The Myth of Innocence: On Collective Responsibility and Collective Punishment

Torbjörn Tännsjö

Abstract: Collectivities, just like individuals, exist, can act, bear responsibility for their acts and omissions, and be guilty. It sometimes makes sense to hold them responsible for what they do, or don’t do, and to punish them for their misdeeds. With respect to many collectivities there is no practical purpose in holding them responsible, since there is not way that we can bring them to justice. But there are exceptions from this rule. In particular it is plausible to assume that sanctions against entire nations or peoples or populations living in open and democratic states may be an effective means to setting them straight where, collectively, they act wrongly. The best present example of this seems to be the Israelis.

1. Introduction

We all feel that there is something wrong with collective punishment. When the teacher informs the class that it must stay another hour at school, because some of the pupils have committed some mischief, we feel repugnance. Why punish innocent individuals? Why punish all when only a few have committed a moral aberration? But what if the teacher answers: I hold you all responsible. Together you have behaved badly. Hence, together you bear responsibility and together you have to suffer the consequences for what you have done. It now seems that we cannot protest that anyone who is innocent has been punished. Let us see if there is anything to this line of thought. As a matter of fact, I think there is. Upon closer analysis it seems as there is room after all for collective responsibility, collective guilt and, hence, collective punishment. At least this is what I will try to argue in the present article.

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A collectivity, say a population of a certain nation/state at a certain time may act (collectively), and collectively they may act wrongly. The collectivity is responsible for what it does or doesn’t do. This view may in itself seem somewhat surprising. And the moral consequences of it are startling. If it is correct it may also be reasonable to hold a collectivity responsible for what it does or omits to do. Collective punishment may well be an effective manner of setting a collectivity straight.

But is it fair to punish a collectivity? Doesn’t collective punishment mean that innocent individuals will be punished? Could that be right?

I will argue that, even on strict utilitarian grounds we ought to abide by the rule that innocent individuals should not be punished. I will argue, however, that collective punishment can be not only effective, but also consistent with our abiding by the rule not to punish the innocent.

2. A Broken Car

Moral philosophers have been interested in situations where a group of individuals together can guarantee a certain desired outcome, but only if they all take part in the joint venture. In the situation, the individuals cannot affect what the others do. This means that the group may easily end up with a poor outcome. Each can correctly conclude that there was nothing he or she could do about this. In view of this, each may even conclude that it was a good thing that he or she did not do anything to achieve the common good.

Think of the following simple case. A group of three persons find themselves near the top of a hill with a car that has stopped. The starter is not functioning. Together they can push the car to the top of the hill and allow it to roll downhill, to start the engine. If they all push, then the car will reach the top of the hill. If fewer than three push they will fail. Suppose they do not know each other’s language. Suppose they have no way of communicating. Each finds that the others are standing there, being more concerned not to soil their clothes than doing something about the predicament of the car. They are anxious to arrive at their destination; let us assume that there are even pressing moral reasons for
them to do so; but now they see no possibility of doing it. Each can
truthfully say to him- or herself: It would have been worth somewhat
soiled cloths if I had got to the destination in time, but, bearing in mind
that none of the others were prepared to take his or her share, I should
be happy I didn’t try to push the car. It might have gone backwards,
downhill, and killed me in my vain attempt.

What are we to say about these individuals? Did they act rightly or
wrongly? One plausible moral intuition is that they acted rightly. Each
can say truthfully to him- or herself that the result might have been
devastating, had he or she made an attempt to push the car. And the
attempt would certainly have been a failure, considering the apathy of
the rest.

The example is perhaps not quite convincing. It is hard to believe
that an attempt from one of the persons to push the car uphill had not
had any effect on the others. But assume that this is what each of them
believes. And this means, also, that had one of them in particular made
an attempt, this example had not been followed. Each of the remaining
two persons would have believed that, even if he or she had followed
suit, the other one wouldn’t. This is after all not too far-fetched. Anyway,
let us just assume that this is the case.

