Introduction

After January 2021, when years of violent rhetoric culminated in a dramatic insurrection at the US Capitol, the world questioned who was responsible. As the president was impeached, charged with high crimes and misdemeanors, the list of others who might have enabled, fomented, or encouraged the attack grew long. It included not only the president's advisors, friends, and family members, but politicians who challenged election results, members of the Republican party, everyone who voted for the president, and anyone who failed to vote. News and social media came under fire for having provided platforms that enabled hate and amplified distrust.

Some of the questions raised after the Capitol riots were legal in nature. Trials were held for seditious conspiracy and obstruction of justice. The legal questions were intertwined with moral ones. *How much encouragement must a person have provided in order to have facilitated the downfall of American democracy? Were those who knowingly incited violence more responsible than those who simply went along? Was it too late, after the insurrection, for representatives and cabinet officials to have a moral change of heart?*

In 2017, complicit was the Word of the Year.[1] Nestled among other anxiety-ridden words like xenophobia, misinformation, and

gaslighting, the term encompassed the *zeitgeist* for our time. Journalist Lindy West described the selection as

> follow[ing] a chilling but logical evolution. In 2015 the Word of the Year was broad and neutral—"identity"—issues of racial and gender injustice having finally come closer to becoming national priorities ... By the end of 2016, as Trumpism seized the wheel, our national conversation on identity sharpened to a sinister specificity: that year's word was "xenophobia.[2]

Complicity is not partisan. Ferreting out accomplices is a preoccupation of conservative Oath Keepers, enamored with conspiracy theories that Democrats are colluding to undermine individual liberties. Complicity also pervades conversations in liberal sectors, as activists sift through the detritus of racism, sexism, and homophobia that shape contemporary law and policy, identifying ways in which action and inaction by institutions and individuals might be propping up biased systems and structures.

It is not just politics that raises the specter of complicity. Each new year brings forth new accusations of, if not racism, assault, or sexual harassment, then abuses of power, by high-profile persons. When a bad actor is identified—a Harvey Weinstein, Jeffrey Epstein, or Larry Nassar—this is not the end of the inquiry but the beginning. We search for potential enablers among family, coworkers, neighbors, and friends. Allegations of complicity are levied at actions from the strategic— planning a coup or deliberately covering up predatory violence—to the mundane—using plastic straws or failing to recycle. We sometimes use the term to call out a specific harm or perpetrator. We might identify complicity, for example, in the actions of high-ranking collaborators who supported a dictator's rise to political power, or the profit-motivated partners who purposefully overlooked ethical malfeasance by corrupt entrepreneurs.[3]

Often, the term suggests not only the facilitation of interpersonal harms, but is a means of recognizing when a person or entity has aided—or has failed to avert—more diffuse or complicated structural

problems. Museums confront complicity as they reckon with what should be done with tainted donations; universities disclaim it as they decide whether to dismantle monuments erected in honor of known racists; and corporations worry about being labeled complicit when they consider whether their products, or platforms might be facilitating discrimination.

Complicity describes perpetrator-like behaviors, like deliberately marketing a toxic product or purposefully hiding the crimes of a serial predator, but it also encompasses unwitting ones. Philosophers Corwin Aragon and Alison M. Jaggar describe how an action like stepping in to help a disabled or elderly person across a street might have seemed like a good idea at the time but in retrospect may have done more harm than good; upon reflection, the good Samaritan's actions could seem patronizing, furthering ableist or ageist assumptions about ability and autonomy.[4] The *Serial* podcast offers a critique of "nice white parents" who engage in charitable giving and voluntarism that benefits individuals like them while ignoring the needs of less privileged communities. We can be nice to the wrong people, treating wrongdoers with kindness signaling approval of their misdeeds. We can be ignorant of the ways in which generosity in one area—donating heavily to a well-funded local parent-teacher organization, for example—can lead to deprivation in another. One of the most egregious ways a person can become an accomplice is by staying silent; another is by being unequivocally nice.

