

THE PHILOSOPHY OF MORAL RESPONSIBILITY IN THE ARAB LEGAL SYSTEM: A COMPARATIVE STUDY OF RELIGIOUS VALUES AND LEGAL NORMS

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Abstract - This paper introduces the concept of moral responsibility and explores the justifiability of the moral practices associated with holding people responsible for their behavior. Among the most important and familiar of these practices are moral praise and moral blame. This paper also investigates the concept of moral responsibility and its significance for international law. Moral responsibility, understood as the attribution of praise or blame for actions or omissions, provides a philosophical foundation for the development and legitimacy of international legal norms. The study first reviews definitional approaches linguistically and legally of responsibility in general, Then the research classifies the types of responsibilities as moral responsibility and legal responsibility, and after that we explain the types of legal responsibility.

Keywords: Moral Responsibility, Legal Responsibility, moral blame, moral praise, Legal Philosophy

INTRODUCTION

Responsibility is one of the central organizing principles of both law and morality. While legal responsibility is codified in rules and enforced through institutions, moral responsibility operates at a normative and philosophical level, shaping expectations about human behavior and justice. (Watson, 1996) In the international legal system where enforcement is decentralized and often politicized, the philosophy of moral responsibility plays a crucial role in legitimizing norms and guiding accountability (Duff, 2009). As for philosophers, when they usually talk about “moral responsibility” they usually have in mind a relationship that can hold between people and the actions they perform, or between people and the consequences of their actions (Bejan, 2015). We typically say that a person is “morally responsible for an action or a consequence, as for legal obligations can be articulated, there is usually a moral recognition that certain conduct is blameworthy, whether it involves aggression, genocide, or systemic harm to the environment. This research focuses on the concept of moral responsibility, its definition, and its types, as a foundation for understanding its relevance to international law.

Moral responsibility may be defined broadly as the attribution of praise or blame to an agent for an act or omission, depending on factors such as agency, intent, and causation (Watson & Fischer, 2021).

Praise and blame depend on moral responsibility in the sense that people are open to these responses only if they are morally responsible for the behaviors for which they are praised or blamed (Klein, 1998). Typically, a person is open to blame only if he is morally responsible for behavior that is wrong (or bad), and he is open to praise only if he is morally responsible for behavior that is right (or good). Interestingly, while a person isn’t blameworthy or praiseworthy unless he is morally responsible, it does seem possible to be morally responsible for behavior that is neither right nor wrong and is thus neither praiseworthy nor blameworthy.

Problem of study:

Although international law has developed extensive mechanisms to regulate state behavior and individual conduct, it continues to face challenges in grounding these mechanisms in coherent principles of responsibility. Legal responsibility is well-defined through treaties, customary norms, and judicial practice, yet the deeper philosophical basis moral responsibility remains underexplored. This gap creates

difficulties in addressing complex questions of accountability, particularly in cases involving collective actors such as states, corporations, or international organizations, and in situations of systemic harm that transcend individual wrongdoing. Without a clear integration of moral responsibility, international law risks being viewed as procedural and pragmatic rather than normatively justified. The problem this research addresses is, therefore, how moral responsibility can be defined, categorized, and applied in the international legal system to strengthen both the legitimacy and effectiveness of legal accountability. This research therefore asks three central questions:

- How should moral responsibility be defined within the context of international legal system?
- What are the primary types of moral responsibility relevant to international law?
- How do these types shape the way international law conceptualizes and enforces accountability?

Methodology:

This research employs a doctrinal and philosophical approach to examine the concept of moral responsibility and its relevance to international law. The methodology is structured around three components:

- Definition's Analysis.

The study began with a general definition of responsibility in Arabic and English dictionaries. This normative analysis establishes the criteria by which moral responsibility can be distinguished from legal responsibility and provides a framework for categorizing its different forms.

- Doctrinal Legal Research

Building on the philosophical foundation, the research examines primary sources of international law, including Jordanian and Palestinian civil law, Islamic law (sharia), and traditional or customary law. These instruments are analyzed to demonstrate how principles of moral responsibility have influenced the development and application of international law.