Now an act-utilitarian must conclude that in the circumstances, each
of the persons did the right thing. And many people who find that there
is something to utilitarianism, even if they are not prepared to swallow it
completely (they may think that sometimes the end doesn’t justify the
means or they may find that, in other situations, utilitarianism is too
demanding), may have an inclination to concur in this judgement. Why
sacrifice one’s life in an endeavour that will turn out to be a failure, no
matter how noble or morally pressing it may be, they will ask.

But the conclusion that each person who did not push the car did the
right thing is not self-evident, of course. All do not accept Act
Utilitarianism even in the watered down version where it allows for
options (when it takes too much of a sacrifice to do one’s utilitarian duty)
and side-constraints (where it is forbidden to do one’s utilitarian duty
since doing so means that one would kill innocent people, violate inviolable rights, and so forth). Those who are influenced by the Golden Rule, or Rule Utilitarianism, may be inclined to argue that, even if the other people do not cooperate, one ought to do one’s share in the common venture. We ought to think, not ‘What will happen if I do a certain action?’ but, rather, ‘What would happen if everyone were to do what I am intending to do?’

Those who argue in this manner must hold that in situations such as the one I have described, with the car that could be pushed up-hill, Act Utilitarianism is not demanding enough. Act Utilitarianism allows each to get off the moral hook with reference to the fact that the others are not going to cooperate. On the view now under scrutiny, this is simply not relevant to the moral status of the action one is about to perform. According to this view, it is no excuse that the others are not going to take on their share in the joint venture. If it is a worthy venture, you should contribute your share, irrespective of what the others are doing.

Is the Rule Utilitarian verdict plausible? I think not. To abide by the Rule Utilitarian recommendation may lead one into premature death—without any compensating gain of any kind (except, perhaps, a clean conscience). I think we must say that if one of the persons in the example had taken on to push the car, and if this person had received no help from the other two, and if, consequently, the car had rolled down-hill and killed the person who thus did his or her share in the common venture, then this person did the wrong thing—while the two who did not do anything to get the car uphill, each did the right thing.

However, this judgement of the case may have a strong counter-intuitive ring to it. One may be inclined to say that, while the person who tried in vain to push the car uphill did the wrong thing (since he or she was killed in the attempt), those who did not cooperate too did something wrong. As we will see below, there is some truth to this observation. But it is still true of each of these two persons that he or she did the right thing.

It is no coincidence that Rule Utilitarians have focused on examples
such as the one just given. It is true that the example reveals a weak point in Rule Utilitarianism (it sometimes invites us to sacrifice our lives in vain), but it is also true that it does illustrate another strong point in this view—and a corresponding weakness in Act Utilitarianism. The example illustrates that there exist situations where universal compliance with Act Utilitarianism does not ascertain an optimal outcome. But in these situations universal compliance with Rule Utilitarianism does ascertain an optimal outcome. This may be thought to count in favour of Rule Utilitarianism.

The critical point the Rule Utilitarian can make against Act Utilitarianism is not that universal compliance forces the agents into a sub-optimal outcome. If all take part in a joint venture, if all push the car, since the cooperation of each was crucial, each person has done his or her act utilitarian duty. Remember that we have assumed that there are pressing moral reasons to get the car up-hill. Universal compliance with Act Utilitarianism is compatible with an optimal outcome. But the problem is that it does not guarantee an optimal outcome. This is what has made some people decide that Rule Utilitarianism is after all superior to Act Utilitarianism. But these people will have to accept that, when the others do not cooperate, it is still your duty to do so—and perhaps sacrifice your life in vain. This is no more intuitively appealing than the idea that universal right action need not guarantee an optimal outcome. As a matter of fact, the possibility that individual cases of right action result in disaster may be even harder to digest. So we had better try to find out whether there remains any possibility to save Act Utilitarianism. Is there really no version of it such that full compliance with it does guarantee an optimal outcome?

