a neighborhood. Different members act differently: some attack persons or property, others shout abuse, others have a more passive role, running alongside the activists urging them on and contributing generally to the atmosphere of excitement and fear. After the event there is considerable damage to property and persons, but the damage cannot be disentangled in such a way that the responsibility for the outcome can be ascribed to the individual members of the mob. Miller sees this mob as an example of the like-minded group model, because its members share aims and outlooks in common and collectively recognize their like-mindedness:

When individual members act they do so in the light of the support they are receiving from other members of the group. This is particularly clear in the case of the mob. As students of crowd behaviour have long recognized, people in crowds behave differently precisely because of the contagion of those around them. Groups that exemplify this model are not then just collections of individuals who happen to have aims in common; they are groups whose members interact in such a way that even those who play no direct role in producing the outcome that concerns us may nonetheless properly be brought within the scope of collective responsibility. (p. 117)

Miller’s second model, the *cooperative practice model*, ascribes collective responsibility to all participants in a specific practice and who share in its benefits. He discusses an employee-controlled firm whose manufacturing process has unwanted environmental effects, for example, depositing chemical substances in a river (p. 119). Members disagree on whether this practice should continue, or whether they should introduce a less polluting but more expensive technology. While deliberating the issue, it turns out that the majority favors staying with the existing process. Miller argues that the employees are collectively responsible for the environmental damage they are causing. If they are required to pay the costs of cleaning up the river, these costs should be borne collectively by all the members, including the minority that disagreed. Miller argues that they are the beneficiaries of a common practice in which participants are treated fairly – they have a fair chance to influence the firm’s decisions, and they get the income and other benefits that go with the job – and so they must also be prepared to carry their share of the costs of reparations for harmful outcomes of their collective enterprise (p. 119).

Both models are ideal types to which actual collectivities may approximate to different degrees and that may in practice overlap: an actual collectivity may have some features of one or both of these models. They focus on two different elements of collective behavior that generate collective responsibility and emphasize different reasons why members of a group can become collectively responsible: ‘You can share in collective responsibility for an outcome because you form part of a like-minded group that has brought the outcome about, or because you are a participant in a cooperative practice that produces the
outcome, or for both reasons at once’ (p. 120). The examples are set up in such a way that they exclusively elaborate each of the two models. The members of the mob do not run a collective enterprise and participants in the collective enterprise only work together but are not necessarily like-minded.

It is important to re-emphasize that Miller develops the two models ‘to help our thinking about collective responsibility generally’ (p. 114). They apply to a wide range of collectives – teams, crowds, corporations – and are not necessarily limited to nations (p. 113). But, as Miller argues, we are justified in holding nations responsible when ‘they display like-minded group and/or cooperative practice features’ (p. 114).

National responsibility and state responsibility

Although the two models focus on collective responsibility, Miller is primarily interested in a special case, namely national responsibility. He explicitly distinguishes national responsibility from state-responsibility and gives three considerations on why he thinks this distinction is helpful. The first is that if we only focus on state responsibility as distinguished from national responsibility, it ‘becomes difficult to show how individual people can share in the responsibility to compensate those whom the state they belong to has harmed, whereas if we treat states as acting on behalf of nations, such collective responsibility will be easier to establish’ (p. 112). Secondly, nations and states do not always converge, and national responsibility – apart from state-responsibility – is relevant in the case of a stateless nation whose quest for self-determination leads it to a terror campaign against the people from which it seeks to separate. A third reason is that we may want to hold nations responsible for actions performed by states that no longer exist, for example the continuing responsibility of the German people for acts carried out by the Nazi regime that was destroyed and replaced in 1945 (pp. 105–106).

Miller characterizes a nation as a community of people who share an identity and a public culture, who recognize special obligations to one another, value their continued association, and who aspire to be politically self-determining (pp. 118–120). States are characterized in terms of a formal organization in institutions like governments, legislatures and parliaments. So the question that Miller wants to answer is whether peoples, characterized by a shared identity and culture, apart from the formalized structure of states, can be held responsible for current or past harms. Although state responsibility ‘might seem easier to establish’, Miller argues that ‘judgments of national responsibility are more basic than judgments of state responsibility’ (p. 105).

