RESPONSIBILITY AND JUSTICE

MATT MATRAVERS
Responsibility and Justice
In memoriam
Colin Matravers
## Contents

*Acknowledgements*  
1 The Many Faces of Responsibility  
2 Thinking about Responsibility  
3 Responsibility within Distributive Justice  
4 Responsibility within Retributive Justice  
5 Responsibility and Justice

*Notes*  
*References*  
*Index*
Acknowledgements

The completion of this book was made possible by the award of the Thank-Offering to Britain Fellowship by the British Academy for the year 2004–5. I am enormously grateful to the Fellows of the Academy for the Award, which gave me the time to think and write. Other academics reading this will know just how much that means.

Although the Thank-Offering Fellowship is very generous, my being on leave inevitably meant my colleagues in the Department of Politics taking on extra work. I am very grateful to them for doing so. I am also grateful to my wife, Julika; that she puts up with me at all is something I find constantly amazing. That she does so through the pains and pitfalls of the writing process is a miracle.

That York is a wonderful place in which to be a political philosopher is in no small part due to the continuing generosity of the C. and J. B. Morrell Trust, which funds research in the area (and which has done so for twenty-five years). I would like to express my thanks to the Trustees – Geoffrey Heselton, Nicholas Morrell, Margaret Morrell, and Martin Wainwright – for their support. It is also wonderful because of the people who make up the political philosophy group. Since I started thinking about the things in this book, I have enjoyed the intellectual (and social) companionship of Alex
Callinicos, David Edwards, Catriona McKinnon, Susan Mendus, Peter Nicholson, Jon Parkin, and Tim Stanton. In addition, the group has been blessed with many fine graduate students. I am very pleased to be able to thank them all.

I would also like to thank Antony Duff and an anonymous reader for Polity for helpful comments on the manuscript. In addition, I have had very useful feedback on bits of this book from numerous audiences at a variety of seminars and workshops. Louise Knight at Polity has been patient and helpful at all stages, as have her editorial assistants.

In the acknowledgements to *Justice and Punishment* I had reason to offer particular thanks to Brian Barry and Anni Parker and to John Charvet. For a variety of reasons, they have had a less intimate connection with this book than they did with that one. That said, Brian and John read, and gave extensive comments on, a complete draft of this book. I haven’t, I am sure, managed to respond to, or incorporate, all their insights, but that is my fault, not theirs. However, their influence goes far beyond the comments that provide tangible evidence of their involvement. Brian and Anni managed (from New York) to continue to support me in ways that might seem insignificant to them, but that matter enormously to me. Brian’s and John’s ghostly philosophical voices press, query, and criticize from the back of my mind as I write. I have been very lucky in having them as teachers, mentors, and friends, and can only thank them again for everything.

My colleague Sue Mendus was also the object of particular thanks in *Justice and Punishment*. She, too, has read and commented on this book in its entirety. As ever, her comments were invaluable. She also shouldered the lion’s share of the work left by me when I went on leave. It is not only for those things, though, that I want to thank her, but also and simply for being the best friend and colleague imaginable.

My uncle, Colin Matravers, died unexpectedly and suddenly while I was working on this book. One of the themes of this book is that many good and bad things happen that are down to chance, but are not matters of fairness or justice. Another theme is that they are no less important for that.
Responsibility, and concepts related to it, play a significant role in people's lives: in particular, in their judgements of themselves and others. Yet, the idea of responsibility is a problematic one, and when pressed, many seemingly solid judgements of responsibility slip from our grasp. The purpose of this book is not to examine the philosophical arguments over what responsibility is, although there will have to be a certain amount of that (in particular, in chapter 2); rather, the idea is to focus on where the concept of responsibility fits in ordinary life and in thinking about questions of justice.

