

Compensation and moral luck

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In some vicarious cases of compensation, an agent seems obligated to compensate for a harm they did not inflict. This raises the problem that obligations for compensation may arise out of circumstantial luck. That is, an agent may owe compensation for a harm that was outside their control. Addressing this issue, I identify five conditions for compensation from the literature: causal engagement, proxy, ill-gotten gains, constitution, and affiliation. I argue that only two of them specify genuine and irreducible grounds for compensation, and that factors determining the agent's obligations may be beyond their control. However, I suggest that this is unproblematic. There is thus no problem of circumstantial moral luck for compensation.

INTRODUCTION

In both everyday life and ethical theory, we believe that individual or collective agents owe compensation for a prior harm¹. In the simplest case, an agent owes another agent compensation for a harm the former has inflicted on the latter. Compensation restores or repairs that harm and 'makes up' for the damage. More precisely, something compensates an agent for a harm iff they are thereby no worse off if they had not been harmed (Nozick 1974, 52). I take compensation to include the restoration or restitution of property, such as in cases of theft.

¹We bracket moral responsibility due to space restrictions (Fisher & Ravizza 1993; Talbert 2019; Zimmerman 1988).

Some authors argue that agents may owe compensation for a harm even though someone else inflicted it (Abdel-Nour 2003; Corlett 2003; Nozick 1974). On this view victims of corporate wrongdoing might have a claim for compensation against the employees of a company, and a harmed party against those who concurred with the transgressor. Similarly, some suggest that agents may have claims for compensation even though they were not harmed. For instance, it has been suggested that governments are obligated to compensate the descendants of slaves even if they do not themselves suffer from the crimes (Boxill 2003; Morris 1984). We shall refer to cases where an agent supposedly has a claim or obligation for compensation for a harm but has neither suffered or inflicted it as “vicarious cases”. Henceforth, we focus on obligations.

In vicarious cases, if they exist, there is no obvious relevant prior exercise of agency on the part of the agents who owe compensation. For example, someone could have an obligation for compensation because they happened to be employed by a certain company or because their ancestors inflicted a harm. At times, then, moral obligations for compensation would be a matter of moral luck.

Moral luck, very broadly, occurs when factors outside of an agent’s control determine their moral status, obligations, or properties (Nagel [1979] 2012, 28; Hanna 2014, 683; Lillehammer 2020). We focus on *circumstantial luck* (Nagel [1979] 2012). It arises when the moral assessment of an agent or action depends on contingent aspects of the agent’s situation that are beyond their control.

For illustration, imagine that two twins, Kit and Kim, each inherit a car from their parents. After a few years, someone contacts them with convincing evidence that they own a car that the twins’ parents had stolen from them. It turns out that the stolen car now belongs to Kit. We

can stipulate that the twins had exactly the same intentions, degree of control, and acted in the same way. All that differs between them are the circumstances under which their parents acquired the car they now own.

The debate about moral luck concerns the question of how to morally assess agents in cases like this. On the one hand, the assessment ought to depend entirely on factors under the agent's control (Kant 4:394; Nagel [1979] 2012). As these are identical for the cases at hand, it seems that the lucky and the unlucky agents should be judged in the same way. On the other hand, we do tend to respond to agents like Kit differently than to agents like Kim. So, it seems that moral assessment does depend on factors not under the agent's control. Some such assessments concern the agent's moral obligation for compensation: Kit but not Kim may be obliged to return the car although the theft was beyond Kit's control.

We thus face what we may call "the problem of moral luck for compensation": it seems that we often ascribe obligations for compensation to agents even though whether we assess them in this way depends on factors beyond their control. This seems particularly problematic in vicarious cases where the agent did no harm or wrong, like the twins. Plausibly, if an heir of stolen property has an obligation to return it to the rightful owner then Kit is unlucky and has to give up their car. Yet it seems unfair to place on Kit an obligation for compensation that their parents incurred. If it is wrong to punish someone for another's transgression, then it seems impermissible to make them compensate or apologise for it (Thompson 2006, 155).