I think such a version exists. In the example under consideration, where no one cooperates, the act utilitarian need not accept that all have done what Act Utilitarianism requires of them. The act utilitarian may claim that when no one took part in the joint venture, and each of the persons did his or her act utilitarian duty, they all (together) acted wrongly. And in the case where one person did try to push the car up-
hill, the act utilitarian may retain the judgement that the one who pushed did the wrong thing, and those who did not push each did the right thing, and yet, for all that claim that, those (two) who did not push, together, did the wrong thing.

Note that this notion of collective action takes the act-utilitarian off another hook as well, to do with overdetermination. Suppose A and B, together and simultaneously but independently of each other, shoot C. Each can claim to be innocent. If A had not fired his gun, B would still have killed C. If B had not fired her gun, A would still have fired his. Each may well have behaved in a morally not objectionable way, according to Act Utilitarianism. However, even if each did the right thing by shooting at C, their collective action was morally wrong. Together they could have abstained from it.

Now, this is not difficult to say, of course, but does it also make sense? And, even more importantly, is there a point in saying it? I will argue that there is, thereby exposing a well entrenched myth of innocence.

3. Collective Action
The argument against Act Utilitarianism to the effect that universal conformance with the principle does not guarantee an optimal outcome can be questioned. First of all, it can be questioned as irrelevant. Even if Act Utilitarianism has this consequence, it might be the correct moral view, one could try to argue. After all, Act Utilitarianism is at least in a better position than, say, Ethical Egoism, according to which universal conformance (in some circumstances) does not only allow for sub-optimal outcomes but actually leads to such outcomes. And Act Utilitarianism is in a better position than all sorts of agent-relative moralities, such as moral rights theories, giving different goals to different agents and, again, forcing people to make sacrifices in the terms of the values cherished by these very theories themselves; by each avoiding to violate any rights, people end up with the result that more rights have been violated than if each had allowed him- or herself some violations.
Secondly, and more importantly in the present context, the argument can, as has been suggested, be questioned as straightforwardly false. Consider again the situation with the people and the broken car where no one tried to push the car up-hill. We have assumed that none of them could influence the behaviour of the others. Therefore each is warranted in asserting that he or she did the right thing. However, this does not necessarily mean that each agent has done his Act Utilitarian duty. There is one agent who has failed to do so, and this explains why the outcome is sub-optimal. The agent who has failed to do his or her duty is the collectivity consisting of the three persons. Had the collectivity done what Act Utilitarianism requires of it, then so would each of the persons composing the collectivity. And the outcome would indeed have been optimal.

This is a way of handling the objection against Act Utilitarianism I have put forward in my book *Hedonistic Utilitarianism*. Others have earlier hinted at the same point. One of those who have pioneered the view, however, Earl Conee, has later given it up.

The standard objection to the claim that a collectivity can act wrongly has been the claim that collectivities cannot act at all, simply because they do not exist. This is how Holly M. Smith has put the point in opposition to my view:

Although my act of returning your lost wallet is right, and your act of thanking me is right, the compound act of my-returning-your-wallet-and-your-thanking-me cannot be right. It cannot be right because there is no single agent who could decide to do this act.

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This is certainly an implausible claim. Collectivities do exist, if in no other way, so at least as mereological sums of individual persons. It is hard to deny that claim without ending up with denying that there are individual persons as well. But in the present context, denying that individual persons exist, would be sophistry.

But even if all sorts of collectivities exist, can they really act? Can they decide? Can they perform actions?

I now set to one side the obvious example where people together act as some kind of corporate body, such as the board of a company taking decisions on behalf of the company collectively, following a certain procedure. No one denies that such a collectivity can act. What I speak of here are collections of individuals who do not act together according to any such procedure. And I think even of people who, like the persons in the example with the broken car, cannot influence each other’s actions. Can such a collectivity act?