Outcome responsibility vs. causal responsibility

Which concept of responsibility should be used in a defense of collective and national responsibility? In chapter 4, Miller discusses a variety of meanings of
the term responsibility in moral and political philosophy. Miller argues that we should focus on outcome responsibility, the responsibility we bear for the outcomes of our own actions and decisions. This focus dissociates Miller’s approach from more traditional defenses of causal responsibility. He presents two arguments why a strict focus on causality is unhelpful in discussions of responsibility. Firstly, causal involvement in an outcome does not automatically imply remedial responsibility. Consider a market setting in which my restaurant lost its clientele because you opened a restaurant across the street and your food is superior to mine. Although you are causally responsible for my bankruptcy and misery, your behavior is perfectly justifiable and there is no reasonable argument why you should compensate me for my loss (Miller 2001, p. 458). The second reason is that the notion of causality is not well geared to the problem at hand. Causal responsibility is being invoked when we want to know why something occurred, for example, a forest fire. There are many conditions that causally contributed to the fire: my clumsily lighting a match, the poor quality of the match which caused it to break when struck, the extreme dryness of the forest due to a lack of rain, the recent cutback in government expenditures on emergency services that prevented the fire brigade from arriving on time, to name a few. Given this large set of necessary but not sufficient conditions for the outcome, it is impossible to single out one of them as the cause for the forest burning down. After all, each of these conditions alone is insufficient to generate the outcome – e.g. my clumsiness would have been harmless if the forest was sodden after a downpour. Moreover, human agency has no special status in this set of causally relevant factors (p. 87).

To avoid these problems Miller focuses on outcome responsibility, which limits the analysis to those links in the causal chain that can be held responsible and liable in a moral or legal sense. Although outcome responsibility assumes a causal component – the agent must be connected in some way to the outcome – it does not coincide with causal responsibility (pp. 86–87). Outcome responsibility is interested in the question whether a particular agent can be credited or debited with a particular outcome. So in the example of the forest fire, my clumsy behavior is included, but the extreme dryness of the forest is neglected – since a forest cannot reasonably be held responsible or liable in any meaningful sense. The ascription of outcome responsibility presupposes agency but not necessarily intention: ‘We hold people responsible for the consequences of their actions that a reasonable person would have foreseen, whether these consequences were intended and whether they were actually foreseen by the person in question’ (p. 116).

This position can be elucidated by an example as discussed by Virginia Held (1991, pp. 90–91). Imagine someone throwing a hand grenade into an open window, causing the death of a child. Although he might not have been able to foresee this particular outcome, he still can be held responsible for it. After all, he could have been aware of the possible risks involved in this action. On the other hand, if he flips on a light switch that turns out to be
booby-trapped – of which he could have no knowledge – thereby causing the
dead of a child, then he cannot reasonably be held responsible.

This implies that outcome responsibility cannot be determined mechani-
cally, for example, by determining whether some agent was causally
connected to an outcome. Miller argues that the attribution of personal
responsibility is a normative activity, taking ‘normal powers of agents’
(p. 93) as the norm in judging whether a particular agent should have been
able to foresee the specific outcomes of his action (p. 96).

The collective responsibility of nations for outcomes: a conclusion

Let me wrap up this section. Miller develops two models of collective respon-
sibility, the like-minded group model and the cooperative practice model. He
separates states and nations, in order to focus on national responsibility. He
argues that we are justified in holding nations, described by the five charac-
teristics mentioned above, responsible for their outcomes when ‘they display
like-minded group and/or co-operative practice features’ (p. 108). Finally, he
conceptualizes and defends outcome responsibility as an alternative for
collective responsibility.

Miller’s outcome responsibility provides a good alternative for the more
traditional defenses of causal responsibility because it acknowledges the
complex nature of responsibility and practice of ascribing responsibility. As
mentioned in the introductory section, Miller’s two models deviate consider-
ably from the more traditional agency-based approaches. In the next section
I will elaborate the agency-based defense of responsibility in order to be able
to evaluate Miller’s like-minded group model and cooperative practice
model.

Agency and responsibility

Individual responsibility

As mentioned in the introductory section, discussions of responsibility
usually focus on individual responsibility and ask under which conditions
individuals are generally held responsible. The fact that persons can be held
responsible is widely acknowledged in legal and political philosophy, as
much as it is acknowledged that not every person can be held responsible for
every outcome. This generates two questions. Firstly, what is so special about
persons that they can be held responsible, unlike for example non-human
animals? Secondly, what are the conditions under which persons should be
relieved of this responsibility?