Accordingly, philosophers are divided about whether obligations for compensation arise in vicarious cases and if so, how they can be justified. Many accept that agents in such cases are under no obligation to compensate for a harm they did not inflict (Corlett 2003; O'Neill 1987; Thompson 2006). As Boxill (2003, p. 71) puts it in his discussion on black reparations:

“[s]ince present day U.S. citizens were not complicit in the crime of slavery that claim [for black reparations] can only be based on the morally repugnant idea that individuals can be burdened with the duties that other people incurred.”

This paper argues that obligations for compensation can arise vicariously, that they are therefore luck-sensitive, and that this is not problematic. Agents can find themselves with obligations for compensation just as they may find themselves with minority or citizen’s rights, or an opportunity to save a life or make donations. Obligations for compensation may thus sometimes arise out of luck, like many others.

Drawing on the literature on blameworthiness and blame (Miller 2007; Scanlon 2008), I distinguish between vicarious obligations for compensation on the one hand and blameworthiness for the corresponding harm on the other (section 2). I identify five conditions from the current literature that are regarded as grounds for obligations to compensate. I call these “conditions of compensation by causal engagement, proxy, ill-gotten gains, constitution, and affiliation” (section 3). Causal engagement and proxy are plausible conditions for compensation whereas the other three are either reducible to the former two conditions, or unjustified. Furthermore, under the first two conditions the moral obligation to compensate for a harm is luck-sensitive but whether the agent is blameworthy for the harm need not be. I conclude that there is no problem of moral luck for compensation (section 4).

2. CIRCUMSTANTIAL LUCK, OBLIGATION, AND BLAMEWORTHINESS

This section argues that, in vicarious cases, blameworthiness for a harm need not be luck-sensitive but obligation to compensate for that harm may be.

The example of Kim and Kit is a vicarious case where neither agent would be deemed blameworthy for the harm to be compensated according to standard accounts thereof (see e.g. Fischer 1994; Hieronymi 2008; Scanlon 1998; Smith 2005; Watson 2013).

For an example that includes blameworthiness, imagine that Deniz always drives recklessly. One day, they are driving with a company car to a client and cause an accident. Deniz may face consequences like getting fired. The company is legally obligated to pay compensation for at least parts of the damage. This seems ethically justified, for at least three reasons. First, a company is responsible for its employees and therefore owes compensation for the harm they cause. Second, companies benefit from their employees' work and as a matter of fairness must bear the risks they take. Third, as employees cannot normally get insurance for their actions at work, companies are ethically obliged to protect them.

Compare Deniz' case with the following one:

Dominique works for the same company as Deniz, has a company car, and always drives recklessly. During a holiday, Dominique drives with their own vehicle to a friend's house and causes an accident.

Both drivers are blameworthy and obliged to apologise to and compensate their victims. But for their company, the two cases differ. Unlike Deniz, Dominique did not have an accident with the company car, therefore the company is typically under no obligation to pay compensation or apologise, and it is not blameworthy.

The company is thus subject to circumstantial luck. We can assume that its prior agency towards its employees was exactly the same in both cases. Whether the company is obliged to compensate and blameworthy for the accident depends entirely on whether its employees had their accidents during work, and therefore on factors beyond the company's control.

But there is a difficulty. In most vicarious cases, the agent who seems to owe compensation for a harm is obviously not blameworthy for it. E.g., the harming of slaves was not under the voluntary control of or attributable to today's descendants of the slave-holders. Therefore, they

are not blameworthy and not to be punished. That they were born into a family whose ancestors inflicted horrendous harms amounts to bad circumstantial moral luck. If a party implicated only vicariously is not blameworthy for a harm, can they be obligated to compensate for it?

