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# **What is the point of blaming corporations?**

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Submitted in fulfilment of the requirements for the degree of  
Doctor of Philosophy

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*For Ron Child (1920 – 1992) and Dorothy Child (1929 – 2002)*

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## **Abstract**

This thesis argues that corporations are blameworthy moral agents. It advances the view that blaming corporations for their wrongdoing has an instrumental value insofar as blaming practices incentivise actions that are socially valuable, and disincentivise actions that are socially costly. The true value of blaming corporations is to be found in its non-instrumental value, however. This is to do with maintaining the dignity and self-respect of those who are doing the blaming. Blaming corporations is a vital way in which we hold powerful and destructive entities to account. Blaming corporations takes them, what they do and ourselves seriously. This thesis adopts a non-standard approach to the moral responsibility question by connecting the question of moral responsibility to the power of corporations as much as to their agential capacities. It also adopts a non-standard approach to the agency question by raising important questions about the rational capacity paradigm which underpins traditional accounts of individual and corporate moral responsibility. A key feature of corporations is their long horizon. This thesis discusses the role of blaming practices in addressing their role in historic acts of injustice. Consequently this thesis's historical texture provides a unique perspective on this topic. It also considers whether we can forgive corporations for their wrongdoing in a way that goes beyond what is normally found in the relevant literature.

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January 2022

## Acknowledgements

I am extremely grateful to my supervisor Professor Hallvard Lillehammer. It would not have been possible for me to write this thesis were it not for Professor Lillehammer's advice, support, encouragement, academic rigour, expertise, professionalism, kindness and generosity. I have enjoyed the privilege of working with Professor Lillehammer as both a student and as a teaching assistant since starting the MA Philosophy course at Birkbeck College. The academic journey with Professor Lillehammer has been an inspiration and a joy.

My thanks must also go to the staff and students in the Philosophy department at Birkbeck College. There is no better place to study Philosophy and I have been fortunate to do so. Particular thanks go to Professor Jennifer Hornsby, Professor Susan James, Dr. Michael Garnett, Dr. Stacie Friend and Dr. Cristian Constantinescu for their generous support and encouragement. I am also grateful to my fellow research students whose constructive criticism, insights, observations and, most importantly of all, friendship enabled me to complete my PhD. Of these I shall only name Rachelle Dyanne Bascara who showed boundless enthusiasm for and interest in my research.

My friends and family members have been extremely encouraging and supportive not least by knowing when it might be best to not ask me about my PhD.

Gratitude and acknowledgement are also due to the National Education Union and the Harris Federation who have each contributed to the funding of my PhD research.

Thank you to my husband and 감보, Dr. Chris Wilson. I could not have written this thesis without his love and support. Chris has read many versions of this thesis and the various papers I have written over the last few years. He has provided excellent feedback and endless, unconditional encouragement. I am especially grateful for his many observations about the psychological reasons why people form corporate entities. Many of these did not make the final version of this thesis but they provided an essential background to my own theorising.

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## Introduction

This thesis aims to solve an important theoretical problem. There are very powerful entities in the world called corporations that cause mayhem. Yet some theorists argue they do not exist while others argue that even if they exist, we cannot hold them morally responsible. For such theorists, all moral responsibility is ultimately individual responsibility.

The main argument of this thesis is that corporations are blameworthy moral agents. It defends the realist view that corporations are a really existing feature of the social world. It also advances a pragmatic argument that recognising the moral agency of corporations best serves our interests, where 'our' is taken to include the interests of human and non-human animals and of the natural world.

There follows a brief clarification of the different types of groups relevant to this thesis, which develops a taxonomy presented elsewhere (Child 2017). A group comprises two or more people. They can be informal and unstructured though minimally unified by some property like a group of friends arranging a night out in Hull. Or they can be formal, structured and hierarchical like corporations.<sup>1</sup> The structure of these kinds of groups includes a formal decision-making process.

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<sup>1</sup>Hereafter, the generic terms 'corporation' and 'institution' are used interchangeably when discussing issues that pertain to such highly structured and formal groups.

The many different types of corporations include universities, religious institutions like the Catholic Church, public bodies like the NHS and the BBC, states, bureaucracies, trade unions, non-governmental organisations (NGOs) like Oxfam, intergovernmental organisations (IGOs) like the European Union (EU) and business corporations.<sup>2</sup> The arguments that follow apply to corporations in general, though some of them are relevant only to the serious and specific challenges posed by business corporations. The deeper philosophical questions raised by these arguments transcend the fact that there are these really existing entities called business corporations.

