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TOPIC IV

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In the quote from *Eichmann in Jerusalem*, Hannah Arendt firstly describes a widely acclaimed opinion that there is no such thing as collective guilt or collective innocence. Arendt implies that normative judgments may refer only to individuals – if it wasn't true, judgments on the groups would clash with those aimed at individuals and no one would be able to say whether a person is actually guilty or innocent. Arendt stresses that although the existence of collective moral responsibility may seem dubious, it cannot be said about the political responsibility. Because of Arendt's claim that according to the popular opinion moral judgments may be aimed only at individuals, she is able to compare the political responsibility, carried by the certain group, with moral responsibility of an individual. Thus, she claims that moral and political responsibilities are apart from each other; the political and moral judgments must be separated. Although Arendt does not specify the consequences of being politically responsible, she describes that a morally responsible person can be judged in moral terms or brought before a court.

Arendt's words appeared in *Eichmann in Jerusalem*, an important study on the matter of evil and morality. Therefore, in its context, the statement that there is no collective moral responsibility may not be obvious. Intuitionally, we feel that for the Holocaust we can hold the whole *group* – Nazis and their supporters – morally responsible.

In my essay I will disagree with Arendt and argue that moral and political responsibilities are not apart: a group of people may be held both morally and politically responsible if they make the state less legitimate or if they act in accordance with the rules of an illegitimate state. To justify it, I will first explain the moral grounding of two important theories of the legitimacy of the state – John Rawls' and Robert Nozick's contemporary theory of social contract and Jurgen Habermas' deliberative democracy. I will show that they can be justified by two main modern ethical theories¹: both by the Immanuel Kant's deontology and John Stuart Mill's liberal utilitarianism. I will then analyze possible counterargument and explain the concept of legitimacy in general which will lead me to the final analysis of the collective moral responsibility which will support my thesis.

¹ I am aware of the fact that there are other important modern ethical theories, e.g. contemporary virtue ethics. However, there seems to be a general agreement that utilitarianism (or its weaker version, consequentialism) and deontology were the most impactful views which shaped not only the ethics, but also the philosophy of politics.

The moral grounding of the contemporary social contract theory: Rawls

Classical social contract theory developed by John Locke in *Two Treatises of Government* was based on two controversial premises: that there actually was an actual state of nature and that there actually was a procedure of signing a *real* contract to create a state. However, contemporary historians managed to justify that those premises are dubious – according to Ivan Szelenyi from Yale University, Locke's assumptions were historically wrong and it was Aristotle who was the closest to historic "truth" about how the state is created. Although it seemed that the social contract would become a dead theory, political philosopher John Rawls managed to change two of Locke's incorrect premises and make the theory important again in the political philosophy.

Rawls' social contract is *only normative*. The philosopher believes that we should constantly develop the politics as if there was a real contract and, moreover, we do not know who we are going to be in the state created by it. We may e.g. turn out to be a poor priest, an LGBT person or an immigrant from the country affected by war: if so, we must then create the state which is equally fair and just towards all possible groups. Rawls concludes that the rules of hypothetical social contract which we would sign behind the veil of ignorance should be the rules of the development and changes in a real state. Having made the social contract merely a normative concept, Rawls manages to avoid saying that there historically was an act of signing the real contract. Moreover, the philosopher replaces the rules which in Locke's theory were derived from the equality of the state of nature by the human rights based on Kant's deontology ethics. The reason why we should care about other people is not only our self-interest: it is Kant's second formula of categorical imperative which orders us to treat others as ends in themselves and not merely as means. It supports the first part of my argument: indeed, the moral theory may justify the political theory. Affecting the legitimacy of Rawls' state – breaking the rules of justice constituted by the hypothetical social contract – leads to affecting Kant's normative idea of human rights².

The moral grounding of the contemporary social contract theory: Nozick

According to Rawls, the implication of this kind of the legitimization is the need to create a welfare state which diminishes marginal utility of the poorest. However, different political philosopher, Robert Nozick, believes that although Rawls is right in his concept of hypothetical social contract, it should rather lead to creating a minimal state. As well as Rawls, Nozick conducts a thought experiment: he describes a hypothetical state of nature and argues that the only natural monopoly which would be created is the monopoly of the state to use the coercive power. Although Nozick starts with Kant's idea of human rights as a pillar of his normative political theory, he gets close to John Stuart Mill's political theory which treats the liberty as one of the most valuable goods, necessary to maximize the social utility. Nozick's theory of the minimal state combines Kant's and Mill's seemingly irreconcilable ethical views.

I used Nozick's example to argue that the implications of the contemporary social contract theory do not matter in justifying the connection of this political theory with moral philosophy. Both Rawls and Nozick describe a state which is politically legitimate only when it meets certain *moral* requirements.

² By "Kant's idea of human rights" in mean second and third formulas of the categorical imperative.

The moral grounding of the deliberative democracy theory

Contemporary social contract theory is classified as a liberal one - it favors mostly a dignity and liberty of an individual person. However, Jurgen Habermas does not think of himself as a liberal: he believes his deliberative democracy theory is neither liberal nor communitarian. In this argument I will show that the liberal theories are not the only ones which have an important moral grounding. Breaking the legitimacy of Habermas' state leads to both moral and political responsibility.