Two strategies that authors have pursued in response to this question are as follows. The first builds on the assumption that third parties do owe compensation, under certain circumstances. From this, authors have inferred that the party implicated only vicariously must be, if not blameworthy then at the very least to some degree causally engaged in the harming. Along those lines, Thompson (2006) suggests that those who inflicted the harm formed a group agent like a nation and that, therefore, present-day members of that nation owe compensation for the harm. In a similar vein, Abdel-Nour (2003, 695 et passim) argues that agents are, by virtue of their national identity, “implicated in the cause of distant outcomes” like slavery. According to a somewhat different suggestion, the heirs of perpetrators harmed the victims and the victim’s heirs because they prevented them from recovering from the original harm, and therefore owe compensation (Boxill 2003, 87 et passim). Relatedly, Butt (2007, 144-5) argues that beneficiaries of a harm contribute to its persistence when they fail to rectify the distribution of losses and benefits. We shall discuss these arguments below when examining affiliation, constitution, proxy, and ill-gotten gains, respectively.

The second strategy builds on the assumption that parties implicated only vicariously are not blameworthy for or somehow voluntarily engaged in causing the harm. In addition, it assumes that compensation is possible only if the harming and the harmed parties exist: “compensation presupposes an injuring as well as an injured party” (O’Neill 1987, 77). From these two claims, it follows that parties implicated only vicariously do not owe compensation

for the harms inflicted by others: “those who are innocent must not suffer harm or be forced to compensate for harms they did not cause” (Corlett 2003, 200).

This paper rejects both strategies in favour of a third one. For vicarious cases of compensation, we should separate blameworthiness for harms from obligations for compensating those harms. Specifically, I propose that we can apply the distinction that Scanlon and others have drawn for cases involving outcome luck to vicarious cases involving circumstantial luck (Scanlon 2008, ch.8; cf. 2015, 103-5). Whilst blameworthiness and obligations to compensate often align in the former, they typically do not in the latter. It is possible for a party implicated only vicariously to owe compensation for a harm that it is not blameworthy for (the reverse is conceivable but unlikely to occur).

Whether agents in vicarious cases owe compensation for a harm is thus conceptually independent of whether they are blameworthy for it, and the former is a matter of moral luck but the latter need not be. However, I think this is not morally problematic. The problem of moral luck arises from the conflict that, on the one hand, the moral assessment of an agent depends on features beyond their control, and, on the other hand, the moral assessment is constrained by features that are within their control (Lillehammer 2020, 5). But in vicarious cases of compensation for a harm, we can separate these two conflicting principles: the dependency on features beyond the agent’s control applies to the moral obligation for compensating a prior harm but it need not apply to blameworthiness for that harm. Therefore, there seems to be no problem of moral luck for the ethics of compensation.

3. CONDITIONS OF COMPENSATION

This section takes a closer look at five conditions from the current literature. Supposedly, an agent is under an obligation for compensation if they meet at least one of these conditions. All

but the first concern vicarious cases. I argue that three conditions reduce to the other two and that, for those two, there is no problem of outcome or circumstantial moral luck.

3.1 Causal engagement

The locus classicus for the first condition is Locke's (*Treatises* II, 10) claim that

he who hath received any damage, has [...] a particular right to seek reparation from him that has done it.

Rephrasing Locke's statement in terms of obligations, an agent has an obligation to compensate another agent for a harm if they have previously been engaged in causing that harm. Call this "the condition of compensation by causal engagement".

The expression 'causal engagement' is deliberately vague as it may concern a range of causes, like causes *sine qua non*, overdetermined causes (Bennett 2003; Won 2014), or enabling conditions. In all of them, the harming party might be under an obligation to compensate. They might not be *solely* responsible and accordingly not obligated to *fully* compensate. Sometimes, they might not be obligated to compensate at all (all conditions of compensation concern *ceteris paribus* obligations).