In our ordinary lives, judgements of responsibility play an important role. According to the philosopher Peter Strawson (1962) – whose arguments will be important later – social interaction of the kind with which we are familiar would be impossible without the notion of responsibility. To see this, consider our responses to other persons and compare them with our responses to objects, non-human animals, and so on. When a person acts in a certain way, we respond to that person with an appropriate ‘reactive attitude’ – gratitude, resentment, love, indignation, or whatever – as his behaviour demands. These attitudes are central in our relationships with
one another and in our shared social world. Moreover, they describe responses that are qualitatively different from the ways in which we respond to things, objects, and non-human animals. We may be cross with a dog, but we cannot be indignant at its behaviour nor hope that it feels remorse. Similarly, we may be pleased when we train it to roll over on command, but we do not feel gratitude for its doing so. Indeed, the very fact that we think it appropriate to train a dog (and, in a different way, a child) is itself evidence of the difference in the way we take ourselves to stand to dogs (and children) on the one hand and (adult) persons on the other.

Similarly, consider what happens to one’s reactions to another when judgements of responsibility change. Imagine that a person has just explained to his friend how he has bruised his toe and how much it hurts. Just as he finishes, the friend – with seeming deliberateness – steps on to the afflicted toe. The victim, as Strawson says, will feel not merely pain, but also indignation and resentment and will blame his friend for her callous behaviour. Then he realizes that the friend had in fact been inadvertently pushed by a third person and could not help but step forward on to the toe. Although the pain continues, suddenly it would be entirely inappropriate for the victim to continue to blame her, and to feel indignant and resentful towards her.

Simple examples like this can be extended to shed light on many areas of political philosophy and public policy. In particular, judgements of responsibility are importantly tied to issues of justice. This connection will be considered in what follows in relation to both distributive and retributive justice. Distributive justice concerns the distribution of benefits and non-punitive burdens. Retributive justice concerns the appropriateness (or otherwise) of punishment for wrongdoing (see chapters 3 and 4). Although in contemporary political philosophy these forms of justice are usually discussed separately, it is part of the argument of this book that they are usefully considered together.

So, consider two examples from the realms of distributive and retributive justice. Within distributive justice, people are
sympathetic to claims based on needs or disabilities for which the claimant is not responsible. So, for example, if asked whether extra resources should be given to someone born without legs, the response is generally positive. That can be undermined, at least to a degree, if the example is changed, and the claimant’s condition can be attributed to him (say, he lost his legs when pursuing an extreme sport and having been warned of the likelihood of an accident). If the example is further changed, and the claimant asks for extra resources in order to satisfy what is thought to be merely a ‘preference’ (say, he asks for extra resources to allow him to fulfil a life’s ambition of sailing around the world), then people’s reactions change, too, and few think the claim one of justice (for a discussion of what social scientists find when they ask people about social justice, and many useful references, see Miller 1999: ch. 3).

Within retributive justice, notions of responsibility lie at the heart of the criminal law, and popular opinion seems in general to be sensitive to issues of responsibility in a way that mirrors the distributive case. Thus, the more the responsibility of the offender is called into question, the less people are inclined to hold him to account and to punish him severely. Moreover, many of the excuses recognized by the criminal law, which enjoy popular support, revolve around responsibility. Thus, consider a case (in many ways similar to the simple example of the two friends given above) of a driver who appears at first to behave recklessly, to veer at high speed across the road, and to cause an accident. If we then discover that the driver suffered from an uncontrollable spasm caused by a medical condition of which he was (reasonably) unaware, then our initial view will change, and he will be exempt from ordinary negative reactive attitudes (and criminal liability).

My plan in the course of this book is, in part, to discuss the great importance that the idea of responsibility seemingly has for us whilst emphasizing how seldom we feel any great confidence in our own judgements of it. It is, therefore, worth saying something about why the idea of responsibility continues to have such a tenacious grip on the practices and
intuitions of people living in countries such as the UK and the USA despite all its difficulties.\(^1\) One (no doubt, partial) explanation appeals to the Christian foundations of Western civilization. A significant part of Christianity emphasizes the will, and the importance of free choice, in human life.\(^2\) Moreover, it focuses on the intent of the acting subject, rather than on the outcome of the action. In the philosophical form given to this by Immanuel Kant, our assessments of ourselves and of others – and, in so far as possible, what happens to us and how people think of us – ought to depend on how we choose and what we do voluntarily (what we are responsible for) and not on luck, contingency, or on things that happen to us (cf. Nagel 1979). It is in this sense that the idea of responsibility seems to be tied to our idea of ourselves as agents. To be responsible, as Strawson makes clear, is to be the kind of thing – an agent – that can be held to account, blamed, praised, resented, and so on. And to think of ourselves as agents is central to our self-understanding. Consider how deeply the following passage speaks to us:

I wish my life and decisions to depend on myself, not on external forces of whatever kind. I wish to be the instrument of my own, not of other men’s, acts of will. I wish to be a subject, not an object; to be moved by reasons, by conscious purposes, which are my own, not by causes which affect me, as it were, from the outside. I wish to be . . . a doer – deciding, not being decided for, self-directed and not acted upon by external nature or by other men as if I were a thing, or an animal . . . I wish, above all, to be conscious of myself as a thinking, willing, active being, bearing responsibility for my choices and able to explain them by references to my own ideas and purposes. (Berlin 1969: 131)

Of course, not everyone’s background is Kantian or Christian (Isaiah Berlin, the author of the passage above, was Jewish), and the idea of responsibility is hardly unique to this tradition. The point is rather that in the countries with which this book will be primarily concerned I think it is fair to say that the idea of responsibility is, as indicated by the brief discussion above, deeply rooted in our lives, practices, and
moral intuitions. Yet, for all that, when we use the idea of responsibility, we often do so in ways that are problematic. That is what this book is about.

2 The Politics of Responsibility

Although the notion of responsibility is ubiquitous in ordinary life, it has not always featured as prominently in politics as it does today. Much of the twentieth century in the UK, and to a lesser extent in the USA (that is, roughly from the rise of the welfare state in the UK and the New Deal in the USA to the 1970s), was marked by a broadly welfarist managerialism in which an optimistic belief flourished that the State could, and should, manage social policy for the greater good of all. Many of those who broke the law, for example, were thought of as the products of inadequate socialization to be rehabilitated (cf. Garland 2001) and whose prevalence could be reduced by better social policy (better housing, after-school clubs, and so on). The British welfare state and the New Deal in the USA ushered in welfare benefits for the unemployed and the indigent. Although it is dangerous to talk of ‘turning points’ – and social policy and political cultures are complex mixes of the old and the new – the political climate changed significantly in the 1970s, culminating in the electoral successes of Margaret Thatcher in 1979 in the UK and Ronald Reagan in 1980 in the USA. In their politics, and in the politics of the centre-left governments of Bill Clinton and Tony Blair that followed, the notion of individual responsibility took centre stage.

In the politics of distributive justice of the last thirty years (that is, since the change described above), the rise of responsibility has been most apparent in the decisions, and rhetoric, governing welfare and social security. Although this is obviously a complex area – and there are important differences between the UK and the USA – it is nevertheless possible to discern some common themes. These include two criticisms of welfare systems: first, that social security has for too long taxed
the hard-working and ambitious to subsidize the indolent and lazy. The complaint here is that the welfare state has been poor at, or has deliberately avoided, distinguishing between those whose need for unemployment insurance, welfare, or social security payments is a result of their own poor choices and those for whom this need is a result of bad luck or other circumstances over which they had little or no control. Second, welfare and social security programmes are seen as providing the poor with the wrong incentives; encouraging them to become dependent on state aid instead of going out and seeking work or seeking to improve their own situations.

This diagnosis of the ills of the welfare state depends on giving individual responsibility a central place in the analysis. The first problem explicitly leans on a distinction between what was once called ‘the deserving and the undeserving poor’, understood as being a distinction between those responsible for their poverty and so not, in justice, entitled to help, and those whose poverty is the result of circumstance and who are, therefore, justly entitled to help. In the second, the issue is that welfare and social security payments undermine personal responsibility, and so give the poor reason to remain indolent and dependent. Thus, pundits like Charles Murray in the United States and ‘think tanks’ like the Adam Smith Institute in the UK have been influential in claiming, amongst other things, that state aid only perpetuates dependency and a ghetto underclass culture that invariably looks to the State to cure its problems rather than addressing them itself. What is needed, they argue, is a reorienting of state aid and a rejuvenation of those virtues that promote self-sufficiency.3

