

# **Arthur Schafer A wink and a nod: a conceptual map of responsibility and accountability in bureaucratic organizations**

*Abstract:* The article provides a conceptual analysis of the ideals of responsibility and accountability. It asks and tries to answer such questions as: When is it legitimate to blame top officials of an organization for mistakes made by personnel below them in the bureaucratic hierarchy? When things go wrong in a large complex organization, such as the Canadian Armed Forces, who is responsible? When, if ever, is a plea of ignorance - "I just didn't know about the coverup" - a good excuse? The multiple ambiguities of the term "responsibility" are explored, and it is shown how a failure to appreciate this ambiguity can easily result in confusion and misunderstanding.

*Sommaire :* Cette étude présente une analyse conceptuelle des idéaux de la responsabilité et de l'obligation de rendre des comptes. Elle pose et tente de répondre aux questions suivantes : Quand est-il légitime de blâmer les hauts dirigeants d'une organisation pour les erreurs commises par leurs subalternes ? Quand les choses vont mal dans une grande organisation complexe telle que les forces armées du Canada, qui est responsable ? Est-il jamais justifié de plaider l'ignorance - « Je n'étais tout simplement pas au courant du camouflage » ? Cette étude insiste également sur l'ambiguïté du terme « responsabilité » et montre avec quelle facilité cette ambiguïté peut occasionner la confusion et les malentendus. Elle montre également les conséquences d'affirmer que quelqu'un a « provoqué » un événement ou a fortuitement contribué, par un geste ou une omission, à ce qu'il se réalise. Le lecteur découvrira en quoi la responsabilité et la moralité ne font pas toujours bon ménage.

Responsibility is a slippery and ambiguous concept, and accountability is scarcely less so. Thus, any discussion of the relationship between them promises to be a hard slog. All too often, when abstract ideas are permitted to dance exclusively with each other, they have a tendency to levitate into the stratosphere and there expire from oxygen deprivation.

Fortunately, recent Canadian politics provides a rich store of illustrative

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material that should be helpful in understanding the connection between responsibility and accountability.

The Somalia inquiry into wrongdoing in the Canadian Armed Forces and the Krever inquiry into the tainted-blood scandal provide a useful starting point for a discussion of who is responsible for what when things go wrong in a large bureaucratic organization. Certain features of both scandals, tainted blood and tainted military, will be examined in an effort to draw a conceptual map of responsibility and accountability, but rather more attention will be paid to wrongdoing in the military than to wrongdoing in Canada's blood system.

It is a central objective of this paper to analyse the criteria that might reasonably be applied to bureaucratic officials when it comes to the assignment of blame for things that go wrong - or praise, when things go right. There are important lessons to be learned from each of these bureaucratic disasters.

### **Begin and Boyle**

Former federal minister of health, Monique Begin, received plaudits from editorial writers across Canada when she volunteered to take her "share of responsibility" for the health disaster of tainted blood. By contrast, Canada's former chief of defence staff General Jean Boyle was pilloried by these same editorial writers when he attempted to transfer responsibility to his subordinate officers for a putatively illegal coverup of military wrongdoing.

What seemed obvious to so many editorial writers - that Ms. Begin's behaviour was morally praiseworthy, while General Boyle's behaviour was not - provides a useful point of departure for a conceptual analysis of the ideals of responsibility and accountability. For, as we shall see, reaction to the behaviour of these two leaders reveals how easy it is to leap hastily to conclusions about the responsibility and blameworthiness of public officials.

The sentiments expressed by *The Globe and Mail* in a lead editorial entitled "A return to ministerial responsibility" were representative of both elite and popular opinion.<sup>1</sup> The centrepiece of the editorial was an invidious comparison between the purportedly virtuous behaviour of the former health minister and the less commendable behaviour of the former military chief.

"The question," according to the *Globe* editorialist, "is General Boyle's responsibility as the top officer in the armed forces, and his willingness to accept responsibility for what happened on his watch." What seemed to offend the *Globe* most was General Boyle's view that he was not blameworthy for a document-tampering coverup because of his claimed ignorance thereof. Almost as bad, from the editorialist's point of view, was the fact that Boyle excused his own ignorance by attributing it to the culpable failure of his subordinate officers, whose lack of "moral fibre" and "integrity" resulted in a failure to inform him of serious wrongdoing.<sup>2</sup>

Ms. Begin, by contrast, is enthusiastically praised by the *Globe* ("courageous," "inspiring") for declaring in an unsolicited letter to the Krever inquiry that, as the cabinet minister in charge of Canada's blood supply during the time-period when the problem of tainted blood originated, she should not be absolved of responsibility. The *Globe* admiringly reprints her declaration that "[j]ustice is offended if people at the top of government in bureaucratic structures are not held responsible for their actions, but employees at less senior levels of the hierarchy are. Moreover, public ethics requires that those at the top be accountable." From all this, the conclusion drawn by the *Globe* is that "the people at the top are ultimately responsible for the actions of all those under their authority," to which it adds, as coda, "especially in the military." This sentiment was echoed by editorial writers in virtually every Canadian city and was duly reflected also in the letters-to-the-editor columns of our provincial newspapers.