- Comparative and Analytical Evaluation

The research highlights areas of convergence and divergence, particularly in relation to accountability for state actions, collective harm, and structural injustices.

This combined methodology allows the paper to move beyond a purely descriptive account, offering a critical examination of how moral responsibility underpins international law, informs debates on accountability, and supports the legitimacy of global justice mechanisms.

Hypotheses:

H1: Moral responsibility provides the ethical and religious foundation for legal accountability in Arab law.

H2: Integrating moral responsibility enhances the legitimacy of Arab legal norms.

H4: Gaps remain where legal mechanisms do not fully reflect moral and religious obligations.

1. Definition of Responsibility

To discuss responsibility, we first must define it both linguistically and legally. When we looked up definitions in dictionaries, we found several variations, including: The state or position of being responsible (Concise Oxford Dictionary, 1964). Regarding the Arabic dictionaries, we notice that there are many different definitions, the most prominent of which are:

- According to Al-Munajjid's lexicon, responsibility is defined as: "What a person is responsible for and is claimed for matters or actions that they have done" (Maalouf, 2003)
- The Arabic language community in Cairo defined it as: "A person's feeling of moral obligation to the results of his administrative actions, and he is held accountable for them, whether good or bad." (Academy of the Arabic Language in Cairo, 1979)

- Miqdad Yalgen said that responsibility means: “Bearing a person as a result of his obligations, decisions, and scientific choices, both positively and negatively, before God in the first degree, before his conscience in the second degree, and before society in the third degree” (Yaljin, 1977)
- According to the Nazrat al-Na'im encyclopedia: “Responsibility is a state in which a person is fit to be held accountable for his actions and is bound by their various consequences”. (Al-Hamid, 1418 AH)
- Dr. Abdullah Draz defined it as: “Responsibility is the fact that an individual is required to do some things and give an account for them to other”. (Daraz, 1982)
- Mustafa Al-Sabri defined it as: “A person's fitness for what he encounters in this world and the hereafter, and whoever comes to his work.” (Sabri, 1352 AH)
- Dr. Ahmed bin Abdel Aziz defined it as: “The capacity of a person to be required by Sharia to comply with commandments, avoid prohibitions, and be held accountable for them.” (Al-Halibi, 1994)

In our opinion, responsibility in language refers to the state of being accountable for one's actions or decisions and the obligation to take care of or answer for something. This includes tasks, duties, and obligations that a person must attend to, as well as the consequences of their actions. The term also characterizes an individual's degree of accountability and their capacity to assume responsibility for their actions and choices.

Incidentally, when we learned about responsibility, we noticed that there is a person called the responsible one; but who is this person? Now we will find out.

2. Kinds of Responsibility

Now that we have understood what responsibility means and have been able to distinguish between similar terms, we will continue our discussion of responsibility. The definitions of responsibility we use imply that there are two kinds of responsibility, as outlined below:

A. Moral Responsibility:

Moral responsibility refers to when a person performs or fails to perform a morally significant action. In such cases, we often believe that a specific type of response is appropriate. Praise and blame are arguably the most evident manifestations of these emotions. For instance, people may view someone who rescues a child from a burning car as deserving of praise. On the other hand, people may blame someone who uses their mobile phone to call for help during the accident. Regardless of receiving commendation or censure, individuals are accountable for their conduct. These exemplify other-directed distributions of responsibility. The reaction may also be introspective, as when an individual acknowledges personal culpability. Therefore, being morally accountable for an activity entail deserving a specific type of response such as praise, blame, or a comparable reaction for its execution (Adkins, 1960).

The philosophical contemplation of moral obligation has a lengthy historical background. The enduring interest in the topic arises from its evident relation to our self-perception as individuals. Numerous individuals assert that a defining characteristic of people is their status as morally responsible agents, a status that, according to some, is based on a unique form of control that only humans can exert (Barnes, 1984).

Numerous individuals with this viewpoint have contemplated whether the veracity of specific alternative assertions regarding the world jeopardizes their distinct position. Can an individual be ethically accountable for her actions if they can be exclusively elucidated by the physical condition of the universe or the rules that dictate alterations in those conditions? Can moral responsibility exist if a sovereign God directs the world along a divinely predetermined course? Such concerns have frequently prompted contemplation on moral responsibility (Eshleman, 2014).