Such defenses usually presuppose individual agency as a prerequisite of
individual responsibility. In his discussion of individual responsibility,
Miller subscribes to this view. It is clear throughout the book that he sees
individual agency as a prerequisite for individual responsibility, although he
only discusses this relationship indirectly. He only discusses reasons why agents should be relieved of responsibility: derangement, when an agent’s actions are not governed by normal processes of decision; manipulation, when someone is indoctrinated or acts on false information; and coercion, when someone is forced to act in a specific way, by means of a serious and credible threat – e.g. a bank robber holding a sawn-off shotgun tells a cashier to open the safe (p. 92). Miller’s enumeration provides a plausible explanation of the circumstances under which an agent should be relieved from responsibility. But it does not answer the more fundamental question why persons can be held responsible in the first place. Why do we habitually ascribe responsibility to agents endowed with ‘normal powers’ (p. 93) of and not to young children or non-human animals?

The answer to this question also needs to be formulated in terms of agency. Which characteristics of normally functioning make adults responsible agents? It is not necessary for this discussion to provide a complete description of what constitutes personal agency. I will confine myself to a description of minimal conditions of personal agency that can help us in our conceptualization of collective agency in the next sections. Miller conceives personal agency in terms of persons ‘who are potentially able to take charge of their own lives and improve their situation by their own efforts’ and who therefore ‘make choices that have implications either for themselves or for others’ (p. 5). But what does this imply? These efforts and choices cannot be made randomly or haphazardly. When an agent is faced with a choice, he should have an understanding of the situation in which he finds himself, the courses of action available and their possible consequences. Moreover, he should be able to deliberate over these issues and to choose the most preferred course of action. Finally, agency implies the ability to act upon deliberation; he should be able to act in such a way that the most preferred course of action is performed. Agents cannot escape responsibility when they fail to anticipate the results of their actions through negligence or ignorance. Temporary drunkenness or inborn clumsiness do not relieve an agent of responsibility, since a responsible agent should be able to foresee the possible outcomes of his temporary or permanent incapacity. Moreover, agency does not presuppose extensive deliberation over each and every decision; many choices can be made without giving them much thought and consideration. Agency implies only the ability to deliberate if the situation so demands. Finally, agency does not presupposes full knowledge of all possible courses of action and all their possible (side)effects – as discussed in the hand grenade example in the section above. Miller argues that the attribution of personal responsibility is a normative activity, taking ‘normal powers of agents’ (p. 93) as the norm in judging whether a particular agent should have been able to foresee the specific outcomes of his action (p. 96). This is why young children and non-human animals are usually seen as unfit to be held responsible since they are not able to foresee and understand the consequences of their actions.
Conceptualizing collective responsibility

If we have a widely accepted idea of individual responsibility, why do we need the concept of collective responsibility? At the end of the day, collective outcomes are the aggregated result of individual actions of the members of the collectivity. Joining a collective does not change intentionally acting agents into mechanically operating zombies. Thus, one could ask how collectives can have responsibilities that do not boil down, without residue, into responsibilities of individuals. One important reason to include collective responsibility in our normative repertoire is to analyze cases where the application of individual responsibility does not suffice. In some cases it generates conclusions that are incompatible with widely shared moral intuitions, for example, the legal settlement of The Herald of Free Enterprise disaster. On 6 March 1987 this ferry capsized when it left the Zeebrugge harbor with its bow doors still open, killing nearly two hundred people. Not one single staff member was penalized in court because it was impossible to identify individual persons who were seriously enough at fault. At the same time an official inquiry concluded that:

All concerned in management, from the members of the Board of Directors down to the junior superintendents, were guilty of fault in that all must be regarded as sharing responsibility for the failure of management. From top to bottom the body corporate was infected with the disease of sloppiness.⁷

Eric Colvin concludes that ‘ultimately … it was the primary requirement of finding an individual who was liable that stood in the way of attaching any significance to the organizational sloppiness that had been found by the official inquiry’ (Colvin 1995, p. 18). It is very counterintuitive that all involved individual staff members and the corporation as a collective entity could escape criminal liability, a result that could have been avoided if British criminal law acknowledged the notion of collective responsibility.