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As is often the case when complicated philosophical questions are the subject of public debate, subtleties, ambiguities and genuine difficulties were overlooked in the rush to praise Ms. Begin and condemn General Boyle.

If the *Globe* editorial writers had read Ms. Begin's letter more attentively, for example, they might have noticed that far from willingly accepting *personal responsibility* (either in the causal or blameworthiness senses of the term "responsibility," as will be discussed below) Ms. Begin strenuously insists that neither she nor any other member of her department bears personal moral responsibility for the tragedy. Indeed, she insists - despite some contrary evidence - that her "department in general [is] blameless." She continues, in her letter, to absolve even those departmental officials warned by the Krever inquiry that they could be individually named as blameworthy for actions and omissions that contributed significantly to the tainted-blood scandal.

To understand what is really at stake in this discussion, we need to articulate and analyse some important conceptual distinctions, in particular, the many different senses of the terms "responsibility" and "accountability." It will also be necessary to analyse carefully the propriety of allowing the plea of ignorance - "I didn't know" - to excuse public officials from blame when things go wrong within the organizations of which they are meant to be the leaders.

### A conceptual map of "responsibility"

As the foregoing discussion has illustrated, the term "responsibility" is multi-ambiguous, and this ambiguity can easily result in confusion and misunderstanding.<sup>3</sup> Some of the main senses of the term "responsible" are as follows:

1. A person (P) has responsibilities = P has duties and obligations.
2. A person/thing (P/T) is responsible for the occurrence of an event = P/T caused the event to happen.
3. A person (P) is judged to be a responsible person = *P is* dependable and reliable.
4. One person (P) is responsible to another person (Q) = P is accountable or answerable to Q.
5. One person (P) holds another person (Q) responsible for the occurrence of some event (E) = P believes that Q deserves praise or blame, reward or punishment, for E.

Although this is a subject of much philosophical controversy, according to one standard view, we are warranted in saying that a person (P) deserves or merits praise or blame from another person (Q) for doing or failing to do something or other (X), if and only if several things hold true. It must be true

1. that P is responsible for X in the sense of having caused X; and
2. that P has a responsibility, in the sense of duty, with respect to the doing of X; and
3. that P is responsible, in the sense of accountable, to Q for the doing of X;  
and
4. that X is an event or state of affairs that is beneficial (good) or harmful (bad); and
5. that P has no adequate defence or excuse regarding X, such as non-culpable ignorance.

This conceptual map becomes complex when we attempt to analyse in detail what it means to say of a person that he or she "caused" some event to happen or causally contributed through action or omission to the occurrence of the event. It becomes even more complex when we take into account the various verbs that are used in connection with responsibility: taking, receiving, accepting, exercising, refusing, absolving from responsibility.

It should also be noted that although responsibility discourse is heavily normative, judgements of responsibility are not always judgements of morality. For example, when we say that the dirty carburetor was responsible for the car's not starting, we are scarcely making a moral judgement.<sup>4</sup>

## The concept of accountability

Although there is an important connection between the concept of accountability and that of responsibility, the terms are frequently conflated in a manner that produces more muddle than enlightenment.<sup>5</sup>

When a person (P) is said to be accountable what is usually meant is that P is open to the imposition of a duty to give an account. If one person (P) is accountable to another person (Q), then Q has the right to impose on P the *duty* to give an account. In other words, in certain contexts, the duty sense of "responsibility" corresponds to the notion of accountability. Thus, if one is chief of defence staff and if something seriously untoward should occur, one's responsibilities (duties) will include giving an account to one's civilian supervisors explaining what went wrong.

But, note: to say that someone, for example. General Boyle, is "accountable" does not automatically entail either the attribution of guilt or the imposition of blame. One very important reason for any organization to introduce a system of accountability is to discover, when something goes wrong, the answer to the question of whether there is any fault to which blame can be attached. Similarly, when things go right, an accountability system should facilitate the discovery of whether there is any meritorious behaviour to which praise can be attached.

Moreover, when an official "takes responsibility" for the occurrence of an untoward event, this could involve admitting any of several quite different things: that some harm occurred; that the official in question was part of the causal nexus (whether through an act of commission or omission) leading to the harm; and/or that the official was at fault (blameworthy). Sometimes, taking responsibility means nothing more than confirming the fact that the official was indeed in charge at the time the event took place.

It is worth noting, also, that the blame involved need not be *moral* blame. Thus, for example, the official who takes responsibility and admits his or her blameworthiness may be admitting to non-culpable stupidity or incompetence rather than to moral turpitude or legal fault.

Blameworthiness, moral and non-moral, and excusing conditions, are discussed in some detail below.

## Role responsibility vs. personal responsibility

### Role responsibilities

Each of us assumes, voluntarily or involuntarily, many different *roles* in the course of our lives, and with each role comes a set of *responsibilities* (duties, obligations). We have responsibilities to our aging parents, because we are their adult children and have, typically, benefited from their sacrifices on

our behalf. We have responsibilities to our own young children, because they are totally dependent on us for their well-being and because we brought them into the world or chose to adopt them. We have responsibilities as citizens in a democratic society and as employees or employers. And so on.