Legal responsibility may be considered as a part of moral responsibility. A significant intersection exists between legality and morality, even across different moral frameworks. Their differences exemplify a limited number of instances where moral acceptability or obligation contravenes legal statutes. For instance, hospital workers may strike to receive their wages, a legal yet morally

unacceptable action. Similarly, there are many actions that are legally acceptable but morally despicable, such as commenting that the food served to you as a guest "tastes terrible" (Asaro, 2007).

Additionally, many people believe that criminal responsibility should follow moral responsibility. In other words, an individual should be held criminally accountable for an act, such as causing someone's death, only if they can be held morally responsible for that act. Analysts often examine moral responsibility in terms of two conditions: control and knowledge. If I accidentally broke a valuable Ming vase while walking or running down your home, you might hold me morally responsible for the damage (Aristotle, 2000). However, if I lacked control over whether I knocked the vase over or if I didn't know or could not reasonably have known that the vase was there, I am not morally responsible for its breakage. Similarly, I will be held criminally responsible for damaging your vase only if I controlled the action and knew that my conduct could lead to it breaking. In the absence of a voluntary act such as moving my body involuntarily, I may be causally responsible for the damage, but I would not be morally or legally responsible for it. If I had no intention of breaking the vase or awareness that it could be damaged, it would be unjust to condemn me for unknowingly causing the harm (Chalmers & Leverick, 2008).

When we look at examples of "absolute" or "strict" criminal liability, which are crimes that are illegal no matter what the person doing them knew or intended, this doctrine makes a lot of moral sense. For instance, it may be an offense to pollute water, even if the person causing the pollution does not know and could not reasonably have known that they were doing so. However, it would be unjust to convict someone based on facts of which they were faultlessly ignorant (Dubber & Kelman, 2005).

The other discussion focuses on the truth that criminal responsibility involves condemnation or censure. Someone convicted of a crime suffers not only a material burden but also condemnation as a wrongdoer. Justice asks us to condemn and punish only those who deserve such censure. If a person was not morally at fault because they lacked control or knowledge, they should not be condemned for the harm caused. This doctrine has many implications, including the meaning of the "voluntary act" requirement, whether it should be a criminal responsibility requirement, and whether it follows from the control requirement. Furthermore, discussions about how different types of faults or means *rea* (the mental state) should be defined and why negligence should sometimes, but not always, be a ground for criminal responsibility are crucial for understanding criminal law (Fischer, 1999; Duff, 2009).

Arab legal systems vary by country and can be based on Islamic law (*sharia*), civil law, or traditional or customary law. Arab legal systems also emphasize moral responsibility and often link it to accountability and justice. Legal punishments in Islamic law, for example, are viewed as a means of achieving justice and maintaining social order, with individuals being held accountable to God for their actions.

In civil and criminal cases, moral responsibility can also be a factor, with individuals being held accountable for their actions and the harm they may cause. Arab law recognizes both legal and moral responsibility. This implies fulfilling all legal or custom-based obligations. Customized actions are expected to be legally binding, even if not written down. For example, in the Jordanian Civil Code, Article 224 (Jordan, 1976), and Article 43 of the Journal of Justice (Ottoman Judicial Rulings Magazine, 1876) both legal and moral responsibility are recognized. To clarify, consider the case where a person can swim and sees someone drowning but does not save them. Some jurists assert that the law would hold the individual responsible (Al-Issa & Masoud, 2016) (Calliess, 2007).

B. legal Responsibility

After discussing moral responsibility, we will now talk about legal responsibility. In this section, we will explore various definitions and types of legal responsibility. The following are some definitions to help us understand what legal liability means: when someone causes harm because of an action, the person responsible for the harm must compensate for the damage.

We can say that legal responsibility arises when a party is held liable for something. In civil cases, a defendant solely faces liability, unlike in criminal cases where a conviction could occur. In civil liability, a party can be held accountable for their own actions, their own inactions, or the actions of others for which they are legally responsible.