Is the condition of compensation by causal engagement plausible? Recall that compensation serves to make the person who suffered a harm no worse off than they would be if they had not been harmed (Nozick 1974, 52). The condition of causal engagement can account for the purpose of compensation. Someone who has been harmed has a justified claim to be compensated, and the corresponding obligation falls first and foremost on those who made the harmed person worse off. Arguably the obligation for compensation derives from a more general obligation to refrain from harming others. Someone who violates this obligation is

now under an obligation to make up for the harm caused. Consider a thief who has made the victim worse off by taking their property. To compensate the victim and make them as well off as they would be if the theft had not occurred, at the very least their property ought to be returned. As the thief is in possession of the property, they alone can meet the victim's claim for compensation.

However, is the harming agent also blameworthy for the harm? The harming agent may be blameworthy in some cases but not in others. E.g., Deniz is blameworthy because they drive recklessly. A careful driver is not blameworthy. But if, say, a child runs in front of their car, they nevertheless owe compensation for the injuries. Whether the agent is blameworthy is thus independent of whether they owe compensation.

In sum, there is no problem of moral luck for compensation by causal engagement. Factors that determine whether an agent owes compensation may be beyond their control, yet this is not morally problematic.

3.2 Proxy

According to the condition of compensation by proxy, an agent has an obligation to compensate for some harm if they have previously voluntarily agreed to compensate for the harm another party ought to compensate for. Let us call the relation between the two agents a 'proxy relation'. A typical example for a proxy relation is that between parents and their minor children. One may enter into proxy relationships explicitly, like insurers, or implicitly, like parents.

A special case of proxy is legal inheritance. For example, Kit is obliged to return the stolen property inherited from their parents. Compensation for historical injustice may be owed by heirs of those who inflicted the harms. E.g., descendants of slave-holders may be in a

hereditary proxy relation to those who inflicted the harm and thus inherit their obligation for compensation (cf. Boxill 2003, 69).

Legally, inheritance is always accepted or declined in its entirety. Accepting an inheritance implies voluntarily agreeing to accept debts and obligations for compensation passed on by the testator. Sometimes it might be difficult to decline an inheritance. E.g., if an heir has accepted an inheritance and it later turns out that it includes obligations for compensation, the heir might be unable to decline these obligations because they are now unable to decline the inheritance. Heirs like this do not *knowingly* accept the obligations for compensation but they *implicitly* accept them when accepting the inheritance.

Proxy obligations differ from obligations arising for other reasons, such as a duty to reciprocate. E. g., if a former slave personally benefits the heiress of a slave holder, she might be obliged to benefit the former slave but not due to proxy obligations (imagine she renounces the inheritance) but rather to return the favour the former slave bestowed upon her.

Let us now discuss whether obligations for compensation by proxy are morally justified. Like other special obligations that arise from interpersonal relationships, citizenship, or promising, proxy obligations are grounded in the voluntarist or contractual commitment we make to others (Jeske 2019). When entering a proxy relationship with another person, an agent raises expectations from that person and allows them to rely on them. They now have a moral claim on the proxy. Therefore, I think that the condition of compensation by proxy is justified by the moral commitment of the parties in a proxy relationship. Moreover, this condition of compensation increases the number of ethical claims that can be met. For, it allows for compensation in cases where the party who was originally obliged to compensate is unable or unwilling to do so. In these cases, a proxy can take the place of that party and compensate for the harm.

Next, let us examine whether a proxy is blameworthy for the harm they are obliged to compensate. Let us set aside cases where they are in addition obliged to compensate by causal engagement, and blameworthiness may arise from that. Assume an agent is merely obliged to compensate by proxy, such as in a case of an insurance company. They are blameworthy only either if they exercised moral agency when inflicting the harm, harmed out of free will and under voluntary control, or if the harm in question was attributable to their moral character, attitudes, or evaluative judgement. A proxy not engaged in causing a harm had no moral agency in that harm, and we cannot attribute it to them. Hence they are not blameworthy.