Consider, for example, the captain of a passenger ship. The captain, *qua* captain, has a variety of *role responsibilities*, including the duty of guiding the vessel safely and efficiently to its destination, choosing well-trained crew members, monitoring their performance to ensure that each of them performs adequately his or her responsibilities, and ensuring the comfort and satisfaction of the passengers. If there is a large number of crew members, then the captain will almost certainly delegate some supervisory responsibility to his subordinate officers. When this kind of delegation of authority occurs, the captain's own supervisory role responsibility will then consist of choosing the right personnel as officers and monitoring their performance of the responsibilities delegated to them.

*It is scarcely surprising [...] that in a democratic society there is a marked tendency/or citizens to become disillusioned, even cynical, when there seems to be no effective way to connect their criticisms of governmental action (or inaction) with identifiable public servants who are responsible/or correcting problems .*

The captain, by virtue of being captain, is also responsible if things go wrong, for giving an account to those affected, who could be any or all of the passengers, the crew, the owner(s), the insurers, or government inspectors. If the ship sinks, the captain's role may require him to collect all available evidence, make an authoritative finding of the material facts, and, where appropriate, accept blame himself, allocate blame to others, and/or make amends.

The operation of a ship requires a large hierarchical organization, which is often part of a much larger hierarchical organization, the shipping company, which, in turn, is often part of a still larger hierarchical organization, say, a multinational corporation. Similarly, the Canadian army is a large hierarchical organization, which is part of a larger hierarchical organization, the Armed Forces, which is, in turn, is part of a still larger hierarchical organization, the Government of Canada. Clearly, the complexity that accompanies an elaborate hierarchical organization can pose a difficult challenge to those whose task it is to unravel the truth about what went wrong and why.

### The problem of "diffused" responsibility

When things go wrong within large organizations, it is often exceedingly difficult for a citizen/consumer/employee to discover who, if anyone, is *blameworthy*. It may often be difficult even to ascertain who is *accountable*, in the sense of having an obligation (role responsibility) to explain what caused the problem and how it can be solved/resolved/dissolved/expiated.

It is scarcely surprising, therefore, that in a democratic society there is a marked tendency for citizens to become disillusioned, even cynical, when there seems to be no effective way to connect their criticisms of governmental action (or inaction) with identifiable public servants who are responsible for correcting problems. Whether the problems are systemic or particular, we want to know at least "who is in charge" and, perhaps also, "who is to blame."

Policy formulation, within large organizations, is typically a process in which many different people participate, up and down the bureaucratic ladder. Thus, it may be difficult or impossible to discover whose individual contribution to the bad outcome was both faulty and sufficiently important to warrant attribution of blame. The same problem arises, of course, when we attempt to distribute praise for meritorious contributions.

And what is true for policy formulation is equally true for policy implementation: when many different people have contributed to the outcome, assigning moral responsibility becomes a difficult challenge.

### The Weberian model of diffused responsibility

According to the Weberian model of hierarchical responsibility, such moral responsibility as exists within a bureaucratic organization, whether governmental or private, falls almost exclusively on those at the pinnacle of authority. The boss is the "head," and everyone else is one of his "limbs". On this model, subordinate officials in any large organization would be absolved of moral responsibility for the consequences of their actions, so long as they "execute conscientiously the order of the superior authority."<sup>6</sup> The higher one's position in the chain of command, the greater one's responsibility.

Ms. Begin seems to have had something like the Weberian picture in mind when she propounded her view of "justice" and "public ethics."

Elements of this model can still be found, vestigially, in some corporate thinking and in the law of master and servant. There are, however, at least two serious difficulties with this way of thinking about moral responsibility and accountability within large and complex organizations. The first is that it glosses over the very considerable extent to which officials *below* those at the very top of the hierarchy do possess discretionary authority and do wield discretionary power in bringing about outcomes. Thus, it too easily

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absolves subordinates of moral responsibility, blame and praise, for the manner in which they exercise their discretionary power and authority. Was Hitler the only one morally responsible for the slaughter of so many millions of innocent lives? This question is itself a *reductio ad absurdum* of any unqualified Weberian position.

The second serious difficulty emerges when we reflect on Monique Begin's less-gracious-than-it-first-appears offer that "if you were to have to lay blame, I consider it my duty to take my share of responsibility."<sup>7</sup> That weasel-word "if" manages to suggest what it does not openly assert, that is, that no one is really morally blameworthy for the tainted-blood tragedy. It was, perhaps, the unintended product of "the way the system works," for which dysfunction no one is responsible. Or it was an "act of God," for which only the Divine Being is responsible.

Now, of course, it will sometimes truly be the case, when such a tragedy occurs, that no one is to blame. Even with the best will in the world, events are sometimes uncontrollable and tragedy is, therefore, sometimes unavoidable. When the situation is extremely complex and our knowledge is both limited and uncertain and when there are many agents

contributing to the decision-making process, then it may be true that no one is to blame. Alternatively, someone or some group of actors in the drama may be to blame, but it may be practically almost impossible to ascertain who they are or the exact extent of the blameworthiness appropriately assigned to each.

