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Intentions and Historical Injustices

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Abstract: In this paper I examine a recent proposal by Goodin and Pasternak (2016) according to which the intentions of the recipients of wrongful benefits matter in moral assessments of their duties to rectify injustices they benefited from. Applying their general insight on the case of historical injustices, Goodin and Pasternak see intentional beneficiaries of wrongdoing as accomplices to the original wrongdoers in that, at least in some cases, their intentions to benefit from past wrongdoings are manifested in “constant efforts [that] are required to protect and sustain the wrongful patterns initially put in place by some wrongdoing long ago”. In the first part of this paper I present an overview of their analysis of the role intentions play in benefiting from the wrongdoings of others. In the second part, I consider the limitations of applying this analysis to the case of historical injustices.

Keywords: Intentions; moral responsibility; historical injustices; wrongdoing; wrongful benefit principle

1. Introduction

There are numerous cases where individuals benefit from wrongdoing or injustice committed by others. Is there something wrong about that that we should condemn? Is the wrongful beneficiary morally obliged to compensate those who

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have been wronged even though the beneficiary himself is not responsible for the wrongdoing and in no way participated in the wrongdoing, nor could he have prevented it? These are questions around which our intuitions can be different. The intuitions on one side of the debate are that if a person who benefits from wrongdoing is innocent of wrongdoing and could not avoid benefiting then wrongful benefiting, in that case, she is not morally suspicious. She is not expected, nor do we have the right to ask her to give up the wrongful benefit. In other words, they believe there is nothing wrong with wrongful benefiting. However, the other side in the discussion believes that even innocent “beneficiaries of wrongdoing incur duties towards victims of wrongdoing” (Pasternak 2014). This principle is called the principle of wrongful benefits or, sometimes, beneficiary-pays principle. Here is how Daniel Butt explains the idea behind this principle:

“Being a moral agent means being committed to the idea that justice should prevail over injustice. Losses which others suffer as a result of the unjust actions of other persons cannot be dismissed as arbitrary or simply unfortunate: they create distortions within the scheme of fair distribution. If no one else is willing or able to make up these losses, then the duty falls to those who are benefiting from the distortions in question.” (Butt 2009: 128)

In this paper presentation, I would like to examine a recent proposal by Robert Goodin and Avia Pasternak. In their paper “Intending to benefit from wrongdoing” they do not try to settle the dispute between proponents and deniers of the wrongful benefit principle (Goodin and Pasternak 2016). They remain agnostic on the issue. They aim to draw attention to

what they see as “an oversight on the part of all parties to that debate.” The framework in which the debate so far has taken place is the status of “people who are unavoidable beneficiaries of the wrongdoing of others, agents who have not contributed to the wrong themselves and who cannot avoid receiving the benefit” (Goodin and Pasternak 2016: 281). The authors see their contribution to the discussion in revealing a characteristic of the wrongful beneficiaries which has not been noticed so far. For a complete moral assessment of the wrongful beneficiaries, they claim, we need to take their intention as well.¹⁷ They draw a distinction between two types of wrongful beneficiaries, those who have no intention of benefiting from the wrongdoing and those who intend to benefit from the wrongdoing. In the first part of my paper, I will briefly outline their analysis of two types of intentions on which our assessment of wrongful beneficiaries depends. Although they reach their conclusions on an example in which both wrongdoing and benefiting are contemporaneous, Goodin and Pasternak believe that the insights gained can be applied to cases of historical injustices. In the second part of my paper, I will point to some practical limitations of the application in cases of historical injustice.

2. The role of intentions in the moral assessment of wrongful beneficiaries

To explain the role intentions play in the moral assessment of wrongful beneficiaries Goodin and Pasternak use the example of the Vice President who becomes President after the assassination of her predecessor. This is a wrongful benefit she receives, but she was not in any way connected with the perpetrators of the assassination and she could not have avoided benefitting from it. In this sense, she is an “innocent”

¹⁷ While it is true that Goodin and Pasternak were the first to give a comprehensive account of the importance of intentions in the case of wrongful benefiting, their importance in passing was first pointed out by Robert K. Fullinwider (1975).

wrongful beneficiary. But in addition to this Goodin and Pasternak make a supposition she intended to ascend the higher office and in fact, she did intend to assassinate the president to achieve that. The only reason she did not carry out her intentions was that someone had overtaken her.