The answer to this question is that it can. Why should not a group of people, such as the three in the example above, be able to act together? Of course, the collectivity cannot act unless the individuals making it up act. But if they do, then so does the collectivity.

But when we say that an individual acts, we think of his or her behaviour as an action only to the extent that we can explain it with reference to beliefs and desires held by the individual. It might be tempting to believe that nothing of the kind can be true of a collectivity. But appearances are deceptive. A collectivity has desires and beliefs as well. We may think of them as represented by a matrix where the relevant beliefs and desires of each individual making up the collectivity are represented. For each and any one of the people stuck by the car in the example we specify a belief and a desire, relevant to their behaviour in the situation. Once we know the shape of this matrix we can explain the action of the collectivity. In this case, we can explain the decision taken by the collectivity to stay passive. If the shape of the matrix had been different, if each had held the belief that the others would cooperate, then the outcome would have been optimal. Or, had each
been of a Rule Utilitarian inclination, while still holding the (false) belief that the others would not cooperate, the outcome would have been optimal.

No matter how promiscuous we are, when we allow collectivities to exist, this kind of argument in defence of their existence could be repeated. How promiscuous ought we to be? There is no limit to what collectivities we are allowed to countenance as mereological sums, I submit. This is a mere stipulation, of course, but a stipulation which is fruitful to my purposes in this article. According to this stipulation, there is one collectivity consisting of me and the present president of the United States of America.

But not all collectivities are of equal interest. The one consisting of me and the present president of the United States of America is of little interest, I suppose (but probably of more interest to me than to the present president of the United States of America). One might believe that the collectivities of most interest are the ones where people in some sense act together, in some kind of consort. However, as we will see, these collectivities are of little interest. The ones upon which I will focus my interest are collectivities where a suboptimal outcome is realised because people do not act in consort, in particular, collectivities where the individuals cannot affect each others’ actions with the result that, by individually doing the right thing, they collectively act wrongly.

But even if collectivities can act, no matter how promiscuous we are when we conceive of them, and even if we can explain what a collectivity does with reference to the beliefs and desires it holds, this does not mean that a collectivity can act wrongly. In order to be able to act wrongly a collectivity must be able to act otherwise from how actually it does act. Otherwise, all the actions performed by the collectivity will in a trivial sense be right. If there are never any alternative actions open to a collectivity it will never be the case that there was an alternative to what it actually did with better consequences. So we have to ask ourselves whether collectivities have free will.

At least in a weak, compatibilist sense, collectivities have free will. It is
true of the collectivity stuck with the car that, had it had different preferences, it would have pushed the car up-hill. If we want, for retributist reasons, to punish people because this is what they deserve we may need a stronger notion of free will. I feel no such inclination, however. Moreover, it is a moot question whether such a stronger notion of free will is ever instantiated even on an individual level.

The idea that collectivities can act, and the idea that collectivities can act rightly or wrongly, is very plausible, then. But if collectivities can act wrongly, and be responsible for the outcome, it might be tempting, sometimes, to hold collectivities responsible for what they do. It might be tempting, if possible, to punish collectivities, when they act wrongly—with the intention of setting them straight. Or, would such punishment be at variance with the idea that one should never punish the innocent?

I have indicated that I do not think that punishment, under any circumstances, is any good in itself. When we punish someone, an individual or a collectivity, it must be because we expect that the punishment will have good consequences. At least we must expect this from the institution of punishment. Can the institutionalised punishment of collectivities have good consequences? I think it can and I will try to give some examples of this gathered from world politics.

Even on a forward looking-view on the institution of punishment, however, it is of importance to abide by the rule that one should not punish the innocent. An institution that allows that the innocent is punished will soon be discredited. There are good utilitarian reasons not to punish the innocent, then. But doesn’t collective punishment mean that, necessarily, we will be punishing innocent individuals? Must not sanctions against a nation, say, mean that innocent citizens will be punished as well?