The strong conclusion that "no one is to blame," or the somewhat weaker conclusion that "we cannot ever discover who is to blame," might be regarded as the conclusion(s) of last resort.

Either directly or through their legal representatives, the Canadian public and, most especially, the victims of the tainted-blood crisis and their families, are extremely eager to discover who was responsible (causally) for the failures that caused their tragic loss and who, if anyone, was to blame. The same demand is present with respect to the Somalia tragedy and the subsequent coverup of military wrongdoing. In both cases, the public is surely owed the most diligent, thorough and honest inquiry into all available evidence. Only if such an inquiry fails to identify who is or what was responsible for the tragedy would one be justified in adopting an attitude of resignation.

"The public interest" in learning the truth about responsibility for these tragedies is of such great significance that the greatest possible efforts should be made to ascertain *what* went wrong and *who*, if anyone, was to blame. Only thus will the first step be taken towards restoring confidence and trust in 1) the integrity of the Canadian military and 2) the integrity of Canada's blood supply.

Significantly, politicians, past and present, federal and provincial, and top officials from the various governments and agencies charged with safe-

guarding our blood supply, *all* eschew both legal liability and personal moral blameworthiness for what happened.

Paradoxically, Ms. Begin, the one politician who stepped forward to accept her "share of the responsibility," appears to succeed, perhaps unintentionally, in drawing attention away from her concomitant refusal to accept personal moral responsibility. It no longer seemed necessary to offer any detailed reply to those critics who accused the former minister of health of having responded slowly and weakly to early evidence of danger. Justice was satisfied. The case could be allowed to rest.

It might have been expected that, as the cabinet minister responsible for ensuring the safety of the blood supply, Ms. Begin would recognize it as her duty (role responsibility) to give a detailed public accounting of what went wrong and who was responsible (in both causal and blameworthy senses). Instead, Ms. Begin utters words of ritual incantation: "[I]f you were to have to lay blame, I consider it my duty to take my share of responsibility." Many will find this a disappointing substitute for genuine democratic accountability, perhaps undeserving of the epithets "courageous" and "inspiring" used by the *Globe*.

To this point in the discussion, I have focused attention on the case of Ms. Begin's sleight-of-hand acceptance of moral responsibility for the tainted-blood tragedy, because her words, and the public response they evoked, provide a paradigm illustration of how confusion surrounding the concept of "responsibility" can deflect attention away from the real moral issues. As we shall see shortly, when attention comes to be focused more particularly on General Boyle and the issue of his responsibility for the Somalia affair, the case of Ms. Begin has strong resonances for that of General Boyle.

### **Absolute liability**

As just illustrated, acceptance of role responsibility (duty) can become a shield behind which high-level officials hide their refusal to accept personal responsibility. This rhetorical ploy can succeed, however, only if "role responsibility" is construed in its narrowest sense, the sense that lawyers denominate by the phrase *absolute liability*.

The eminent British jurist, H.L.A. Hart, has argued forcefully for the view that "those whom we punish should have had, when they acted, the normal capacities, physical and

mental, for doing what the law requires and abstaining from what it forbids, and a fair opportunity to exercise these capacities."<sup>8</sup> From both the moral and legal points of view, we are reluctant to blame and punish people, even when they have caused serious harm to others, if they did not have a fair opportunity to do otherwise.<sup>9</sup>

There is, however, a large though shrinking number of absolute liability offences within Canadian jurisprudence. These offences comprise legal conduct for which one may be criminally convicted even if one did not have a

fair opportunity to do otherwise. Absence of the standard mental conditions of criminal responsibility (for example, intention, foresight, negligence, recklessness) does not excuse a rule-breaker when the offence is one of absolute liability.

It is not a defence for most traffic offences - for example, the offences of exceeding the speed limit or going through a red light - to say that one did not mean to do it, that one did not know that one was speeding or that the light was red, that one did not see the speed restriction sign or the red light. Thus, even if a motorist had taken *every* reasonable precaution against speeding, including frequent mechanical checks of the accuracy of the car's speedometer, if the speedometer gives an incorrect reading and if the motorist is led, thereby, to violate inadvertently the speed limit, the motorist is legally guilty, notwithstanding his moral innocence.

It may be morally unfair to convict persons of speeding when they honestly believed that they were conforming to the speed limit, and still more unfair when they have taken every reasonable precaution to avoid breaking the law. But, for a variety of practical reasons society has decided, with respect to motoring offences, to convict those who do the forbidden act even when they lack *mens rea*, a guilty state of mind.

The major *rationale* for disallowing excuses such as "I didn't know" or "I didn't intend" has to do with problems of proof and difficulties of enforcement. It can be a difficult and expensive task to establish conclusively the intentions or knowledge of all those motorists who violate the traffic laws. It is almost as difficult to prove that a motorist failed to take reasonable precautions. Additionally, it is hoped that when an offence is one of absolute liability, one for which lack of *mens rea* is no excuse, those potentially affected will take the most stringent precautions to avoid conviction. Thus, considerations of administrative efficiency, together with a desire to promote the highest possible standards of care among motorists, have won the day over considerations of fairness.