The breadth of behaviors that falls under the umbrella of complicity can be baffling. *Complicit* is how we describe Ghislaine Maxwell, convicted of procuring victims for sex trafficker Jeffrey Epstein, and how we categorize governments that tacitly encourage genocide and crimes of war. But it is also how we talk about colleagues who fail to speak up after hearing a racist or sexist joke, or what we might call neighbors who voted for a distasteful candidate in recent elections. The #MeToo and Black Lives Matter social movements have generated a seemingly endless list of politicians, CEOs, and celebrities who have in some way enabled racism or sexism. Behind each new allegation trails a serpentine list of

potential aiders and abettors. Everyday people are not immune. When news emerges about any impending crisis or hazard—climate change, election interference, state violence, war, addiction, sexual harassment— questions arise as to whether any of our hands are truly clean.

How did we get to this place, where our lives are circumscribed by the concern that we or others are contributing to harm? What, really, are we personally accountable for? Most importantly, *How can one person intervene and act, especially when we are dealing with large-scale and inherited, structural problems?* These preoccupations are the basis of this book.

UNFOLDING COMPLICITY

The word complicit is not new. For centuries it has been used to describe a range of behaviors that are sometimes illegal but often just immoral or unethical. In the 1200s, Saint Thomas Aquinas highlighted nine ways persons might be culpable as a non-direct perpetrator: "By command, by counsel, by consent, by flattery, by receiving, by participating, by silence, by not preventing, and by not denouncing."[5] The first recorded use of the word in English was in 1656, originating in the Latin *complicare,* meaning "to fold together," and borrowed from the old French word *complice,* meaning partner. Describing "a consenting or partnership in evil," it is one of eleven thousand words that appear in one of the very first dictionaries, Thomas Blount's *Glossographia.* Blount spent more than twenty years working on his glossary in an effort to help aspiring middle-class people like himself understand the "hard" words they were likely to encounter in literature, law, and day-to-day life.[6] Even 350 years ago complicity was a term that was essential to know but difficult to wrap one's head around.

The roots of complicity in law run as deep as those in society. In 1330, Simon de Bereford was hanged for his role in aiding and counseling fellow British nobleman Roger Mortimer in the assassination of King Edward II, although there is no evidence de Bereford was present at the scene of the crime. British legal treatises dating back to the 1100s

and 1200s discussed the need to expand accountability for homicide in cases where it was impossible to identify a primary perpetrator, when people on the scene "came with the intention of slaying though they struck no blow," or if people gave advice to a would-be perpetrator, even if they were repulsed by the evildoing that was planned.[7]

The formal legal doctrine of accomplice law can be traced back to *Blackstone's Commentaries of the Law of England,* published in 1765. The *Commentaries,* which strongly influence US law, set out four levels of participation in crime: the principal in the first degree, who directly committed the offense; the principal in the second degree, who was present and aided in the offense's commission; the accessory before the fact, who was "not the chief actor in the offense, nor present at its performance, but [was] someway concerned therein, either before or after the fact committed"; and the accessory after the fact, a person who did not participate but knew a felony was committed and somehow comforted or assisted the principal, such as by covering up the crime.[8]

Most contemporary criminal statutes do away with the distinction between the principal and the accessory before the fact, so that anyone who provides assistance for a crime before it takes place can face the same penalty as the person who actually committed the crime, up to life in prison or—in states that have it and cases where the accomplice assisted in plotting and planning—the death penalty. In theory, accomplice charges impose derivative liability, meaning that the punishment of the helper is logically extended from their role in the completed crime. In reality, however, complicity serves a much broader and more complex function in criminal law, often punishing defendants for relatively minor—and sometimes unintended—roles they played in furthering harm.

Theories of complicity also play a growing role in US civil law. Tort suits abound relating to sexual misconduct, gun violence, and opioid addiction, leading to settlements in the millions, and even billions. Although some lawsuits are filed against direct perpetrators, scrutiny increasingly falls on third parties—the institutions (and their representatives) who ignored claims of sexual misconduct and failed to fire

serial predators; the consulting firms that outlined strategies for marketing addictive drugs or downplaying climate change; the technology companies who provided the platforms where hateful speech and misinformation could be disseminated. Increasingly, disclaiming complicity is deployed as a shield; individuals and organizations argue that they cannot ethically engage in activities such as counseling a patient on reproductive healthcare, designing a cake for an LGBTQ+ customer, or providing an insurance plan that covers birth control for employees, because the act could signal support for something they find morally objectionable.