I will argue that it does not. So there is indeed room for collective punishment in world politics.

4. The Argument from Justice

Given the promiscuous view on what collectivities exist we are all
members of indefinitely many collectivities acting wrongly in all sorts of ways. Doesn’t that make it impossible to hold any collectivity in particular responsible for what it does and even absurd to think that it is possible to punish it? The answer to this concern is that punishment (sanctions) are not merely brute harmful actions. They are actions taken against an identified agent for a specific purpose. This agent is punished for having done something. This means that it is up to the punisher to identify and decide who is the punisheer. This is no different when collective punishment is meted out than it is when a punishment is given to an individual. The effects of the brute act of punishing the individual spread also to other individuals. Such (harmful) effects, however, are not part of the punishment. And the situation, where it is meaningful to punish a collectivity, is typically a situation where most of the members abstain from a good common cause and can each give a good reason for doing so: the others don’t contribute the common cause, then it would be foolish of me to do so!

But punishing means submitting someone to hard time or suffering because of something the punisheer has done. Doesn’t this mean that we cannot punish a collectivity for, certainly, a collectivity cannot be harmed?

Well, the important point is that a collectivity can be reformed through sanctions. If a collectivity is different from an individual in that it cannot experience pain, then, this may be problematic from the point of view of a retributivist view of punishment, according to which the suffering of the guilty person is a good thing in itself. From the point of view of a forward-looking view on the institution of punishment we should rather say: all the better!

All this means that it is possible, say, for the international community, to punish the targeted people, if they do not make the kind of political concessions described above.

Collective punishment is often considered unfair as such. And it is unfair if the collectivity is punished for something an individual has done. It is unfair to punish the entire school class, for example, when
one of the pupils has neglected her homework. But here we are considering collective punishment where the punishment is meted out because of something the *collectivity* has done. That does not seem unfair, at least not *as such*.

However, in the examples I discuss, the wrongdoing committed by the collectivity consists in a certain *omission* to act. By not engaging in collective action a people allow its government to commit atrocities, say. Is it acceptable to punish even an individual because of what he or she omits to do? Yes, it is, in special circumstances. In many legal systems—but not all—individuals *can* be punished for not assisting people in distress. And when it comes to crimes against humanity it is reasonable to demand that people, if they are in a position to do so, stop them. This is true of collectivities no less than of individual human beings.

It might be objected that, even though the collectivity acts, and acts wrongly, its wrongdoing is not intentional. There is no *mens rea*. But then it would be unfair even to punish *it*.

I suppose this is the strongest objection that can be made against my proposal. And, once again, if we adopt a strict retributivist view of punishment then, perhaps, we must, for this reason, give up the notion of collective punishment. But as I have indicated, I am no retributivist of this variety. I hold a forward-looking view of the institution of punishment. And note that in most actual institutions of punishment there is some room for the notion of ‘strict liability’ regarding activities that are considered inherently dangerous. Reckless behaviour is discouraged by forcing potential defendants to take every possible precaution. But if there is room for strict liability at all, I think it applies in particular to collectivities who are responsible for disastrous consequences of their actions.

But would it be fair to punish a people through heavy sanctions? After all, this kind of collective punishment, even if directed at the collectivity as such, would in effect punish all citizens of the targeted state, even those who bear no responsibility for the current policy, it might be tempting to claim. This claim, however, is based on a
misunderstanding. The collective punishment is not directed at any individual citizen, it is directed at the collectivity, the nation. And the collectivity, the nation, is responsible, we have assumed (at least given the notion of ‘strict liability’) for acting wrongly.

But the objection may be rephrased: Is it not unfair that many innocent citizens of the targeted state will have to bear all sorts of burdens, when they bear no guilt? Note that those who do not take action may be doing the right thing, considering what the rest are doing. As a matter of fact, it is likely that only those who bravely take action (in vain) are acting wrongly (at least if we accept the utilitarian point of departure for our assessment). Since they do not succeed in their brave actions their actions are wrong. The innocent bystanders, on the other hand, can correctly blame their inactivity on the rest.