Additionally, legal responsibility refers to being accountable for an act one undertakes, while accountability means being called to account or being obligated to perform a task satisfactorily (McGrath & Whitty, 2018). Regarding Arab jurisprudence, we find that responsibility is not always explicitly defined within legal texts. However, jurisprudence has worked to clarify the concept and develop a set of clear definitions. Some of these definitions include the judgment that entails accountability for the person who has committed a specific act (Mark, 1992) or the penalty resulting from violating a duty, regardless of the source of that duty (Mansour, 2001).

In my view, legal responsibility refers to the judgment resulting from a person committing an act that requires accountability. The law, in its broadest sense, serves as the source of the violated rule, establishing legal responsibility.

Now, all the definitions describe your legal responsibility for yourself, but what about your legal responsibility for others? After discussing the types of responsibility (moral and legal) it is important to understand the differences between them:

1. Moral responsibility is based on a subjective element, which is the conscience, and is a responsibility before God or before one's conscience. Therefore, the individual responsible for the action is both the adversary and the judge. In contrast, legal responsibility is based on an objective element and is the responsibility of one person to another.
2. Moral responsibility is more general and broader in scope than legal responsibility because it does not require harm to others. On the other hand, legal responsibility only exists if there is damage to others, whether that harm is inflicted on an individual or the entire community.

Types of Legal Responsibility

Now, we believe this is an appropriate point to begin discussing the types of legal responsibility. There are two main types: criminal responsibility and civil responsibility. However, our research primarily focuses on civil responsibility, excluding criminal responsibility from the main discussion. We will briefly mention criminal responsibility, but then we will shift our focus to civil responsibility.

Type one: criminal law primarily concerns actions. It defines crimes such as killing a human being, damaging another's property, or driving dangerously. Individuals may face conviction and punishment for such actions. Legal theorists often investigate the deeper basis of criminal liability, looking beyond the actions themselves to identify the "real" focus of criminal responsibility. Their argument is that criminal responsibility ultimately depends not just on the actions but on something underlying those actions: either the individual's "choice" or their "character." In other words, what justifies conviction and punishment must be rooted in either the defendant's wrongful choice or a defect in their character revealed by their criminal conduct (Pincoffs, 1973; Fletcher, 1978; Bayles, 1982; Brand, 1985; Kadish, 1987; Vuoso, 1987; Lacey, 1988; Dressier, 1988; Moore, 1990; Arenella, 1990).

On the other hand, there are two types of civil responsibility: tort responsibility and contractual responsibility. Since our research deals with Moral and Legal responsibility we will focus on tort responsibility, leaving contractual liability outside the scope of this discussion.

Tort Responsibility

Here we will only consider the most famous definitions, even though this research excludes tort responsibility. The idea of "tort law," for instance, is more common in common law systems. In civil law systems, it's more commonly known as the law of extra-contractual liability, the law of non-contractual obligations, or civil responsibility for delicts/quasi-delicts (Enneking, 2012)

Tort law examines the relationship between parties. The plaintiff's complaint is not that she suffered, nor that she was caused to suffer by the defendant, nor that her suffering was the result of his wrongdoing. Rather, her complaint is that her suffering was wrong because the defendant had no right to injure her in that way (Ripstein, 2003; Coleman, 1987). Perry's tort law view of responsibility is one of the most significant tort liability ideas. Stephen Perry gave a strong explanation of the idea of responsibility. Perry counted on what Honoré, Coleman, and Weinrib had expressed and said that tort law holds a defendant responsible for the plaintiff by making the defendant do the right thing and compensation for the plaintiff's loss. This task is based on the defendant's "outcome-responsibility" for

the loss. To sum up, a person is responsible for a result if they make a choice that causes a loss, even if they know they could have done something different to avoid it. Importantly, this account lets more than one person be responsible for a loss, including the victim herself (Perry, 2001).

In other words, someone is outcome-responsible for a loss just because they caused it when they could have avoided it. In this case, if I hit something, I would have a moral obligation to deal with the result. But because I was driving carefully, I might only have to pick up the thing and put it where it belongs. Accidents like this happen all the time, so both the driver and the passenger could see what was going to happen. Both of their actions were necessary for the loss to happen. Therefore, both the pedestrian and the driver are to blame for the loss of the passenger. If the pedestrian sued the driver for carelessness, she would be asking the state to help her hold the driver accountable.