### The buck stops here

Nevertheless, it is important to note that when one is found "guilty" of a absolute liability offence, the legal penalties are comparatively lenient - for example, a small fine rather than a term in prison. Very little, if any, moral obloquy attaches to one's conviction in this circumstance.

In the light of this discussion, consider again the political leader or high-level public official who ritualistically utters such formulaic words as Harry Truman's "The buck stops here," or "I am fully responsible," or "I am accountable." We are usually meant to understand this responsibility as being of the absolute liability sort: a liability or responsibility that imputes no *mens rea*, no personal failure, and thus carries with it very little, if any, moral blame.

Ironically, such admissions are often a wonderfully effective means of avoiding any genuine admission of personal moral responsibility for negligence or incompetence or malice. Thus, they not infrequently serve the politically useful purpose of curtailing efforts to investigate the question: who, if anyone, from top to bottom in the organization, was genuinely morally blameworthy? As an ancillary bonus, the government minister or high-level official who declares publicly that "the buck stops here" earns the gratitude of her or his subordinates and praise for moral courage from the more naive members of the general public.

*This is a traditional line of moral reasoning, and it would seem to follow from it that officials at the top of the bureaucratic hierarchy will often bear the heaviest moral responsibility when things go wrong, by virtue of their greater power and authority*

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In this connection, it is instructive to read the following interchange between the chairman of the Somalia inquiry and General Boyle:

THE CHAIRMAN: I'm just asking generally if subordinates commit some wrongdoings and their superior comes out and says "they were under my supervision and I am responsible for that and, therefore, I'm accountable." What follows thereafter? Beyond these empty words, saying "I'm responsible, accountable," what does that mean in practice to an officer like that?

GENERAL BOYLE: Did the superior - was he informed? Did he put in place the proper measure to stay informed? If he did put in place the proper measure to stay informed and he was not informed, the responsibility and accountability is for him to do so, to put in place the proper mechanisms. I mean, if he didn't put in place the proper mechanism, he has failed. But if he did, then he must ensure that as a follow-on they are complied with.<sup>10</sup>

Both the commission chairman, Mr. Justice Gilles Letourneau and the witness, General Boyle, show, in the above-quoted passage, that they understand that political accountability requires more than simply uttering words, "I am accountable" or "I am responsible." As the chairman says, such words could be "empty" of real content. It is not adequate simply to acknowledge one's role responsibility if this means that one is then absolved, automatically and without investigation, for failures to perform such further role responsibilities as promulgating proper policies, creating within one's team of subordinates a culture of respect for those policies, and diligently monitoring compliance.

In other words, General Boyle himself acknowledges and endorses, in

the heaviest moral responsibility when things go wrong, by virtue of their greater power and authority.

If one applies this analysis of moral responsibility to the case of General Boyle, with respect to the Somalia affair, several inferences may be drawn. When General Boyle testified before the commission about the issue of his possible resignation, he insisted that "if CDSs or senior officers resigned every time their subordinates made an error, there would never be any leadership."<sup>12</sup> Presumably, the point that General Boyle has in mind here is that in any very large organization, there will be innumerable occasions in which subordinates will make errors. Human beings are fallible, and this fallibility does not vanish when they don the uniform of the Canadian Armed Forces. Minor mistakes will be frequent in any organization. Even systemic breakdowns can be expected from time to time. Hence, General Boyle's point: if those at the top of the bureaucratic hierarchy were to be found blameworthy and asked to resign every time an error, even a serious error, was made by some subordinate, then we would need a constantly revolving door to accommodate a rapid succession of leaders.

Almost as worrying, though unmentioned by General Boyle in his testimony, such a policy could be expected to induce an excessively cautious frame of mind on the part of both top leadership and subordinates. This might, in turn, tend to inhibit seriously the scope for bold initiatives, thereby prejudicing the effective conduct of the organization's business. The organizational disposition encapsulated by the commandment "First, cover your ass" is scarcely conducive to healthy group functioning.

It would seem to follow, from the above discussion, that a general who places "a reasonable reliance" or "reasonable expectations" on his subordinate staff should not be held morally blameworthy when subordinate staff members mis-conduct themselves.<sup>13</sup> This conclusion needs to be modified, however, in a small but potentially significant manner. Superiors in a hierarchy should not *automatically be* held morally blameworthy for the misconduct of their subordinates. One is not blameworthy merely because something has gone wrong. A bad outcome (*actus reus*) generates blameworthiness for the official(s) responsible only when a number of additional conditions have also been met. There will be more to say about these additional conditions at a later point, but, at this point it will be useful to sketch some of their content.

### The plea of "reasonable reliance" on subordinates

An Armed Forces general, such as General Boyle, has considerable power and authority to select and promote his or her immediate subordinates and is influential in personnel decisions throughout the organization. Top officials not only appoint individuals to this or that position, they also set the

basic criteria for both appointments and promotions. Thus, if individuals lacking in either "moral fibre" or "integrity" are appointed to or are permitted to continue in top positions, those responsible for (the continuation of) their appointments may be blameworthy for failing to establish proper appointment criteria or for failing to apply the criteria with due care and **diligence**.