Assigning collective responsibility implies two things: a collective of persons is held jointly responsible for an outcome, and this responsibility descends to the individual members. This implies that each member of the collective has to bear an equal share of that responsibility, regardless of the individual contribution to the net outcome (p. 116). The advantage of such an approach is that the victims are relieved of the duty to investigate how the responsibility is distributed within the collective.⁸ However, the introduction of collective responsibility is not a panacea for all problems. As Miller rightfully observes, assigning collective responsibility may ‘set liberal alarm bells ringing’ because it ‘goes against an intuition that it is only what a person does herself that can make her responsible for harmful outcomes’ (p. 120). Under which conditions can a group of people collectively be held responsible? Determining whether responsibility should be ascribed individually or collectively, implies steering a delicate middle course whereby two types of mistakes need to be avoided. I conceptualize these problems as follows:
**Type 1 mistakes** persistently stick to individual responsibility, denying the normative relevance of collective responsibility. This prevents us from ascribing remedial responsibility to a collective of perpetrators when it is impossible to determine how each participant contributed to the final outcome, leaving the victims uncompensated. Type 1 mistakes disturb a fair distribution of burdens and benefits between perpetrators and victims. The British legal settlement of *The Herald of Free Enterprise* disaster is an example of such a Type 1 mistake.

**Type 2 mistakes** too easily embrace the notion of collective responsibility by too loosely including innocent passers-by as members of the responsible collective, or by too easily making group membership sufficient for responsibility for acts performed by some, even if the other members were opposed to these acts. Non-perpetrators are wrongfully included in the collective responsibility and the duty to pay an equal share of the expenses. In short, Type 2 mistakes undermine a fair distribution of burdens and benefits between the perpetrators and alleged perpetrators.

**Ascribing collective responsibility in the agency model**

Under which conditions can a collective reasonably be held responsible for outcomes? Above I argued that personal agency is generally seen as a prerequisite for personal responsibility. Similarly, many authors assume that a collective can only be held responsible when it can be considered to be an agent. Philip Pettit, in his discussion of corporate responsibility, quite explicitly claims that collectives can only be held responsible when, in their cooperation, participants ‘mimic the performance of a single unified agent’ (Pettit 2007, p. 179). Personal agency presupposes an understanding of one’s situation, the ability to deliberate over possible courses of action and their consequences, and the ability to act in such a way that the most preferred course of action is committed. How can the conditions for personal agency be translated into conditions for collective agency? Collectives must have the ability to make decisions as a single agent and the ability to take action in a concerted fashion. The larger the collective, and the more complex the act, the more these processes of deliberation, decision-making and taking action need be institutionalized. After all, to include all members in the collective responsibility implies that they should be able to affect collective decision-making and behavior. This makes the concept of collective responsibility comprehensible: institutionalized routines and procedures mimic decision-making habits in the case of individual agents. 9

From the analogy between individual and collective responsibility I conclude that collective responsibility can only be ascribed when (1) the members of a collective can deliberate, decide, and act as a unified agent. Collective responsibility can only descend to individual members when (2) it is clear who is included in, and excluded from, the collective and (3) when
those included can participate in the collective decision making in one way or another. The members of the collective don’t have to agree on everything. But they should at least agree upon the procedures of deliberation and each member should be able to voice their disagreement. This guarantees that all members of the collective can influence the collective outcomes, and thus can share responsibility for it. As such, these conditions are aimed to avoid the Type 2 mistakes as discerned above.

Re-examining Miller’s two models of collective responsibility

In the previous section I discussed individual and collective responsibility and I argued that agency – whether individual or collective – is an important prerequisite for ascribing responsibility. In his discussion of individual responsibility, Miller acknowledges this link between agency and responsibility. Moreover, he argues that he wants to explain ‘how it is possible to treat nations as responsible agents, and explore under what circumstances such attributions of collective responsibility are justified. … In proceeding in this way, I am assuming that when we apply these concepts to collectives such as nations, the concepts themselves are the same as those we apply on a much smaller scale to individuals’ (p. 82). However, his actual discussion of the two models of collective responsibility in chapter five is, remarkably enough, not couched in agency arguments – at least Miller himself does not discuss the models in these terms. In this section I will analyze the strength of Miller’s two models of collective responsibility. I will discuss them in reverse order.