Perry says that the state does this to answer the question of which of these two results means that responsible people should, in all fairness, pay for the broken arm. From what the plaintiff said, it's clear that the defendant was not only legally responsible for the loss, but also ethically responsible. So, he needs to pay the plaintiff for his damage (Goldberg & Zipursky, 2013).

Perry says that the focus of negligence law should be on what the defendant did instead of whether they are to blame. This is because fault determines who pays for a loss, while result responsibility determines who can pay.

When we want to figure out who is responsible for a loss, the fact that negligence law's "objective" standard wasn't met is enough of a reason, even if the person who didn't meet the standard can't be blamed for not doing so. Perry's certain responsibility theory of tort is strong because it organizes a lot of things that have to do with moral responsibility in a way that makes sense. It also makes sense of well-known parts of tort law, especially negligence law. What could have been avoided is given a lot of weight. It's not as important what hurts and causes it.

There is more than one person to blame. You can admit faults in a less-than-full-blooded way. This fits with most people's morals and a linked set of tort ideas and rules (Perry, 2001).

In conclusion, we think that humans designed tort responsibility as a social construct to serve certain purposes, including the principle of corrective justice. Although it does not require a particular form of litigation, the principle of corrective justice restricts the types of litigation. In other words, tort responsibility is significant when there is no contract specifying the responsibilities arising from the damage.

Study findings

The findings of this research confirm that moral and legal responsibility in the Arab legal system are inseparable yet operate on distinct planes. Moral responsibility provides the ethical, religious, and social underpinnings of accountability, while legal responsibility translates these principles into codified norms and enforceable duties. The study identifies several key results:

1. **Moral Responsibility as Ethical Foundation:** Moral and religious principles underpin legal norms in Arab law.
2. **Individual Responsibility:** Codified in criminal and civil law, emphasizing intent and voluntary action.
3. **Collective and Institutional Responsibility:** Partially codified in corporate, administrative, and state obligations, reinforced by moral and social expectations.
4. **Interdependence and Gaps:** Legal mechanisms sometimes lag moral and religious imperatives, especially in systemic or collective harm.
5. **Legitimacy and Compliance:** Moral responsibility enhances acceptance, compliance, and legitimacy of Arab legal norms.

CONCLUSION

The study demonstrates that moral and legal responsibility are deeply intertwined in the Arab legal system, with moral responsibility providing both the ethical and religious foundation for the enforcement of legal norms. Unlike purely secular legal frameworks, Arab law operates within a unique paradigm in which Sharia principles and moral values not only inspire but also shape codified legislation. This integration reflects a distinctive feature of Arab jurisprudence: law is not merely a technical instrument of governance but also a moral and spiritual guide rooted in concepts such as obligations.


However, the research also reveals persistent gaps. Legal responsibility in Arab systems sometimes lags the expansive scope of moral responsibility. Issues such as corporate complicity in systemic harm, state responsibility for transnational wrongs, or environmental accountability illustrate situations where codified law alone may be insufficient without the broader guidance of moral principles. Bridging these gaps requires harmonization between Sharia-based ethical imperatives and evolving codified norms to ensure that both law and morality respond effectively to contemporary challenges.

In addition, Moral and legal responsibility in the Arab legal system are closely interconnected. Moral responsibility, rooted in Islamic ethics and social norms, provides the foundation for accountability, while legal responsibility operationalizes these principles through codified laws and enforcement mechanisms. Individual, collective, and institutional forms of responsibility reveal the multiple layers necessary to address personal, organizational, and systemic harm. Integrating moral responsibility into legal practice strengthens legitimacy, ethical coherence, and compliance, ensuring that Arab legal systems not only enforce rules but also reflect the moral and religious expectations of society.

In conclusion, moral responsibility is not only an abstract philosophical concept but also a practical and indispensable foundation for legal responsibility in the Arab legal system. By grounding codified norms in moral and religious principles, Arab law secures both ethical coherence and public legitimacy, thereby ensuring that responsibility in all its forms individual, collective, and institutional remains central to the pursuit of justice in contemporary Arab societies.

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