What are the consequences for the problem of moral luck? Consider blameworthiness first. As I just argued, the proxy is not blameworthy for the harm they ought to compensate for. Thus, their blameworthiness is trivially independent of factors beyond their control and there is no problem of moral luck.

However, obligations for compensation by proxy partially depend on factors beyond the agent's control. An agent often has some degree of discretion about whether to enter into a proxy relationship. An inheritance can be refused, a potential customer turned down. But once two agents have entered a proxy relationship, luck affects whether obligations for compensation arise from, say, death and inheritance or case of damage.

However, this sensitivity to moral luck is not morally problematic. Just as for causal engagement, the factors that are beyond the agent's control constrain the agent's choice set and possibilities for action but do not depend on the agent's decisions (Lillehammer 2020).

In sum, then, there is no problem of moral luck for compensation by proxy. The proxy is not blameworthy for the harm they ought to compensate, and their obligation for compensation, though luck-sensitive, is not morally problematic.

3.3 Ill-gotten gains

The condition of compensation by ill-gotten gains states that an agent is obligated to compensate for some harm if they have benefited from that harm. Such a condition of compensation has been defended by, e. g., Nozick (1974, 231), Levin (1980), and Butt (2007).

As an example, imagine that someone steals an artefact from a museum and then sells it to a third party. It seems that the buyer is obliged to compensate the museum by, say, returning the piece. This obligation is independent of the obligation the thief has towards the museum and the buyer. For instance, the thief is obliged to compensate the buyer for their financial loss when they return the artefact. Particularly interesting examples concern historical harms and injustices. For instance, Greece demands that the Elgin Marbles, originally part of the Parthenon in Athens, be returned by the British Museum in London.

The condition of compensation by ill-gotten gains is less plausible than it might seem. For one thing, it is too broad. Imagine that a terrorist bomb detonates a block away, destroying the home of several families. Furthermore, imagine that the blast of the destruction also loosens a treasure hidden in my roof. According to the condition of compensation by ill-gotten gains, I owe the families compensation because I benefitted from their harm (Levin 1980, 148). But it does not seem to follow that I must share the treasure with the families.

Furthermore, being a beneficiary of a harm is insufficient for an obligation to compensate for that harm. If it were, there would be no justification for insurance policies because those who buy insurance and thereby benefit from their own harm would at the same time be obliged to compensate for it. Financial traders would not be justified to bet on falling stock because they would be ethically obliged to compensate for the company's harm when its stock falls and the traders benefit. But clearly buying insurance and betting on falling stock is *prima facie* justified.

It seems that a relevant relation must hold between the harm suffered and the benefit gained in order for an obligation of compensation to arise for the party that benefited. But, pace Levin (1980), that relation is not always “easy-to-discern.” Consider cases where there is no identity relation between the entity lost and the entity gained, such as theft of tools, machines, or intellectual property. Is the thief obliged to return merely the tools, machines, licenses, patents, or trademarks, or also any financial benefit gained by using them?

Defending a condition for compensation by ill-gotten gains requires answering this question. Perhaps one could respond as follows: compensation is owed if the harm to be compensated can be framed as a benefit lost that is identical to the benefit gained. For instance, the benefit lost by a stolen artwork may be identical to the benefit of gaining that same artwork.

But if such a response can be made plausible, then it seems that compensation by ill-gotten gains reduces to compensation by proxy or causal engagement in most if not all cases. For instance, when a museum acquires an artwork knowing that it has probably been stolen, it harms the rightful owner by failing to enquire about the ownership of the artwork. It then owes compensation by causal engagement. The museum harms the owner not by causally engaging in the theft but by engaging in the failure to return the property (Levin 1980).

Many transactions establish proxy relationships, such as purchases, inheritance, rent, or gifts. In these cases, the beneficiary implicitly accepts to return the item acquired if it turns out to be stolen, say. These obligations to compensate arise by proxy. The beneficiaries suffer harm themselves and have a claim for compensation on the harming party who, say, stole the item in the first place.