The very significant issue of the culture of the military, especially as it relates to issues of democratic accountability, is beyond the scope of this paper. At this point, however, it may be noted that high-level officials, such as generals, have a significant role responsibility to establish, within their organizations, an ethical culture appropriate to the military in a democratic **society**.

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It may not be sufficient, therefore, for General Boyle to insist that the reliance and expectations he placed on his senior officers were "reasonable." **Role** responsibility, for a person in General Boyle's position, requires that he provide evidence pertaining to his effort, to create a military culture of democratic accountability. If, as some believe, he inherited an organization marked by a "culture of concealment and duplicity"<sup>14</sup> rather than one of openness and honesty, then it was his responsibility to "clean house." He could, for example, have demonstrated in a variety of ways, to his colleagues in the military, that he was genuinely committed to the value of democratic accountability. He could have reassigned or dismissed incorrigible personnel. He could have changed promotion and appointment criteria to emphasize the high value he placed on moral integrity. **He could** have demonstrated **his concern** and commitment through his words **and** through his actions,

As mentioned above, small mistakes on the part of subordinate officials can be expected to occur frequently, even in well-managed organisations. When such small mistakes occur, it is the responsibility (duty) of the executive officer(s) in charge to correct them promptly. Major or repeated breakdowns, however, may be a sign that the executives whose responsibility it is to ensure the good functioning of the organization are failing to properly perform their duty.

Let us suppose (and there is **some evidence** to **suggest** that **this** supposi-

tion may be true) that the Canadian Armed Forces has been seriously deficient, over a long period of time, in the areas of openness and honesty. If this were the case, then the continuation of this deficiency could be seen as *prima facie* evidence that either 1) General Boyle did not notice this problem or 2) he made inadequate efforts to correct the problem. From the preceding analysis it would seem to follow that if General Boyle did not notice the problem or did not understand its gravity, then he may have been guilty of negligent performance of his duty, or, if his efforts to correct the problem were inadequate, then his job performance might be deemed to have been unsatisfactory.

Although the *gravamen* of General Boyle's self-exculpatory argument can be summarized as "I relied on them [my subordinates] and they let me down" his own further testimony shows why this argument, taken by itself, lacks cogency.

In his testimony before the commission of inquiry on Wednesday, 21 August 1996, for example, he acknowledges that officers (such as himself) possessed of command authority "have an ability and necessity as leaders to foresee, to continuously assess and to take proactive action where necessary in order to remedy, and in order to change against the changing times."<sup>15</sup> At this point in his testimony, the general appears to recognize that leadership carries with it the responsibility to recognize and anticipate possible problems and to deal with them prospectively. However, a moment later he loses his grip on this important point and seems to revert to the view that when an officer is unaware of a failure of those lower in the chain of command, that lack of awareness counts as a complete excuse: "Above that, it is those that oversee policy and policy implementation. And certainly they should be held accountable if individuals below them are not implementing the policy *and are aware of it*." Although the meaning of this sentence is difficult to discern through the tangled grammar, it makes sense only if "and are aware of it" is understood to apply to the superior policy-setting officials rather than to the subordinate policy-implementing officials. In other words. General Boyle appears, at this point in his testimony, to have fallen back to his earlier position that when a commanding officer is unaware that his subordinates have failed properly to implement policy, the commanding officer is not responsible (in the sense of being blameworthy or being personally morally responsible).

### Ignorance as an excuse

Those accused of responsibility for a harmful outcome frequently plead, as an excuse, that they were ignorant. For example, when blame for the recent riot at Headingley jail in Manitoba was attributed to the provincial minister of justice, Ms. Rosemary Vodrey, she offered the defence of ignorance. Despite numerous prominent newspaper stories, over a period of years,

detailing serious problems at the jail, the minister of justice claimed insistently that she "just didn't know" that there were serious problems of safety and morale. And, both she and the premier of the province invited the public to accept this claim as a robust defence rather than as an admission of blameworthy failure. Their view is, apparently, that when one does not know of a problem, one is never responsible for one's failure to take corrective action and one need not apologize, let alone resign from ministerial office.

Similarly, General Boyle claims not to have known about document-tampering within the military, as part of a wider coverup of wrongdoing in Somalia, and claims that his ignorance excuses him from personal moral responsibility. For example, when asked by counsel for the Somalia Commission, Ms. McIsaac, about his accountability with respect to "allegations of alteration of documents" and "questions of leadership with respect to the processing of the access to information request...", General Boyle responds:

"where I was not aware, I believe that I cannot be faulted."<sup>17</sup>

General Boyle claims that when he was "aware of any issue related to Somalia or any other aspect of the public affairs dimension [he] took appropriate action"; and he asks us to view him as blameless for his failure to take action to correct a problem or set of problems of which he was not aware. The general goes on to state: "If I erred, I erred in trust, but I did not err when the matter was brought to my attention and not exercising proper action to ensure either compliance or changes within the organization so it wouldn't happen again."<sup>18</sup>

Not everyone will agree with General Boyle's view that officials are never blameworthy for the unintended consequences of their actions or omissions. Indeed, General Boyle himself seems to be of two minds about this. For, although he pleads, as noted above, that "where [he] was not aware, [he] believe[s] that [he] cannot be faulted," he earlier admitted, in response to a question from the commission chairman, that it is one of the responsibilities of a superior officer, such as himself, to "put in place the proper measures to stay informed."<sup>19</sup> He further acknowledges, later in his response to the same question, that a superior officer has the additional obligation, where the proper mechanism has failed, to "ensure that as a follow-on they are complied with."