The cooperative practice model

The cooperative practice model is very helpful in defending collective responsibility. One important reason is that it more or less satisfies the three conditions of collective agency as discussed on page 473–474. Let me explain this by discussing Miller’s example of the employee-controlled corporation that deposited chemical substances in a river. This collective can deliberate, decide and act like a unified agent. Although the employees might not be like-minded, they endorse specific outcomes they want to achieve together. Such corporations usually have institutionalized decision procedures which enable collective deliberation and concerted acting. There is a well-defined and agreed-upon division of labor within the collective, in which each employee intends to do his or her part, assuming that others will do theirs (Pettit 2007, p. 179). Secondly, it is clear who participates within the corporation: being on the payroll implies membership of the collective; all others are excluded. Thirdly and finally, employees can participate in the collective decision making of the corporation. Firms usually have procedures for deciding which goals are desirable, how these goals should be achieved, which means should
be used, and how these goals and means must be revised in the light of new circumstances. Miller explicitly acknowledges this element when he argues that in cases where major decisions in the firm are taken by a small clique that keeps the other participants in the dark about the whole issue ‘collective responsibility no longer extends to all members, but at most to the decision-makers or the leading beneficiaries of the practice’ (p. 119).

If we describe the employee-controlled firm in this way, we can conclude that the conditions of the cooperative practice model for collective responsibility – the participants have a fair chance to influence collective decisions and to benefit from participating in decision-making – neatly coincide with the conditions for collective agency. The firm complies with the conditions of collective agency and responsibility: it functions as a unified actor; its members are able to deliberate on desired goals and to act in a concerted fashion to achieve these goals. Thus, responsibility for carrying their share of the costs of reparations for harmful outcomes of their collective enterprise descends to all employees in the firm – including the dissenting minority – for the reason that Miller gives: they participate as full members in the collective and had a fair chance to influence the firm’s decisions.

The like-minded model
Miller claims that we can also attribute collective responsibility to like-minded groups. Members of such groups share aims and recognize their like-mindedness, and this implies that individual acts must be seen in the light of the support they are receiving from other members of the group. Although like-mindedness might substantially contribute to collective responsibility, it cannot be a sufficient condition for ascribing collective responsibility. Moreover, I am not convinced that Miller’s mob example is very helpful in substantiating the like-mindedness model. For one thing, within such unorganized groups it is unclear who should be included and excluded in collective responsibility. In his description of the mob, Miller portrays a picture of an unorganized horde rampaging through a neighborhood. Yet, when ascribing collective responsibility, he tacitly assumes that members of the mob can be clearly distinguished from innocent bystanders. But it is precisely the disorderly character of such mobs that makes it notoriously difficult to make this distinction between participants and non-participants. This is not merely an academic quibble, since collective responsibility descends into individual duties to compensate for the damage. To avoid Type 2 mistakes, collective responsibility can only be ascribed to a collective when its membership can be determined beyond reasonable doubt.

But even when we assume that this distinction can be made, there is a second problem with the like-minded group model. Like-mindedness ipso facto is insufficient for generating collective responsibility. Miller argues that the like-mindedness of the members of a collective and the mutual recognition...
of this like-mindedness implies that individual actions must be interpreted in the light of the encouragement and support they receive from other members. This implies that mere membership in a collective that is like-minded is sufficient to share in collective responsibility for the outcomes of the group, regardless of one’s own behavior. But slightly altering Miller’s mob example might make this conclusion less evident. Imagine a group of students protesting against a cutback in student loans. They are like-minded because they agree that the cutback is unjust, and that only a massive demonstration can effectively show that they mean business. Thus, they fit Miller’s description of the like-minded group since ‘each person took part with the same general attitude “teaching them a lesson”, “showing them that we mean business”, and so forth’ (p. 115). But unlike the mob described by Miller, they have no intention to start rioting; they are well aware that this would undermine the credibility of their demonstration. However, halfway through the protest march, they pass an apartment building in which one of the windows shows a poster saying ‘students are parasites, get a life!’. Although they intended to hold a peaceful rally, some protesters get very agitated and start throwing stones at the apartment and cause considerable damage.

Although these students are a like-minded group, I am not convinced that they could be held collectively responsible for the damage. To be sure, their like-mindedness brought the students together for the gathering, and this makes them responsible for creating an event that eventually escalated into the damage. But could this escalation be foreseen? As Miller argues:

Recall that outcome responsibility does not in general require intention: we hold people responsible for the consequences of their actions that a reasonable person would have foreseen, whether these consequences were intended and whether they were actually foreseen by the person in question. (p. 116)