Perhaps cases are conceivable where an agent benefits from a harm without being causally engaged in it, without being obliged to compensate by proxy, and where a relevant relation

exists between their benefit and the harm from which it arises. Yet, even if we could find such cases, I am unsure whether an obligation for compensation would be justified. If someone acquires a property in good faith and care and without being able to determine a proxy relation to any potential thief, they may not be obliged to compensate the owner when it turns out the property was stolen after all. Otherwise, a buyer or heir could never determine whether they truly are the owner of some property. The risk of losing it would deter them from transactions, and the impossibility of meeting the standards of ownership would discourage them to carefully examine whether a property could be stolen. Therefore, most legal systems allow for some form of usucaption, i.e., the acquisition of property by undisputed possession for some period of time, which is usually generous enough to allow legal owners to raise their claims.

3.4 Constitution

Compensation by constitution is owed by an agent on the grounds that there is a relationship of constitution between this agent and the harming party (Morris 1984, 181; List and Pettit 2011, 164). Specifically, an agent is obligated by constitution to compensate a second agent for a harm if the former is part of an entity which ought to compensate for that harm, or if the entity is part of the first agent.

Deniz' and Dominique's cases are examples for compensation by constitution. Both agents are part of a company. When they cause damage, their company might owe compensation for it. Conversely, Deniz and Dominique might owe compensation for a harm inflicted by their company. For instance, if the company harms its customers and subsequently goes bankrupt, Deniz and Dominique may owe compensation to former clients.

Cases like these appear to exemplify a condition of constitution that grounds vicarious obligations for compensation. However, as I shall now argue, this grounding-by-constitution is just a special case of grounding by causal engagement or proxy.

Consider first harm inflicted by an agent who is part of another entity. Note that whether this entity owes compensation by affiliation depends on whether the harming party acted on behalf of it or not. E.g., Deniz acted on behalf and in their role as employee of the company when they had the accident. Dominique was acting as a private individual. Therefore, the company owes compensation in Deniz' case but not in Dominique's. However, if the driver acted on behalf of the company then it is the company who caused the damage, not the employee as an individual. But then the company owes compensation by causal engagement, not constitution. On the other hand, if the employee did not act on behalf of the company then the employee owes compensation as an individual, again by causal engagement. The company is then under no obligation for compensation although it may agree to compensate for the harm, then being obligated by proxy.

Similar considerations apply for cases where compensation is owed by an agent who is part of another entity that inflicted the harm. Again, whether this agent owes compensation by constitution seems to depend on whether they themselves were causally engaged in the harming. E.g., whether the employees of a company owe compensation by constitution to its clients depends on whether they themselves were involved in harming the clients. If they did, then they owe compensation by causal engagement. If they did not, then I think they do not owe any compensation whatsoever. They may voluntarily agree to compensate for any harm that the company ought to compensate for (as in a partnership with personal liability under corporate law). Yet in such a case, compensation is owed by proxy and not by constitution.

In sum, obligations to compensate do not arise from constitution. If they are justified, they are justified due to causal engagement or a proxy relationship.

3.5 Affiliation

Let us say that if an agent consents to an action of, assists, supports, or identifies with another agent then the former *is affiliated* with the latter. The condition of compensation by affiliation states that an agent ought to compensate for a harm inflicted by another agent if the first is affiliated with the second.

Note that obligations for compensation differ from other ethical obligations arising from past harms. In the case of historical injustices some authors discuss (Boxill 2003; Abdel-Nour 2003; Corlett 2003) such questions concern, e. g., the precautions present-day institutions ought to take in order to prevent similar harms in the future, how the memory of the victims ought to be honoured, or whether related issues persist that must be addressed. We set those issues aside.