To summarize, then. General Boyle seems to be saying that ignorance excuses, *tout court*. But, if one combines the various qualifications he offers at different points in his testimony, it would seem that he himself recognizes, or comes close to recognizing, that ignorance, by itself, does not always excuse.

### Self-induced ignorance

In particular, a military commander's ignorance of wrongdoing by his subordinates does not excuse him from personal blame if his ignorance resulted

from either 1) a failure to put proper informational procedures in place, or 2) a failure properly to monitor compliance with the existing informational procedures. Leaders who plead ignorance as their defence, must show, in other words not only that they did not know of wrongdoing by their subordinates but that they *could not reasonably* have known. They must demonstrate, in other words, that their ignorance was not culpable.

If it should happen to be the case that the leader was instrumental in his or her own ignorance, then he or she will be blameworthy for that ignorance. Those who appeal to the defence of ignorance to excuse or to mitigate their wrongful conduct do not deserve to succeed in their pleading when the ignorance was self-induced.

Thus, whether General Boyle should be excused or blamed for his ignorance of the Somalia coverup or other associated wrongdoing on the part of his subordinates will depend on whether he, in his various roles during the period under investigation, fulfilled his several obligations. Did he not foresee that serious wrongdoing might be concealed from him by his subordinates? If he did not, was this a culpable (perhaps negligent) failure of foresight?

### Information filtration

All but the most naive will be aware that in large bureaucratic organizations much important information is filtered out long before it reaches the people at the top.

In general, one might expect that the tendency in most bureaucracies would be to over-inform those above, so that responsibility, should things go wrong, would also shift to those in more senior positions. But the volume of information may simply be too great to be communicated without substantial editing. Moreover, to admit to one's superiors that one has failed at an assigned task might be thought to risk damage to one's career. So, in the interest of self-preservation and career advancement, middle and senior managers typically develop a finely tuned instinct about what information should, and what should not, be passed up the line. These bureaucratic phenomena are typical even of well-functioning and healthy organizations.

In a poorly functioning organization, for example, one with a leader who is known to "shoot the messenger" when bad news is delivered, a different and even less reliable pattern of information transmission may develop. In such a dysfunctional organization, one will, typically, find a strong tendency on the part of subordinates to withhold important negative information from superiors. In extreme cases, subordinates may, occasionally or even frequently, resort to outright deception and lies.

If General Boyle assumed his position as chief of defence staff at a time when the former conditions prevailed, then the credibility of his claim that crucial information was not shared with him is dubious. If, on the other hand, the latter more dysfunctional conditions prevailed, then it could be

argued that it was his role responsibility to identify the problem and then take appropriate steps to encourage a climate of greater openness and honesty. If he took such steps and was still deceived by his subordinates, one might want to assess whether the steps met accepted criteria of organizational management before deciding whether he had fulfilled his duty to the utmost and should therefore be exonerated from blame.

### **Possible corrective measures**

A competent leader, at the helm of such an organization and aware of the tendency of subordinates to tell their superior only such information as they have been led to believe their superior wishes to hear, may take a number of important measures to counteract this dangerous tendency. At the least, leaders will want to stress to all their subordinates that they expect to be told the truth, even when it is embarrassing, politically inconvenient or personally painful.

Leaders will not only express and reiterate their desire to be fully and honestly informed, they will demonstrate by the pattern of their behaviour, for example, by the people they promote and reward and those they demote and punish, that they are serious about being properly informed and serious about compliance with laws such as those that mandate public access to information.

### **Ignorance: a mitigating or an aggravating factor?**

It could be argued, in mitigation, that a leader who fails to conform perfectly to the high standards outlined above is guilty of a venial rather than a mortal sin. After all, the chief of defence staff has many serious responsibilities, among which ensuring that access-to-information inquiries are properly handled is but one, and possibly not the most important one at that. "The buck," in practice, does not always stop only at the top. Given the realities of bureaucratic organizations, there may be multiple "stopping places" for the buck, that is, several senior officials, below the very top, whose responsibility it is to monitor such things and to ensure that problems either do not occur or are corrected.

### **"A wink and a nod"**

There is a further factor that may help to explain why information of certain kinds does not always reach high-level officials. Senior officials not uncommonly *desire* to be kept in a state of ignorance with respect to certain developments. This desire can be communicated in a variety of ways, both direct and indirect, to their subordinates, who then come to understand that certain kinds of immoral or illegal behaviour will be tolerated by their superiors so long as there is no official communication up the line.