In the literature about the wrongful benefit principle, there was no differentiation between different beneficiaries regarding their intentions. But, as Goodin and Pasternak showed in their paper there are some beneficiaries who, on closer examination, are not so innocent after all. In the example they use, the vice-president benefited from the assassination of the president. Although she was not involved in this assassination, she independently had the intention to kill the president but it turned out someone was faster. Goodin and Pasternak believe that “harbouring such intentions should alter our moral assessment of her” (Goodin and Pasternak 2016).

The Vice President would have killed the President if that was necessary. But as many point out, we assign the responsibility only for what has been done, not for the contrafactuals. In the case of a vice president who intends to acquire a higher position by assassinating the president, the action for which we can hold her responsible was not done by a concrete act of assassination. The murder was planned and carried out by other people. However, the very act of forming an intention involves certain actions for which the person performing them can be held responsible. Support for this claim Goodin and Pasternak find in the views of Donald Davidson who argues that intention and action are conceptually connected. In his words: “The action is forming an intention” (Davidson 1980: 89, cited in Goodin and Pasternak 2016). Goodin and Pasternak sees the formation of

intention not as a kind of preparation for some future doing but as a part of that doing.¹⁸

There are two sets of actions connected with our intentions for which she can be held accountable. The first is the formation of the intention (in case of spontaneously formed intentions we are 'reflectively endorsing' them as our own). The second set of actions follows the formation of the intention and consists in making sure that the content of our intention is realized. These two sets of actions are the basis for the two kinds of intentions to benefit from the wrongdoing of others. Some wrongful beneficiaries intend to benefit conditionally, ie. the person merely forms the intention or sees to it that she is the position where she benefits from the existence of wrongdoing. And then there are other wrongful beneficiaries who intend to benefit *simpliciter* or, in other words, those who "intending the wrong that is required to produce the benefit that they intend to receive" (Goodin and Pasternak 2016).

In the case of the President's assassination, the Vice-President can intend only to benefit from the assassination committed by some other perpetrators. There is not much she needs to do in this case. Since she has no intention to harm the president by herself, she can only sit and eagerly wait if someone will assassinate the president. All she needs to do in this case is to be prepared to be elevated to the higher office once the president is assassinated. This is an example of conditional benefiting.

It is different in the case where the Vice president intends to assassinate the president by herself in order to gain the benefit of higher office. In this case of benefiting *simpliciter*, she needs to perform certain actions such as checking if someone else has

¹⁸ In this regard, their account of intention is consistent with the theory that see intention as an action at a certain developmental stage (cf. Russell 2017).

done it and if not then making plans for the assassination, purchase weapons, etc. But, as it turned out, all her preparations for the assassination came to nothing, since someone else assassinated the president. Having this in mind, someone can ask what wrong did she do. After all, since somebody else killed the president, all the vice president has done is checking the news to see whether or not she needs to act on her own. The explanation given by Goodin and Pasternak is that "we assign moral responsibility not only for doings that actually result in wrongs. We also assign moral responsibility for doings that run an unacceptable (that is, morally unreasonable) risk of resulting in a wrong, even if in the end that does not eventuate in a wrong" (Goodin and Pasternak 2016).¹⁹ Her actions make it more likely that the President will be assassinated. And that is something we have to take into account when we do a moral assessment. By not directly tackling the principle of the wrongful benefit principle Goodin and Pasternak elucidated the importance of the intentions of wrongful beneficiaries for the moral assessment of the situation. They believe that even the deniers of the wrongful benefit principle must admit that there is something wrong in having the intention to benefit from the wrongdoing. In the next section, I will consider the practical implications that this insight has for the moral assessment of those who benefited from historical injustices.

¹⁹ It is worth to notice that we do not have to be supporter of the action theory of intentions in order to assign moral responsibility to those who hold wrongful intentions. As Daniel Ferrell states, in a different context, "it is not the purported act of forming the relevant intention that we are supposed to condemn; (...) it is the person who has the intention to do wrong who is supposed to be condemned" (Ferrell 1992: 274). This view that centers on the person's character seems even more suited form moral assessment of the kind favored by Goodin and Pasternak. It also can accommodate the view that intentions are not actions in the early stage of development but mental states (cf. Zhu and Buckareff 2006).

3. Intending historical injustices

As already said, Goodin and Pasternak develop their analysis on the example where wrongdoing and ensuing benefit are contemporaneous. However, they believe that their insights can be applied to cases of historical injustice. In these kinds of cases, the injustice is done decades or even centuries ago either to or by past people (Thompson 2002: x), while the present generations have received the benefits of the wrongdoing. As a matter of fact, the debate about the wrongful benefits principle had begun in the context of the wider social and historical injustices.

