

Taking Responsibility for Our Politics

by Theodore Dalrymple

Former Minister of Health Agnès Buzyn

The distinction between responsibility and guilt is important, both ethically and jurisprudentially, but it seems that the distinction is becoming ever more muddled as law replaces religion as the arbiter of morality. How often have I heard someone who has been accused of behaving badly say, “There’s no law against it!” as if the absence of legal prohibition settled the matter.

The two clearly overlap, and in general there can be no legal guilt without legal responsibility. But the various meanings of the word *guilt*—the finding by a court of having broken a law, the feeling that one has, or ought to have, after having done something wrong, the ascription of blame by others to someone who has allegedly done something wrong—are fast becoming the kind of soup whose ingredients have been put

through a food-mixer.

Even the ascription of legal guilt is often fraught with ambiguities. A man may have an excuse or mitigating circumstances for his illegal action. A system that refused to acknowledge this would be rigorous to the point of cruelty; a system that mitigated every offence away would be unlikely to keep the peace. It would loose mere anarchy upon the world.

The distinction between guilt and responsibility is even more difficult in the political world than in everyday life. In France, a former Minister of Health, Agnès Buzyn, has been summoned to court so that the magistrates can investigate whether or not she was *prima facie* guilty of any crime in her handling of the Covid-19 epidemic when it began. Not only she, but the present Minister of Health, as well as high officials, will probably also undergo such investigation.

The prosecuting authorities received thousands of such complaints from the public, in large part encouraged by lawyers—who, of course, were thinking only of the public good. The likely outcome, after hundreds of hours of costly investigation, is that no charges will be laid, or if they are laid, that the accused will be acquitted. Nevertheless, this is not certain; the former Minister is under investigation on one of two counts, or possibly of both, of “directly exposing another person to an immediate risk of death, or of injury leading to mutilation or a permanent handicap, by the manifestly deliberate neglect of a private obligation of due care...,” or of “deliberately abstaining from taking or promoting measures, without any risk to himself, to combat a disaster, thereby creating a danger to the safety of others.” The punishment for the first crime is up to a year in prison and a fine of 15,000 Euros, and for the second up to two years in prison and a fine of 30,000 Euros.

There are obviously huge and probably insuperable difficulties in the case, even on its own terms. It is easy to say that the

measures taken or not taken by the Minister were sub-optimal and led to more deaths than there might otherwise have been; but it has to be proved that not only did she do what she ought not to have done, or did not do what she ought to have done, but that she did or did not do it deliberately, and furthermore that her acts or omissions actually *did* lead to the increase in deaths complained of. Given the chaotic state of knowledge even after many months, this would not be easy: and the fact that it is not easy goes to suggest the innocence, or at least the non-guilt, of the person being investigated.

Furthermore, it has to be proved that the major part of the responsibility for fatal policy lay with her, that she was not simply taking the advice of people who knew the subject better than she. Even in relatively simple cases, involving one patient in one hospital, one often finds that no single person is responsible for a catastrophic outcome, there is on the contrary a cascade of small errors that leads to it. One can either find a scapegoat or exonerate everyone, neither of which is entirely satisfactory—though finding a scapegoat is always fun and very satisfying.

The hopes of the accusers have been raised by the prospect of a former minister behind bars, but will probably be dashed in the end, encouraging them and others to conclude that the “system” always looks after its own, thereby disaffecting people from it even further, which is dangerous. The former minister will have undergone (has already undergone) hours of interrogation. I don't know her, and presumably to have reached the position in the first place required her to have a pretty strong carapace, stronger than average; nevertheless, even politicians are liable to suffer.

I am no great admirer of politicians, especially those who have done nothing else in their lives but politick. Nevertheless, to make them criminally liable for their mistakes seems to me a very good way of ensuring that they

will become worse than they already are. The unattractiveness of political life is great enough as it is. Its full-time nature, as if it were a profession like, say, surgery, is bad enough, as is the fact of that perpetual surveillance which means that a mere joke can lead to the destruction of a career once it is broadcast on social media. A politician now lives his life on eggshells. But if in addition politicians had to face criminal charges for having pursued mistaken policies once they achieved power, only the very most psychopathic, narcissistic, or ruthless people would ever go in for it. The correct chastisement of politicians is surely at the ballot box and in newspapers, etc.

No doubt there comes a point at which a policy is what Talleyrand thought was less than a mistake, namely a crime. A policy such as genocide is obviously a crime as well as a policy. But this is a very extreme case, of which most politicians, however reprehensible we find them, fall far short.

The former president of the European Commission, Jean-Claude Juncker, whose most attractive characteristic was his tendency to drink, once said something witty. Referring to elected politicians, he said, "We all know what should be done, it's just that we don't know how to get elected afterwards."

Is it, then, the politicians or the electorate who are guilty?

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