We cannot assume that a reasonable protester should have foreseen this outcome. Miller’s mob example is set up in such a way that the subject of the like-mindedness coincides with the outcome: ‘Attributing responsibility to individual rioters is justified [because] they contributed to a collective activity that was certain to inflict damage on other people, whether they specifically intended the overall outcome that actually occurred’ (p. 116, my emphasis). In the example of the students, the damage was not a certain outcome of the demonstration; it was not even an unintended side-effect; it was contradictory to the non-violent aims of the larger collective. Still, Miller’s like-mindedness group argument would ascribe outcome responsibility to the collective of students for the misbehavior of some, since such a demonstration is an example of

a specific event, limited in time, and it allows for a relatively clear demarcation between those who share in the responsibility and those who do not: to escape responsibility, in normal circumstances, all one has to do is to stay at home. (pp. 117–118, note 8)
Miller’s claim that we can only hold people responsible for the consequences that a reasonable person would have foreseen is inconsistent with his like-mindedness model of collective responsibility. We should distinguish like-mindedness that brings collective gatherings together from the group dynamics that determine the outcomes of such gatherings. I do not dispute Miller’s argument on group dynamics that may have unpredictable outcomes and that 'people in crowds behave differently precisely because of the contagion of those around them' (p. 117). I dispute the automatism in which collectives, because of their like-mindedness, are seen responsible for the outcomes that are not generally endorsed. The protesters should have been aware that such collective gatherings generate turmoil and unforeseen effects, for example a riot, and they might be held responsible for creating such an atmosphere. But the small group that caused the damage is primarily responsible for it, and it seems to me too far a stretch to include all students in the collective responsibility for the damage. I do not see why their like-mindedness means that the larger collective of students should be held responsible. After all, several other actors are equally likely candidates: the apartment owner who hung the provoking poster in his window; the police who enticed the students by demonstrating an excessive display of power by showing up in their anti-riot squad outfit; the city council who only gave a permit for the demonstration in a student-unfriendly district, etcetera.

Like-mindedness is too loose a bonding element among the members to make them (1) collectively responsible and (2) to distribute responsibility for the outcome generated by some among all members. The collective might be like-minded as to the aim of the demonstration, but not as to the way these aims are best achieved.

Miller employs the like-minded model to discuss racism in the post-bellum American South. Acts of violence against blacks, like beatings and lynchings, were carried out in a context in which Southern whites in general passively sympathized with such acts, even if they were not actively involved in perpetrating them, as a result of a widely shared culture of racial inequality. He argues that:

In these circumstances, it makes sense to hold all Southern whites collectively responsible for keeping blacks in a state of subjugation. … The argument in the case of the post-bellum American South is that where a community of people shares a set of cultural values, one of whose effects is to encourage behaviour that results in outcome O, then everyone who belongs to the community shares in the responsibility for O, even if they disapprove of it. By participating in the community they help to sustain the climate of opinion in which the actions in question take place, even if they voice their opposition to the actions themselves. (p. 118)

Here the like-minded model ascribes two forms of collective responsibility. It correctly holds all Southern whites responsible for keeping blacks in a state of subjugation. However, it incorrectly holds active perpetrators in lynchings
and society members that disapprove lynchings equally responsible for the sufferings in which they resulted. Not disapproving of a specific climate is very different from taking advantage of that climate to carry out horrendous acts, and like-mindedness or a shared set of cultural values cannot bridge that divide. Here, the like-minded model incorrectly ascribes collective responsibility for lynching to all Southern whites, because such an ascription is a Type 2 mistake.

**Miller’s two models and agency-based defenses of responsibility**

Traditional defenses of responsibility presuppose an explicit connection between agency and responsibility. Pettit summarizes this link poetically by arguing that collectives can be held responsible if they ‘operate through their members in such a way that they simulate the performance of individual agents’ (Pettit 2007, p. 172). Miller’s position is less clear. Although he sees personal agency as a prerequisite of personal responsibility, his two models for collective responsibility are not explicitly couched in agency arguments. The cooperative practice model can smoothly be translated into such terms. However, the like-minded group model is more problematic, because it wrongly holds persons liable for outcomes collectively incurred by the collectives of which they are members.

One could ask why Miller invoked like-mindedness as an alternative to agency to justify the ascription of responsibility. One explanation could be his interest in the responsibility of nations, characterized by a shared identity and culture, apart from states as characterized by a formal organization in institutions like governments, legislatures and parliaments. Indeed, it seems plausible to assume that Miller introduces the like-minded model to be able to ascribe collective responsibility to collectives that are not formalized or set up for a one-time only event. The turmoil generated by the provocative poster, and the impossibility of collective deliberation and decision-making, might be better described in terms of collective insanity than collective agency.