Examining complicity is like taking apart an intricate work of origami. Unfolding complex structures reveals intersecting crease patterns, some which are deeply embedded and others that reveal paths considered but not taken. It is only when a structure is unfolded that we can see places where pathways intersect, sometimes unexpectedly, revealing a foundation that we didn't know existed. Exploring these patterns does not just reveal the missteps of the past; it can tell us something important about who we are now. It can even provide a road map for rebuilding in the future.

While its precise meaning remains elusive, there are essentially two ways complicity functions in society and law today. Complicity can operate to show newfound connections between individuals, systems, and structures—exposing pathways we can build on to create social change. But complicity can also be used to isolate, to call out or shame without proposing a pathway to repair or reform.

COMPLICITY AS ISOLATION

Cultural critics describe US society as having transitioned from a guilt culture, in which people are punished for the bad acts they have done, to a shame culture, where people are more likely to be judged and socially excluded based on their perceived inadequacies as a person.[9] Columnist David Brooks distinguishes, "[i]n a guilt culture

you know you are good or bad by what your conscience feels. In a shame culture you know you are good or bad by what your community says about you."[10]

Some argue that shaming serves a key function; it is a necessary ritual that confirms an individual's moral perspective is out of step with the norms of society as a whole.[11] When it seems as if a person is unlikely to arrive at a moral reckoning on their own, it is important to let them know that their views are not in tune. It is only by coming to understand that an action is wrong that a person's outlook and behavior can change.

When waged against individuals, however, accusations of complicity can become a mechanism of social distancing. Since 2020, the process of mass shaming, characterized pejoratively as cancel culture, has proliferated, with some cancellations carried out with a particular venom. A vindictive condemnation of character is on display in subreddits like *I Never Thought Leopards Would Eat My Face* and *Fuck You Karen,* which are dedicated to savoring the comeuppance others face when unjust policies they once supported come back to bite them.[12] At the height of the Covid-19 pandemic, more than half a million people celebrated the Herman Cain Awards, reveling in the circumstances of Covid disbelievers who contracted—or even died from—the virus. Subreddit *Byebyejob* boasts over 600,000 members who gleefully savor the consequences faced by individuals whose racist or otherwise offensive acts have caused them to be fired.[13] As we sort out who among us might be enabling a malignancy like racism or sexism, social media can operate as a "digital pillory," with memes, posts, and tweets used to shame, humiliate, and exclude.[14]

The fear that even the smallest of individual actions may cause harm to—or may be accused of causing harm to—someone else can be paralyzing. Psychologists estimate that about a third of the population will suffer from some kind of anxiety disorder in their lifetime, and new psychological disorders are emerging—Covid Anxiety Syndrome, eco-anxiety—that stem from a growing incapacity to make personal decisions in the face of what seem like overwhelming risks.[15] Fear of

social stigmatization or condemnation can stymie productive questions and conversation. Concern that our actions might foster future harms can thwart us from doing good things in the present.

In her final book, *Responsibility for Justice,* social theorist Iris Marion Young contended that the imposition of blame and shame on individuals could not be a useful mechanism for dealing with systemic violence.[16] Shaming punishments, Young argued, were rooted in the typical liability model of justice, which looks backward from the scene of the crime to assign responsibility for wrongdoing.[17] The liability model is not equal to the task of reckoning with the overwhelming, diffuse, and multifaceted risks we face today.

Complicity can serve a more productive function than individual shaming, however. At its best, the concept is engaged not to denigrate or demean, but to make visible the ways in which the decisions of persons or entities are not in silos but instead intersect with larger systems and structures in the world. Allegations of complicity can articulate connections that might previously have been hidden, saying something new about the responsibility of a person, institution, or corporation to the larger social environment.