Note, however, that the same kind of objection can be given when an individual is held responsible and punished for what she has done. It is the rule, rather than the exception, that many innocent people suffer when an ordinary criminal is punished. First and foremost, the criminal’s close ones suffer, but also many other people may be negatively affected by the punishment. We do not abolish the system of punishment for this reason. We do say, however, that it is incumbent upon the punishing authority to minimise the negative side-effects of the punishment. There may even exist cases where, out of concern for those who would be too negatively affected if the punishment were carried out, it is necessary to abstain from, or at least postpone, the punishment. The same is true when just collective punishment is meted out. The same kind of concern for proportionality between the good one achieves through the punishment (incentives are provided so that people become capable of solving their coordination problem) and the bad unforeseen side-effects (innocent people are hurt) must be observed. When we speak of international sanctions it is sometimes possible to observe this kind of proportionality. And it is no less important from a utilitarian point of view, than it is from a strict retributivist point of view, to stick to rule of proportionality. It is only the reason that is different, when the principle
of proportionality is defended by a utilitarian. What the utilitarian is stressing is merely that a system of sanctions not satisfying the requirement of proportionality will not find public support. It will simply not work.

This leads us to a rather paradoxical observation, however. It seems as though sanctions directed at a democratic and rather open society stand a better chance of respecting the requirement of proportionality than sanctions against a closed dictatorship. In a rather open society, each can argue in the following manner. If I do my part in the joint venture, this may set an example among those with whom I socialise. Together we may make a difference for other people in similar circumstances. There is a slight probability that my action will be decisive. And now that the stakes are very high (the sanctions with which that the international society threatens are heavy) this may make all the difference in the world. Those who conceive of the situation as a security gamble (a stag hunt) may find that now that the international sanctions are in place it is reasonable for them to take part in the joint venture. The sanctions have provided them with new incentives by changing their beliefs about the probable behaviour of the rest. This makes them willing to provide their share in the common venture, thereby contributing to both the abolition of the sanctions and to the creation of new security guarantees as well as economic aid. So now others will follow suit. A new and optimal equilibrium can be established.

The situation is very different in a closed dictatorship. Here a slight probability for success in not sufficient to change behaviour. For the cost of failure is terrible.

Think here of the international sanctions against Saddam Hussein’s Iraq. These sanctions had devastating effects on the population. Hundreds of thousands of people lost their lives. And they lost their lives for nothing. The sanctions had no effect whatever! These sanctions must somehow have affected the incentive structure among the Iraq population, but not enough to render it rational for each of them to take up some democratic action. Certainly, each must have thought quite
correctly that such a move would have been extremely costly to the individual him or herself—and yet in vain.

Compare this to the sanctions against South Africa during apartheid. South Africa too was a closed dictatorship, but at least among the white elite a fairly democratic and open system existed. This was enough to make the sanctions efficacious. The sanctions created the right kind of incentives for many white liberals to take democratic action. This is why the apartheid system broke down. At least this is a rather plausible hypothesis, consistent with the abstract knowledge we have from decision and game theory.6

Where does this leave us with respect to a presently much discussed and timely example: Israel? I think it clear that Israel, if any country, is just the right kind of target for effective international sanctions. Israel is indeed a country where it is possible to give the right kind of incentives to individuals who must consider it not too dangerous a task to take democratic action, once the stakes are high enough. And it seems obvious that, in the absence of international sanctions, no move will be taken in the direction of a fair solution to the pressing problems.7

One may think that if anything is unfair, then this is. While people living in democracies are held responsible for their collective misdeeds those who live in dictatorships get off the hook. But note that the claim made here is not that those who live in dictatorships do not (together) act wrongly. They are as guilty as anyone else. The point is just that sanctions cannot set them straight. And to the extent that we reject the

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6 This explanation of the break down of apartheid, although mainstream, is controversial. For a cautious defence of the view that the sanctions did work, see Neta C. Crawford and Andie Klotz (eds.), How Sanctions Work: Lessons from South Africa (Pelgrave Macmillan, 1999). For a much more sceptical view on the effectiveness of the sanctions, see for example Phillip I. Levy, ‘Sanctions Against South Africa; What Did They Do?’ American Economic Review Vol. 89, 1999, p. 415.