Fans of Jean Anouilh's play *Becket* will recall that King Henry II did not feel it politic explicitly to condemn to death his enemy, Thomas a Beckett, sometime Archbishop of Canterbury. The king, however, was heard to muse aloud, in the presence of his loyal courtiers, "Will no one rid me of him? A priest! A priest who jeers at me and does me injury?"<sup>20</sup> That was enough. The deed was as good as done. The overriding advantage of such "direction via indirection" was that Henry was now blessed with what today is sometimes labelled "the deniability factor." He could assert, with at least the simulacrum of honesty, words to the effect, "I was entirely ignorant of this dastardly deed, but I will discover who murdered him and punish them appropriately."

*General Boyle's admission that he himself violated the spirit of Parliament's access-to-information laws suggests that his subordinate officers, aware of his attitudes and values, may have felt, directly or indirectly, some pressure to conceal military wrongdoing, even by resorting to illegal measures*

Of course, organizations that permit such an ethos to prevail will also find it necessary to set boundaries as to the kinds of illicit behaviour that will be tolerated. One effective means of communicating this message will be through the example set by the organization's top leadership. An organizationally sophisticated leader will know that if he or she is seen by subordinates to be violating the spirit of certain legislation, say, for example, access-to-information legislation, then subordinates will take from such resistance to disclosure the message that they, too, should take whatever steps are necessary to prevent embarrassing revelations from attracting negative publicity. (This is not to say that such troubling actions can never take place within organizations that practice a high degree of openness in the sharing of information. They can, and do, but exceptionally rather than frequently.)

Thus, any ultimate assessment ("verdict") on the overall pattern of General Boyle's conduct as a military leader will depend, crucially, on the evidence available as to whether he did or did not provide the right sort of paradigm for his subordinates.

### **The responsibility to monitor compliance**

In addition to acknowledging a leader's responsibility to "put in place the proper measures to stay informed," General Boyle also acknowledges a second responsibility, that is, a leader's obligation to monitor compliance of subordinates with official policy. As indicated earlier, a leader with foresight

would almost certainly anticipate that his or her subordinates might conceal rather than report cases of serious wrongdoing. Recognizing that such a pattern of concealment has existed in the past, and may, by now, have become a thoroughly ingrained part of the Canadian military *mentalite*, a "proactive" leader would implement thorough safeguards to prevent breaches from occurring or to detect the few that do occur despite all one's best efforts at a prophylaxis.

It is not obvious from General Boyle's testimony that he fulfilled his responsibility carefully to monitor compliance with official military policy. Indeed, his admission that he himself violated the spirit of Parliament's access-to-information laws suggests that his subordinate officers, aware of his attitudes and values, may have felt, directly or indirectly, some pressure to conceal military wrongdoing, even by resorting to illegal measures. Were this the case, then General Boyle's putative "ignorance" would not serve to mitigate his individual moral responsibility for the ensuing coverup, for it would have been self-induced ignorance.

In sum. General Boyle's account of his conduct pertaining to the Somalia affair should address both the issues of whether he introduced proper policies and monitored their implementation diligently and also the issue of whether he was guilty of implied consent or connivance in the wrongdoing by displaying behaviour his subordinates understood reasonably to be "a wink and a nod" in the direction of illegal concealment.

## Notes

- 1 n.a., "A return to ministerial responsibility" (editorial). *The Globe and Mail* (Toronto edition) 22 August 1996, p. A18.
- 2 When General Boyle's uses the term "moral fibre" in his testimony before the commission he appears to mean something like "the courage to be honest." But the concept of moral fibre, as used by the military in both world wars, seems more typically to have been employed to refer to a particular military virtue, that is, an especially high level of courage and stamina in the performance of one's duties.
- 3 See J.T.Stevenson, *Engineering Ethics: Practices and Principles* (Toronto: Canadian Scholars' Press, 1987), pp. 69-75, for a fuller elaboration of "responsibility systems."
- 4 J.T. Stevenson, private communication with the author.
- 5 For an unwitting example of such muddle, see Jeffrey Simpson, "How can there be accountability without responsibility?" *The Globe and Mail* (Toronto edition) 8 January, 1997, p. A12.
- 6 Max Weber, "Bureaucracy," in *from Max Weber* (New York: Oxford University Press, 1958), pp.196-7;232-3.
- 7 Momque Begin cited in n.a., "A return to ministerial responsibility," *Globe*.
- 8 H.L.A. Hart, *Punishment and Responsibility* (London: Oxford University Press, 1968), p. 152.
- 9 *Ibid.*, pp. 136-57.
- 10 Testimony before the Somalia Commission, Vol. 87, Tuesday, 13 August 1996, p. 17037.
- 11 See Peter A. French, ed., *Individual and Collective Responsibility* (Cambridge, Mass.: Schenk-man, 1972). See also Dennis F. Thompson, *Political Ethics and Public Office* (Cambridge, Mass.: Harvard University Press, 1987), especially, see Chapter 2, "The moral responsibility of many hands."
- 12 *Testimony*, p. 17452.

13 Ibid.

14 n.a., "Culture of coverup" (editorial). *The Ottawa Citizen*, 15 August 1966, p. A10.

15 Testimony, p. 17481.

16 Ibid., (emphasis added).

17 Ibid., p. 17452.

18 Ibid.

19 Ibid., p. 17037.

20 Jean Anouilh, *Becket*. Translated by Lucienne Hill (London: Methuen, 1961), p. 110.