COMPLICITY AS CONNECTION

We are living in a time when we are reconsidering intersections of individuals, institutions, and the world across a diverse range of contexts—the COVID-19 pandemic, systemic racism, sexual assault and harassment, financial crises, threats to reproductive and LGBTQ+ rights and freedoms, climate change, addiction, and others. Historian Adam Tooze refers to this as a period of "global polycrisis," when we are facing growing economic, sociopolitical, and climate risks that are increasingly diverse and intersecting.[18] While Tooze and others highlight human beings' precarity, as what we once thought was an assured future becomes increasingly uncertain, there are reasons to see this historical moment as one of not only crisis but possibilities.

Across fields from sociology to technology studies to psychology, researchers suggest that we are at an historical moment when human beings' understanding of the responsibility of the individual to the world is changing.[19] Sociologist Ulrich Beck argued that from crisis could come *metamorphosis,* a newfound capacity to see things through a different lens. "[W]hen populations are subjected to devastating events that leave indelible marks on consciousness and affect collective values not only do … [they] impact on and reorient world-views, they also have the capacity to drive forward radical change."[20] In regard to climate change, philosopher William MacAskill argues, similarly, that we have entered a window of "longtermism," when, due to rapid technological advancements and unprecedented global economic growth, our ability as humans to influence the future—but also our capacity to care about it—are at an all-time high.[21] It is when we are confronted by large-scale problems that we begin to realize the extent to which existing policies and practices have failed us. Out of necessity, we look for new ways of engaging with the world.

There are particular times in history when, as human beings, we have been more prepared than others to examine our interfoldedness with the experiences of people who seem distant from ourselves. Time periods, such as the ending of the trans-Atlantic slave trade in the early 1800s and the post–World War II era of the 1940s through 1960s, ushered in not only rapid political, social, and economic change but, significantly, a growth in human abilities for perception and cognition.[22] The decision to end the system of global enslavement of human beings was not merely economic but also ideological, reflecting a widespread sharing and incorporation of new ideas about inherent rights and liberties that emerged out of Enlightenment philosophies. Similarly, in the aftermath of the Holocaust a new, shared understanding developed about not only humans' capability to do bad things, but—importantly—the power of everyday people to either facilitate harms or intervene to stop them.

Academic disciplines have different ways of describing these societal windows of openness. Anthropologists use the term *liminality* to

describe the ambiguous time in which a society is in the middle stage of a rite of passage. Participants in the rite find themselves at a threshold, where they no longer hold their previous status but they have not yet taken on a new cultural identity. In Sociology, a *tipping point* describes this type of moment at which a new belief, practice, or behavior is beginning to spread and take hold in society.[23] Historians use the term *conjuncture* to identify times when economic, political, and social factors coalesce so that once-settled norms and ideas become up for debate, new types of conversations take place, and previously defined categories become open to redefinition.[24] MacAskill calls these moments of "plasticity," marking a contrast to times when societal points of view were rigid or unchangeable.[25]

When we discuss who is enabling, fostering, or facilitating harm, we are looking at problems in a new way, and articulating a different vision of the self as situated within the space of the collective.[26] In these explorations there is a potential to become not only more aware of issues but to become *better* people; thinking through complex questions of accountability has the potential to expand our moral circles, growing the capacity for empathy and our understanding of one another.[27]

On a personal level, examining complicity can encourage powerful self-reflection. Literary theorist Michael Rothberg observes that, although we cling to the appealing narrative of good and evil, in reality, we are all "implicated subjects," meaning that we "are entangled in injustices ... where categories ... [of] innocent and guilty become troubled."[28] When we consider our own and others' potential part in fostering racism, sexism, global inequality, or climate change, we enter an uncomfortable—and often confusing place—where there is not always a clear demarcation between perpetrator and victim. Traditional civil and criminal justice models look backward, focusing on attributing guilt and punishment after the fact. When we evaluate our and others' complicity in structural harms, we are engaging in a more complex inquiry that looks backward—assessing accountability for inherited