7 What would a fair solution look like? There are many ideas about this, of course. Most seem to believe that a two state solution, respecting the borders before 1967, would constitute the best option. Personally I tend to believe that nothing short of a secular, democratic, one state (including both nations) solution is feasible. However, in the present context we may leave this problem to one side.
view that there is any such thing as a well deserved punishment, to the extent that we reject the view that punishment can be of positive value in itself, this means that in these circumstances we (the international community) must capitulate. There is no way of meting out sanctions satisfying any reasonable requirement of proportionality.

5. Terrorism
If collective action, collective responsibility and collective guilt are real phenomena—at least as real as individual action, individual responsibility, and individual guilt—does this also mean that, in some circumstances, even terrorist actions against guilty collectivities are warranted? A terrorist action targets innocent civilians in order to gain military or political advantages from some political enemy. But suppose the perpetrators describe their target differently. Suppose they claim that their actions are not targeted at innocent civilians, but at a guilty collectivity. Must we now concede that once the myth of innocence of the collectivity is exposed the road to terrorism is open? The ‘terrorist’ can get rid of the label by simply describing his or her actions as just collective punishment.

The answer to this question is not straightforward. The question must be settled case by case. Take for an example the kind of terrorism that is practised by Palestinian organisations such as Hamas. Can a rationale be given for this kind of terrorism, re-described as just collective punishment?

Well, to the extent that this kind of actions indeed are directed at collectivities that act wrongly, the defence of these actions as just collective punishment is not in principle misplaced. It is not plausible to say that, since innocent people are being killed, the terror must be morally wrong. For, once again, the terrorist can say that what they are doing is to met out collective punishment. To the extent that the punishment hits its target it does indeed hurt someone who is guilty. It is certainly true that many people who are innocent are also killed in these actions. However, these aspects of the actions are merely foreseen but
not intended side effects of the acts of just punishment, the ‘terrorists’ can claim.

The Israelis, when they stick to their policy of continued occupation, arguing that, unless there be no more terrorist deeds, no peace is negotiable, can argue in a similar manner, of course. They punish the Palestinian population, not for what individual terrorists are doing but for something for which the entire Palestinian people is collectively held responsible.

However, this kind of argument, on each side, even if it is valid as far as it goes, doesn’t go far enough to legitimate these actions. First of all, it is extremely difficult to come up with any good common endeavour, to which these actions point. They do certainly not operate in favour of the kind of goal I have envisaged—a just and peaceful solution to the conflict. On the contrary, this kind of violent behaviour, cleverly performed with subtle military precision by the Israeli state and with unrestricted despair by the Palestinians, lead to deepened hatred, concrete walls and, perhaps in the end, ethnic cleansing.

Moreover, even if there were a reasonable goal behind some of these violent actions, it is clear that, no plausible requirement of proportionality is satisfied by them. The negative side-effects are enormous, so even if some collectivity that deserves to be punished actually happens to get punished by them, the price of this punishment is far too high to render it morally legitimate.

But there may exist other examples. What are we to say of the FLN’s terror against the French when Algeria was liberated? This was an instance where it may have been in order to settle the conflict through divorce, and so it was settled. Did the FLN terror render the divorce quicker and less costly?