Habermas believes that what legitimates the state is the process of deliberation among the citizens. Philosopher claims that not only will it help to find an overlapping consensus about political matters, but also it will protect the state from falling into totalitarianism – in the ideal of the deliberative democracy, every political group has an equal say in social matters and no group will allow itself to be excluded or abused. According to Habermas, as social institutions are the product of public deliberation, they will be shaped in such a way to reflect the differences among the members of the society.

The theory of the deliberative democracy is grounded by many important ethical premises: utilitarianist egalitarianism, Kant's idea of rights, and Mill's idea of a freedom of speech which leads to knowing truth. Breaking the legitimacy of Habermas' states leads to violation of those moral theories.

Possible counterargument: legal and legitimate

Adolf Eichmann "only followed orders". During his trial, he excused himself that he has never broken any law. Indeed, Nazis did act in accordance to the law of Third Reich. Should they be held politically responsible?

As Ian Shapiro from Yale points out, the flaw of Eichmann's argument is that the law of Third Reich *was not legitimized*. As I showed, the legitimacy of the state is always grounded by important moral and practical theories. The strength of their justification (foundationalist or coherentist) constitutes the strength of the state's legitimacy³. Furthermore, the legitimacy itself is the base of creating the existing law. It is visible in the examples mentioned before: Rawls' social contract theory is a base of political views which then lead to the creation of a certain laws; certain institutions in Habermas' vision are reflecting the basis of his deliberative democracy theory⁴. The law is a derivative of the certain theory of legitimization which reflects a certain view on ethics and ethics of politics. Third Reich is not legitimate – premises which underpin its ideology are incoherent, intuitionally wrong and practically disastrous. There is a difference between what is legitimate and what is legal – a law of an illegitimate state reflects poorly justified ethical theories and must not be followed. This strengthens my argument: it seems now that if it is true that there is a political responsibility based on making the state less or more legitimate, there *must be* a moral responsibility, as the legitimacy is derived from moral views. This is why Eichmann's excuse that he only followed orders is irrelevant – and this is why it was right to hold him both politically and morally responsible.

³ Note that in some foundationalist justifications and in every coherentist ones moral intuitions play an important role.

⁴ Rawls', Nozick's and Habermas' – and Kant's and Mill's – theories differ, but it does not mean that one is more valid than another. According to coherentists view on justifying in ethics, different ethical views may be held as long as they 1) are coherent, 2) do not contradict basic moral intuitions, 3) do not lead to disastrous consequences in practice.

Collective moral responsibility

So far I have analyzed two important theories of the legitimacy of the state and argued that they have serious moral justifications: making the state less legitimate leads to important moral consequences. I have shown that those three examples illustrate the general concept of legitimacy as deeply connected with moral views. Legitimacy of the state is where ethics and philosophy of politics meet: even political realism represented by Machiavelli has a certain ethical component⁵. Now I will argue that if the collective political responsibility for breaking state's legitimacy is possible, the collective moral responsibility is possible as well. The last statement will finally contradict Arendt's thesis.

The political group may be held responsible for certain decisions. Arendt is indeed right that the political responsibility is attached to the group no matter what every of its members has done, although it can be attached to one politician as well. However, if the group breaks the legitimacy of the state, it consequently breaks important moral rules. The examples of Rawls', Nozick's and Habermas' theories prove it: every each of those is deeply connected with moral rules which underpin it. Political responsibility is not separate from the moral responsibility and both may appear in an individual or collective form. Being a part of the group and identifying oneself with its political and moral decisions may lead to being collectively both morally and politically responsible.

Conclusions

In my essay, I first analyzed Hannah Arendt's quote from *Eichmann in Jerusalem*. I disagreed with Arendt that there is no collective moral responsibility and I presented my thesis: a group may be both collectively politically and morally responsible if the group makes the state less legitimate or acts according to the illegitimate rules.

I discussed two concepts of the legitimacy of the state: Rawls' and Nozick's contemporary social contract theories and Habermas' deliberative democracy. I pointed out that there are important moral components which are the pillars of the legitimacy theories. Then I analyzed a possible counterargument and explained the difference between what is legitimate and what is legal. I showed that legitimacy of the state depends on the quality of the justification of moral and practical views behind it.

I finally argued that if the group may be collectively politically responsible, it must be collectively morally responsible if it breaks the legitimacy of the state.

In my arguments, I tried to undermine Arendt's statement in the quote from *Eichmann in Jerusalem*. However, my essay seems to raise important questions: how practically can a political group be held morally responsible and brought before a criminal court? Is it really just to pin the same individual moral responsibility to all the members of a group which was collectively responsible for committing evil? What is the real relationship of politics and morality? Which other factors other than pure ethics constitute the legitimacy? How do those problems refer to the contemporary political issues?

Those questions reflect the complexity of the philosophy of politics and provide a space for further research in this field.

⁵ For example a strong belief that the abuse of citizens' rights by the government is consequentialistically better than the civil war.