But Millers detour is unsuccessful (as argued above) and unnecessary. Even in the case of informal collectives, ascribing collective responsibility can proceed via agency-based arguments. Let me elaborate this by discussing Virginia Held’s iconic example of a random collection of subway passengers (1991, pp. 94–96). Imagine seven non-acquainted persons sitting in a subway car. The second smallest person stands up, pushes the smallest to the floor, and starts beating and strangling him. If the remaining five passengers do nothing, the attacker will certainly kill the victim. Although none of the passengers could stop the attacker acting alone, it is extremely plausible that collectively they could save the victim with no serious injury to themselves. Moreover, the group is small enough that collective action will not result in confusion.
Held argues that the passengers should be held responsible collectively if they had not helped the victim if (1) it was obvious to ‘normal persons’ that collective action was required in this situation and (2) it was obvious to ‘normal persons’ which collective action was required. These two requirements are requirements of collective agency because she holds the collective responsible ‘for its failure to act as a group’ (Held 1991, p. 95). We expect them to cooperate to prevent an outcome – that is, to act as a collective agent – when collective action is necessary and possible, and we hold them responsible if they refuse to do so. Although they entered the subway car as strangers, the situation in which they found themselves forced them to become an ad-hoc collective and to cooperate in such a way that the unwanted outcome was prevented. Held’s example is set up in such a way that collectives can be held responsible if they refuse to cooperate to prevent certain outcomes. The collective responsibility of the random collection of subway passengers is established in terms of collective agency. They can only be held collectively responsible if they could have acted as a collective agent to help the victim, but refused to do so. They cannot be held collectively responsible if it were impossible for ‘normal persons’ to act collectively in such a way that the outcome could be prevented.

Such arguments should also be employed in our discussion of Miller’s mob or my demonstrating students. We can only ascribe collective responsibility when the collective is able to function as a unified actor and when the participants can participate in some way in collective processes of deliberation and decision-making. Sometimes these processes are comprehensive, extensive and institutionalized; for example, when a large firm discusses the introduction of new environment-friendly technologies. In other situations, these processes are swift, ad-hoc and implicit, for example, when a group of subway passengers collectively subdue an attacker.

This implies that even in the case of loose or temporary collectives, or in one-time-only events, collective responsibility can be ascribed if we can reasonably assume that the collective was able to collaborate in such a way that its members acted as a unified agent, even only for a few minutes. On the other hand, if the circumstances were such that it was impossible for the members to coordinate their activities in such a way to act as an agent – because the task was too complex or because there was too little time – ascribing collective responsibility is unwarranted because it would imply making a Type 2 mistake.

From collective responsibility to national responsibility: a conclusion
To what extent do Miller’s models of collective responsibility provide arguments for defending national responsibility – the collective responsibility of nations? The like-minded model is not convincing in defending collective responsibility, because like-mindedness is too loose a bonding element
among the members of a collective to justify an equal descending of the collective responsibility for outcomes to all the members. As such, the model ascribes collective responsibility when none is due. And since national responsibility is ‘a species’ of collective responsibility (p. 81), the like-mindedness model is also unhelpful in a defense of national responsibility. Moreover, even if it were successful as a general model of collective responsibility, it might not be helpful in all the examples Miller discusses. For example, do we really think that the German nation during the Nazi regime can be best described in terms of like-mindedness? The Nazi regime was very repressive and public signs of disloyalty came with a heavy burden. So the like-minded model – even when it is useful in thinking about other instances of collective responsibility – cannot be employed to establish the collective responsibility of the German people for acts carried out by the Nazi regime.

The collective practice model is very helpful in determining collective responsibility; however, it might not be helpful for a defense of national responsibility. After all, Miller insists in divorcing nations from states and separating national responsibility from state responsibility. It seems that the collective practice model provides a good foundation for the responsibility of states – given their formal organization in institutions – but is less successful as a defense for the responsibility of nations, given their informal character.

To me, the underlying problem in Miller’s argument seems to be his insistence on separating nations from states and on distinguishing national responsibility from state responsibility.12 In discussions on global justice we usually discuss the responsibility of ‘nation states’ of ‘political communities’ in which the notion of state and nation are inherently and inseparably intermingled.13 Indeed, the section in the book in which Miller argues why we can hold nations collectively responsible and liable for outcomes is not convincing (pp. 124–134). His defense oscillates between two separate arguments: on the one hand, like-minded arguments in which it is unclear what the issues of responsibility are; and on the other hand, corporative-practice arguments for which it is unclear if the collective responsibility is solely a national responsibility.