Judith Jarvis Thomson, in her 1973 article, pointed out that affirmative action, such as preferential employment of women and African Americans, can be justified, at least in part, by the fact that today's white men benefited from a long history of oppression of women and African Americans. Thompson claims that although they did not participate in it, it is morally justified for white men to relinquish the advantages they have gained in favor of members of oppressed groups.

“...of course choosing this way [reverse discrimination] of making amends means that the costs are imposed on the young male applicants who are turned away. And so it should be noticed that it is not entirely inappropriate that those applicants should pay the costs. No doubt few, if any, have, themselves, individually, done any wrongs to blacks and women. But they have profited from the wrongs the community did. Many may actually have been direct beneficiaries of policies which excluded or downgraded blacks and women – perhaps in school admissions, perhaps elsewhere; and even

those who did not directly benefit in this way had, at any rate, the advantage in the competition which comes of confidence in one's full membership, and of one's rights being recognized as a matter of course.”
(Thomson 1973: 383-384)

Other examples of historical injustices with wrongful beneficiaries are racial discrimination, colonialism, and the industrialization (with its detrimental impact on the climate).

There is an obvious problem in applying the distinction between intentional and unintentional beneficiaries in the case of historical injustices. As Goodin and Pasternak pointed out “intendings are always forward-looking” and we “cannot ... presently ‘intend’ wrongdoing that has already occurred” decades or centuries ago (Goodin and Pasternak 2006: 292). This is the reason to conclude that all intending to benefit from historical injustices must be conditional intending. Beneficiaries can only intend to position themselves to receive the benefits of the historical injustices.

Defenders of the wrongful benefit principle would of course accept this analysis and conclusion that there is something wrong with the intention to benefit from historical injustices. Those that reject the wrongful benefit principle would likely reject this conclusion. There are many examples where both proponents and critics of the wrongful benefit principle do agree that there are wrongful beneficiaries. But the historical injustices are special in this regard. Historical racial injustices and colonial injustices are set in the context of intergenerational justice. The issue often invoked in the discussions of intergenerational justice is the so-called non-identity problem. When used against the principle of wrongful benefit the critics point that “people who currently exist do so only because history has followed a particular path. It thus makes no sense

to say that actually existing individuals are beneficiaries” (Barry and Kirby 2015: 287). Simon Caney summarize this critique in the case of benefits of industrialization:

“They [currently alive members of industrialized states] have not been made better off than they would have been by industrialization because without industrialization they would not have been at all. The Beneficiary Account, it is argued, works where you have a preexisting individual who then receives a benefit. In such a scenario, we can clearly and unequivocally say that they have been benefited. In an intergenerational context, however, the non-identity problem entails that industrialization has not improved the lot of current people.” (Caney 2006: 475)

If this account is correct, then no one in the present generation has benefited from historical injustices. If there are no beneficiaries from historical injustices then no one can intend to benefit from them and so there is no point in making the distinction between intentional and unintentional beneficiaries. Of course, not all are convinced by the non-identity argument against the wrongful benefit principle. It is beyond the scope of this article to elaborate on this point. But this objection is important because Goodin’s and Pasternak’s aim in their paper is not to defend the wrongful benefit principle, but to analyze the attitudes of beneficiaries. It now seems that only those that are already convinced that there are present people who benefited from historical injustices can try to discern between intentional and unintentional beneficiaries.

In order to convince deniers of the wrongful benefit principle, Goodin and Pasternak want to show that even in the cases of

historical injustices it is possible to intend to benefit simpliciter, namely, they believe there are possible that present-day people that not only intend to benefit from historical injustices but also that they intend to participate in committing wrongdoings which are the means to receive those benefits. But how can we “intend the wrong that is required to produce the benefit that they intend to receive” in case of historical injustices? This is the explanation Goodin and Pasternak propose: “Suppose that the only way in which you can benefit in the present from some wrongdoing in the past is to commit a wrong in the present. Suppose, for example, that constant efforts are required to protect and sustain the wrongful patterns initially put in place by some wrongdoing long ago, and suppose that protecting and sustaining wrongful patterns is itself wrong” (Goodin and Pasternak 2016: 293). This explanation relies on the idea of structural injustices that are in many cases needed to perpetuate historical injustices. Iris Marion Young distinguishes the structural injustices from wrongs done by an individual or collective agent (such as a state). According to Young “structural injustice occurs as a consequence of many individuals and institutions acting to pursue their particular goals and interests, for the most part within the limits of accepted rules and norms” (Young 2011: 52). Because of the nature of processes that stand in the background of structural injustice Young believes “that their potentially harmful effects cannot be traced directly to any particular contributors to the process” (Young 2011: 100). If Goodin and Pasternak are right and the benefits of historical injustices can be intended simpliciter by upholding the structures that perpetuate historical injustices, then it is quite important to distinguish intentional and unintentional beneficiaries of historical wrongdoing.