I shall argue that obligations for compensation by affiliation are either reducible to obligations by causal engagement or proxy, or do not exist. I first consider cases of affiliation that include proxy relations or causal engagement, then turn to cases of affiliation that involve neither.

Let us begin with compensation by proxy. Sometimes, affiliation may include or even be identical to a proxy relationship. In this case, an obligation for compensation by affiliation arises from the obligation for compensation by proxy. For example, if an agent is the mentor of a youth and they share the same values, they might establish a proxy relationship such that the youth eventually inherits the mentor's obligations for compensation.

Furthermore, whether an agent ought to compensate for a harm due to being affiliated with a transgressor crucially depends on whether by being affiliated, the agent causally contributed to the harm. For instance, affiliation may amount to complicity (Cohen 2006; Kutz 2000). Common examples for complicity in harming are ordering or forcing someone else to inflict

the harm, requesting it, leaving the harming party with no alternative, or providing them with the means to inflict it (Cohen 2006, 126; Tognazzini and Coates 2018, §2.3.3). The complicit agent intentionally participates in causing the harm and may therefore be blameworthy for it, regardless of the difference, if any, they made to the outcome (Kutz 2000, 122 et passim; Todd 2012). As the complicit agent is to some degree involved in causing the harm, they owe compensation by causal engagement.

This is reflected in the legal doctrine of command responsibility which states that superiors are blameworthy and punishable for crimes committed upon their orders. On these grounds, the Japanese general Yamashita was found guilty for failing to prevent atrocities his troops committed during World War II. Similarly, a complicit agent who obeys orders is causally involved in the harm (Cohen 2006, 126-7). This was first recognised in jurisdiction during the 1946 Nuremberg trials against leaders of the Nazi regime. Their defense pleaded that the accused merely obeyed orders by their superiors, notably the late Hitler (“Nuremberg defense”), a plea that has not been regarded as sufficient to escape punishment (King 2002; Douglas 2016). Complicity in a harm may thus lessen blame, punishment, and obligations for compensation but not reduce them to nil.

Therefore, in many cases where compensation *appears* to be owed by affiliation, it is in fact owed by causal engagement or proxy. One might object that this merely shows that in some cases of affiliation there is *also* causal engagement or proxy but not that the obligation of compensation is due to the latter two and not also to the first.

In response, if there is causal engagement or a proxy relation, then either of them is already sufficient for an obligation of compensation based on arguments in sections 3.1-2. In these cases, we need not consider further whether affiliation also grounds an obligation for compensation. Stipulating a third condition of affiliation would be less parsimonious than

stipulating just two. It seems the burden to argue for such a condition is on anyone who believes that we have reasons for it that are independent of causal engagement or proxy.

But perhaps such a case can be made, and it seems that the strongest case would be one where compensation is owed by affiliation but there is no causal engagement and no proxy relation. Therefore, we shall now turn to affiliation that involves neither.

Readily available examples are affiliations of pride, support of another's values, and failure to express dissent. Imagine a case for which we can plausibly stipulate that there are no further relations of causal engagement or proxy. A famous and dedicated musician steals money from a charity. The musician dies without heir but the charity continues to exist. A century after the theft, the musician still has many fans who take pride in the musician's love for music and share their aesthetic values. They also fail to express dissent to the theft. According to the condition of affiliation, the fans are obligated to compensate for the theft.

This strikes me as unfair and unjust. One reason is that picking out which relation of affiliation is relevant for compensation seems arbitrary. Imagine that the musician advocated a certain religious and spiritual lifestyle. If someone took pride in that lifestyle, shared the religious values, and failed to express dissent to the theft, they could be obligated for compensation. Which relation of affiliation, the love of music or the lifestyle, would be the relevant one? Picking one but not the other seems arbitrary, and therefore unjust and unfair. Picking both raises the possibility that nearly anyone who had shared the thief's values regarding, say, parenting, politics, financial investment, or cuisine, would be under an obligation for compensation.