The like-minded arguments he discusses concern issues of common identity and culture, for example, the alleged character of Germans as a hard-working people and countries in which religious or cultural values generate specific patterns of family relations that result in a higher than average number of children per family (p. 126). Here we have examples of national values that can be described in terms of the like-minded model. But it is unclear to me why these examples concern issues of collective responsibility and liability which descend into individual responsibility in a way that is normatively controversial. On the other hand, he employs the collective practice model in other examples that might indeed generate genuine issues of collective responsibility, but not necessarily national responsibility. For example, in the case of democratically self-governing nations, he argues that
‘the policies pursued by the state can reasonably be seen as policies for whose effects the citizen body as a whole is collectively responsible, given that they have authorized the government to act on their behalf in a free election’ (p. 128). This seems to be an example of a correct ascription of collective responsibility, but I would not restrict it to national responsibility alone, thus excluding state responsibility. Indeed, Miller concludes that ‘the more open and democratic a political community is, the more justified we are in holding its members responsible for the decisions they make and the policies they follow’ (p. 130, my emphasis). I agree that the cooperative practice model is correctly deployed here. However, since democracy is first and foremost a character of a political system, and since policies are outcomes of the political system, I do not see how this collective responsibility can be merely conceptualized as national responsibility. The state is the nation in action; indeed, Miller’s usage of the term ‘political community’ in which both the state and the nation appear connected is an indication of why national responsibility and state responsibility cannot be separated.

Miller gives two examples of why the separation of national responsibility and state responsibility is necessary: one of a nation of which the accompanying state does not yet exist – a nation that seeks secession – and one of a nation of which the accompanying state is defeated – Nazi Germany (pp. 111–112). From these two examples he argues that we need a general theory of national responsibility – as distinguished from state responsibility – that should be employed in all cases, also in cases in which the nation and the state enduringly coincide. To me this does not seem the best way to deal with this issue. States and nations are so intermingled that it is very hard the separate them, and the same is true about national responsibility and state responsibility. Moreover, most discussions in global justice debates concern nation states/political communities that have been stable over time. So our primary interest should be the responsibility of political communities, and our general theories of global justice should take the responsibilities of these political communities as their focal point. Those cases in which states and nations do not coincide generate difficult problems, but they are special problems, exceptions to the more general model, and should be treated as such.

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**Notes**

1. The question on where to draw the line between choice and circumstance has dominated the luck-egalitarian debate over the last decade. See for some


3. In a third step, elaborated in chapter six, Miller argues how present-day nations could be held responsible for the actions of their forebears. My discussion only concerns the first two steps of his argument; the latter step is discussed in Kok-Chor Tan’s National responsibility, reparations and distributive justice (this issue).

4. In chapter four, Miller discusses different conceptions of responsibility – outcome responsibility versus remedial responsibility – and various versions of outcome responsibility – causal responsibility and moral responsibility. I will only present these various forms of responsibility when they are relevant for my argument.


6. He argues, for example, that before we can hold an individual agent for an outcome ‘there must be genuine agency as opposed to inadvertent bodily movement’ (pp. 87–88, my emphasis).


8. Amongst themselves, the perpetrators might decide to make finer-grained allocations of responsibility, depending on what is known about the activities of each member, whether some can be identified as ringleaders, and so forth (pp. 116–117).

9. Pettit shows that the agency of a collective is actually more than the sum of its members’ agency. By elaborating discursive dilemmas, he shows that attitudes of collective agents cannot be a majority or non-majoritarian function of the corresponding attitudes of its participants. The collective attitudes are thus unique by being the attitudes of the collective. ‘This [collective] autonomy may be surprising, but it is not mysterious. While group attitudes are not functions of the corresponding attitudes of individual members, they are produced by those individuals, and they derive all their matter and energy from what individuals supply’ (Pettit 2007, p. 184).

10. This situation seems to be analogous to a case of personal agency in which someone is responsible for the outcome of a decision, even though he wasn’t sure it was the right decision.

11. My critique here resembles Miller’s critique of causal responsibility as discussed in the section on outcome vs. causal responsibility.

12. Miller’s attempt to distinguish nations from states has many similarities with Rawls’ attempt to distinguish peoples from states (Rawls 1999, pp. 23–30). My critique of Miller has very many similarities with Allen Buchanan’s critique of Rawls (Buchanan 2000, pp. 698–699).


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