In response to this diagnosis of the ills of the welfare state, the ‘cure’ envisaged by governments of both the left and the right on both sides of the Atlantic has been to introduce reforms to the welfare and social security systems; reforms which emphasize the responsibilities of the recipients and which, in theory at least, would target help to those who, as the saying goes, are willing to help themselves. The most explicit manifestation of this has been the rise of ‘workfare’ programmes in both the UK and the USA.
Thus, in the late 1990s, the British Chancellor of the Exchequer, Gordon Brown, pursued a number of policies under the umbrella slogan ‘Work as the route to opportunity’. In 1996, in the USA, the Clinton administration passed the Personal Responsibility and Work Opportunity Reconciliation Act. This placed limits on the period in which welfare recipients could claim benefits, and required recipients to take work in order to be eligible for social security payments. The argument offered by advocates of the Act was that those who were capable of work should only have their income publicly subsidized if they were willing to support themselves. In contrast, it was argued, those who were unwilling to work, or who engaged in self-destructive behaviour, had no legitimate claim on the public purse.

It is worth noting that included in ‘self-destructive behaviour’ is the having of a child by a lone parent. In both countries, then, the underlying thought was to redefine welfare and social security so as to distinguish between those for whom work was not a possibility (for example, the seriously disabled and seriously mentally ill) and those for whom it was. In the case of the latter, state aid was envisaged as temporary and as geared towards equipping the recipient with the skills to find work and sustain him or herself; an idea captured in a Labour slogan of which Tony Blair was particularly fond that welfare was ‘a hand up not a hand out’. What is clearly implied, of course, is that those who are able to work, but after some time still do not do so, are responsible for their condition (they are ‘self-destructive’ or ‘unwilling’, as against ‘unlucky’ or ‘unable’). In short, for both Reagan and Thatcher, and for their successors, the virtues to be extolled and promoted are those of ‘hard work, self-help, and the acceptance of responsibility for self and family’ (Deacon 2000: 15).

A parallel story can be told within the realm of retributive justice. The ‘penal welfarism’ (Garland 2001: ch. 2) of the post-war era has largely been either eradicated or, where it persists, is an embarrassment to politicians. So much so that John Major, the Conservative Prime Minister who succeeded Mrs Thatcher, could make political capital out of the slogan
‘Society needs to condemn a little more and understand a little less’. The Labour Government, although elected to be what Tony Blair called ‘tough on crime, tough on the causes of crime’, has followed suit and introduced some of the most Draconian laws and mandatory sentences ever seen in England and Wales. Similarly, in the USA, politicians vie to be the most punitive; the current President, George W. Bush, takes pride in his record (as Governor of Texas) of refusing to commute death sentences; and the successful Democratic candidate for President in 1992, Bill Clinton, very publicly took time out of his campaign to oversee the execution of a mentally sub-normal offender.4

The consequences of the ‘get tough’ rhetoric are most easily seen in imprisonment rates in the UK and the USA. For most of the twentieth century the number of people in custody in the USA as a proportion of the general population ran at around 110 per 100,000. It began to climb in the 1970s, and the rate of growth accelerated considerably in the 1990s. There are now more than 700 people in prison per 100,000 of the population (if one includes inmates in local gaols). In the UK the situation is more complex. The prison population has increased dramatically in recent years, but only since 1992. Moreover, the picture is different in Scotland, where incarceration rates have remained relatively stable. That said, it is worth noting that the UK now imprisons around 140 people per 100,000, putting it a long way behind the USA, but sufficiently ahead of the rest of Europe to allow the conclusion that the UK central government has largely followed the US’s lead (cf. Garland 2001).5

Although these figures are shocking, and become even more so if broken down by race,6 they do not tell a straightforward story about the political significance of the idea of responsibility. In part, increasing prison rates have been the consequence of a competition between politicians to cash in on the electoral appeal of being tough on crime that has increased as the fear of crime has increased. The role played by the idea of responsibility becomes more clear in looking at the language in which offenders are portrayed and criminal justice policies justified.