This is a difficult empirical question to settle. We need not share Frantz Fanon’s naive view that violence ‘… is a cleansing force’ which ‘… frees the native from his inferiority complex and from his despair and inaction; it makes him fearless and restores his self-respect’ to ponder this question. For, certainly, the terror might have created the belief
among French soldiers and French citizens that there was no one to trust, that all Algerians were enemy of the Colonists, another and more palpable theme in Fanon’s discussion of the problem. Secondly, the reaction of the French army against innocent Algerians did help to widen and deepen the social base from which guerrillas could draw support, again something pointed out by Fanon. So what are we to say of this terror? Directed as it were, at a surely guilty collectivity, i.e., the French population in Algeria, was it morally defensible, re-described as collective punishment?

Well, even if this kind of punishment did hit a guilty target, and even if the side-effects were not costly enough to render it morally illegitimate (which is debatable), it is difficult to avoid the suspicion that some of the problems now facing the Algerian people have to do with the way the divorce was brought about.

The nuclear bombs at the end of the Second World War have been given as an example of defensible (state) terrorism. According to the notion given here, they could have been given a motivation that avoided the terrorism label; they could have been dropped on the Japanese cities as a punishment of the entire Japanese people for not seeing to it that the war was stopped.

But even if this means that we need not see the dropping of these bombs as terrorist deeds, this doesn’t mean that they can be justified as a morally just punishment. The bombs hit a target that was far from innocent (the Japanese people) but the foreseeable side-effects of this kind of punishment were devastating. Was no other, less horrible, means available to the American authorities?

What about the most successful and least controversial form of state terrorism, then? What about the mutual assured destruction-strategy taken up with respect to nuclear weapons by the USA and the Soviet Union during the cold war? Can it be justified as a policy of collective punishment?

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Well, this may have been thought of as a decent and justifiable form
of avoiding nuclear war. Each side made a serious threat to wipe out the
other side, if the other side dared to launch an attack. Could this
conditional intention to wipe out all life on the other side be conceived
of as a conditional intention collectively to punish the other nation?
Could it be seen as just punishment for not having stopped the
politicians from taking such a mad decision?

This characterisation of the second part of this phenomenon (the
actual carrying out of such a threat) as just punishment is hard to digest.
It was part of the logic of the MAD strategy (hence it’s name) that
retaliation would be irrational. It could also be added that it would have
been immoral. It was certainly rational of each party to plan to act
irrationally, if the other party were to attack, but such a response would
yet, for all that, have been sheer madness. But then it is hard to think of
it as just punishment. But does this mean that issuing such a threat
when, in practice, it never had to be carried out, was also wrong? I am
not sure about this.

Note that I have set to one side the retributivist view that some
punishments are good in themselves since they are deserved. However, it
might have been a justifiable policy, taken up by each side in the conflict,
to threaten with unjust collective punishments, if the other party were to
attack. So construed, then, the mutual assured destruction-strategy may
avoid the label of being terrorist. Those towards the threats were
targeted, to wit, the peoples sustaining political systems carrying arms of
mass destruction, were far from innocent.

6. Conclusion
Collectivities, just like individuals, can act, bear responsibility for their
actions, and be guilty. It makes sense, then, to hold them responsible for
what they do and to punish them for their misdeeds. With respect to
many collectivities there is no practical purpose in holding them
responsible, since there is no way that we can bring them to justice. But
there are exceptions from this rule. In particular it is plausible to assume
that sanctions against entire nations or peoples or populations living in open and democratic states may be an effective means of setting them straight where, collectively, they act wrongly. The best present example of this seems to be the Israelis.

Once the myth of innocence of collectivities is exposed it might be tempting to believe that some ‘terrorist’ actions can also be defended, re-described as just punishment of collectivities. The logic of this argument is correct. But, because of the terrible side-effects and the lack of efficacy of such actions, I have had difficulties in finding examples where such practises have been morally justified. There is one possible exception to this, however, the US and Soviet strategies of mutual assured destruction that maintained peace during the Cold War.

Stockholm University