While accepting this, we can ask how can we distinguish intentional and unintentional beneficiaries? Someone's

intentions are usually private things not easily detectable to other people. How can we discern between them? Goodin and Pasternak believe that this objection should not worry us too much. Firstly, the distinction between intentional and unintentional beneficiary can be useful for purposes of moral self-assessment. With this distinction in mind every individual committed to personal moral improvement can subject her actions and intentions to reflection.

The second use of this distinction is more practically important. In a society that develops “social practice of blaming people who wrongly intend to benefit from wrongdoing”, the most effective way to distance ourselves from that accusation is to disavow wrongful benefits. Unintentional beneficiaries are inclined to disavow wrongful benefits in order not to be mistaken for intentional beneficiaries. If the practice of disavowing wrongful benefits becomes widespread in society “then failure to take even low-cost opportunities to protest the wrongdoing would presumably mark someone as an intentional beneficiary from wrongdoing and render them liable to moral criticism. Given that fact, intentional beneficiaries would then have incentives to masquerade as unintentional ones by bearing some (perhaps even substantial) costs in protesting against the wrongdoings from which they benefit” (Goodin and Pasternak 2016: 295).

Blaming people who intend to benefit from wrongdoing can serve a useful social function in dismantling social and political structures that perpetuate historical injustices. “intentional beneficiaries would then have incentives to masquerade as unintentional ones.” Their engagement in this valuable social practice is not from the genuine interest to see a change in society. They are interested only in presenting themselves in a good light. This “moral grandstanding” can have a detrimental effect on public moral discourse (cf. Tosi and Warmke 2016). Moral grandstanding as a disingenuous act is immoral. Goodin

and Pasternak believe that “providing incentives to make protests – even insincere protests – against wrongdoing is likely to have positive consequences” (Goodin and Pasternak 2016: 295). Indeed, this can be true in a case where a majority of protesters are unintentional beneficiaries and genuinely support the cause. Where this is not the case, then the whole movement risks being perceived as dishonest.

The disavowal of the wrongful benefits is a powerful tool for making social change, especially when it is clear what is the benefit and who are the beneficiaries. In the example Goodin and Pasternak use, it is clear that the benefit is the elevation to the higher office and that the beneficiary is the Vice President. The Vice President is well aware of the benefit and the wrongdoing as a cause of the benefit. Her disavowal of the wrongful benefit sends a clear message that she is repulsed by the assassination and that she is not involved in it. Not all cases of the wrongful benefiting are like this. In some cases, especially in cases of historical injustices, it is not always clear what the benefits consist of or who the beneficiaries are. And sometimes, the beneficiaries are often not aware they benefited from the historical injustices. As an example of this we can use the earlier citation from Jarvis Thomson: “and even those [white men] *who did not directly benefit* in this way had, at any rate, the advantage in the competition which comes of confidence in one’s full membership, and of one’s rights being recognized as a matter of course.” (Thomson 1973: 384, italics added). In this example, we can see a stark difference when compared with the Vice President example: the beneficiaries did not benefit directly and, in some cases, it is not clear what the benefit consists of. Namely, in many societies there are members of social, religious, ethnic, or gender groups, who are in an even worse position than many women are. These people cannot disavow the benefit because they haven’t received it. This does not mean they should not disavow the historic wrongdoings

against oppressed minorities. The reason for their disavowal of historical wrongdoings is not that they benefited from it but because they believe that the historical injustices are wrong.

4. Conclusion

In this paper, I presented one valuable contribution to the discussion about the wrongful benefits principle. Goodin's and Pasternak's insights on the intentions of wrongful beneficiaries help us to navigate through the complex issue of historical injustices which are often invoked in today's political discussions. The distinction they draw between intentional and unintentional beneficiaries allows us to morally re-examine both our own position in relation to the benefits we receive as well as the moral status of other recipients of wrongful benefits. Without diminishing the importance of their insights and potential to have a positive effect on social change, in my presentation I have set out some warnings that will hopefully help prevent these useful insights from being misused.

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