At this point, one might suggest that the relevant affiliation must relate to the harming. E.g., the thief's lifestyle and musicality were unlikely reasons for the theft, and therefore affiliation in these respects does not obligate to compensate. But imagine further that the musician hated

racists and gay people and that the charity supports gay people and is openly racist. Sharing the thief's hatred might obligate an agent to compensate.

Accordingly, we could revise the condition of affiliation as follows: if an agent was harmed for a certain reason, then anyone taking pride in that reason, valuing it or failing to express dissent to it owes compensation for the harm.

But this revised condition strikes me as absurd, too. Assume the musician stole money from the charity *because* they hated the charity's racism and support of gay people. On the revised condition, if anyone takes pride in racism or support of gay people then they ought to compensate for the theft. Whether racism or gay people are reprehensible is irrelevant on the revised condition. Relevant is the *affiliation* of pride regardless of its *object*. Now imagine two people, one of whom hates racists, the other of whom hates gay people. Assume that both take pride in their hatred and failed to express dissent to the theft. According to the revised condition of affiliation, they may both be (partially) obligated to compensate the charity.

But they might have never heard of the musician, the charity, or the theft. This could explain their lack of dissent. Their values and that they take pride in them may be despicable in themselves—yet why should this suffice for an obligation to compensate the charity? That they happen to share values with the thief is a mere coincidence. They might live at the other end of the world. In the thief's place they might have never harmed the charity. It thus seems to me that the revised condition fails to establish a condition for compensation.

There are two further worries about a condition of affiliation. First, I think it obscures what is ultimately morally problematic about affiliation with unjust agents or actions. What seems problematic to me is not that the original harm has not been compensated. This is another, separate problem. Rather, the affiliation itself is independently problematic. To see why, consider a case where the harm has been fully compensated. Imagine that the musician pays

the charity more than they had stolen, renounces their racist views, deeply regrets them, and makes amends in any way possible. Now consider a fan who identifies with the musician's former racist views and takes pride in them. This strikes me as independently reprehensible. Identifying with a racist and taking pride in their racist views is itself racist. The fan seems under obligations to renounce these views. But these obligations are not obligations of compensation (by stipulation, the harm has been compensated). If we focus exclusively on compensation, we risk overlooking the fundamental issue. For example, we might be tempted to reject the justified demand that the fan give up their racism, as a condition of affiliation cannot account for it.

My second worry is utilitarian: a condition of affiliation could cause more harm than it may help to compensate. For, it threatens liberties like free speech and may lead to abuse and repression. In a society that enforced a condition of affiliation, almost anyone could be obligated to compensate for a harm because they were in some way affiliated with whoever inflicted that harm. Ascribing affiliation to a person is easy because it is open to interpretation: someone might be regarded as affiliated with the musician because the police found records by that musician at the agent's home, because a neighbour heard them sing their music, because the agent wrote a favourable review about the musician in a newspaper, etc.

Throughout history, great harms have remained without compensation, and this is a moral wrong and problem. But a condition of compensation by affiliation, even if it could lead to compensation of those harms, is unacceptable. If compensation appears to be owed, it is often owed due to causal engagement or proxy, not affiliation. Then a condition of affiliation is superfluous. In all other cases, agents affiliated with others who inflict harm may be deprived, yet they are not obligated to compensate for them. A condition for affiliation would at best obscure where the moral issue lies. At worst, it may itself cause harms and oppression.

4. CONCLUSION

This paper has argued that obligations for compensating a harm are ethically justified when an agent was engaged in causing the harm, or has voluntarily accepted to compensate for it.

These obligations partially depend on factors beyond the agents' control, yet this is not morally problematic. However, blameworthiness for the harm to be compensated need not be beyond the agent's control because it can be attributed to them, or because the agent exercised moral agency in inflicting it. In conclusion, with respect to obligations and blameworthiness there seems to be no problem of moral luck for compensation.²

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