This thesis advances a social view of corporate moral agency. That is, there can be forms of joint activity which are such that we must think about the group as a whole being irreducibly the entity that acts, that has responsibilities and that we therefore take an ethical attitude towards. This is relevant to corporations whose internal structure is such that they exist independently of and logically prior to their individual members. The primary target of any criticism, contestation or praise that is due should be directed to the group-level features of corporations. If we focus our

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<sup>2</sup>A business corporation is a large company, or group of companies, authorised to act as a single entity and recognised as such in law. It is a legal entity that is separate and distinct from its owners. They can enter contracts, loan and borrow money, sue and be sued, hire employees, own assets, and pay taxes. A business corporation is sometimes referred to as a *persona ficta*, or legal person and as such enjoy many of the rights and responsibilities that individuals possess. There is a fuller discussion of the nature of business corporations in Chapter One.

attention solely at the level of their individual members, we overlook a very important feature of our social world.

Dystopian fictions are often motivated by the singularity. We are concerned that artificially intelligent machines (AI) and/or cognitively enhanced biological intelligence will eventually become self-aware and come to dominate and possibly enslave us.<sup>3</sup> Yet we are already dominated by highly structured and powerful entities that relentlessly pursue whatever objective has been set for them. We call them corporations; they pose an existential threat to humankind; they are our own creation, and they seem to be beyond our control. As Mary Shelley wrote:

“I beheld the wretch — the miserable monster whom I had created.”<sup>4</sup>

Concerns about how to deal with corporations parallel our concerns about how to deal with the emergence of non-human entities like robots, electronic agents and various forms of AI. This is no longer a possible future scenario; it already is the present. We must immediately reorient our thinking about corporate moral agency before our world is entirely dominated by corporations.

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<sup>3</sup>There are some theorists who think this scenario will save the planet from environmental catastrophe and is the only chance humans have of long-term survival. E.g., Lovelock, J., (2019).

<sup>4</sup>Shelley, M., (1818): 100

The idea of corporate moral agency implies that agents in the social world are not restricted to individual human agents. Far from existing alongside individual agents as equals, these really existing corporate agents can cause serious, widespread, lasting and irreversible harms. In many historic and contemporary cases they have been responsible for mass atrocities. These are events where there have been intentional, widespread and systematic violations of human rights. Examples include ecocide, settler-colonialism, the trade in enslaved people, ethnic cleansing, genocide, apartheid, persecution, torture and murder.<sup>5</sup> Many of these phenomena have been driven by corporate entities. The scale and gravity of these crimes are such that they bequeath a deep and profound legacy which societies must deal with over many generations. When it comes to fossil fuel corporations' disproportionate contribution to the global climate emergency, the effects of their actions may be catastrophic.

It is important to stress that corporations also cause harm because of what they do not do. People suffer in the context of abandonment. For example, when states abandon their citizens to lives plagued by poverty, hunger and homelessness, when

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<sup>5</sup>For example, the ongoing attacks on the land-rights of the Mapuche people of Chile by forestry corporations. Mapuche land and forests have been subjected to forestry corporations' clear-cutting practices which have a devastating impact on the environment leading to soil erosion and water shortages. Species of native trees which are integral to Mapuche economic and cultural life are being driven to extinction. Mapuche people have been displaced from their land, with many now living on reservations working as impoverished farmers or field hands. Mapuche people who have resisted these practices have been displaced, imprisoned or murdered. '[Chile: Mapuche defend their land from forestry companies](#)' *World Rainforest Movement* 04.03.03. Most recently accessed on 11.12.21.

the Catholic church abandons the children in their care or when business corporations do nothing to protect the environment.

Our acceptance of corporations as seemingly immovable features of our social world is partly explained by the fact that they do not only do bad things. If they did, we would not tolerate them. Corporations are not inherently bad or wicked. They do things which are praiseworthy. They excel at things like pooling resources, finding efficiencies, driving innovation and increasing value. They have significantly improved our lives in many ways. Fossil fuel corporations produce goods which satisfy the interests of the human inhabitants of the planet. Civilisational collapse would soon follow if there was not relatively cheap, mass-produced electricity. This complexity is a further reason why corporations are ethically interesting. It also explains why, in spite of the real and serious threat they pose, we find it hard to live without them. This thesis is only concerned with corporations' wrongdoing and the very serious harm they cause.

Another reason why business corporations are ethically interesting is their long horizon. Éric Vulliard writes:

“But companies don't die like men. They are mystical bodies that never perish. The Opel brand continued selling bicycles, then automobiles. Already at its founder's death, the firm counted fifteen hundred employees and it kept

growing. A company is a person whose blood rushes to its head. We call these *legal entities*. Their lives last much longer than others.”<sup>6</sup>

Corporations have lifespans which far exceed the life spans of human and non-human animals. It is therefore unsurprising that corporations are often deeply implicated in acts of historic injustice which have contemporary ramifications. Many corporations have assets which have been accumulated in an unfair manner and, in some cases, have gained wealth and power by participating in deeply wicked acts. Jamaica Kincaid reminds us of this when she writes about Barclays Bank’s prominent role in the trade in enslaved people:

“Do you ever try to understand why people like me cannot get over the past, cannot forgive and cannot forget? There is the Barclays Bank. The Barclay brothers are dead. The human beings they traded, the human beings who to them were only commodities, are dead.... People who think about these things believe that every bad deed, even every bad thought, carries with it its own retribution. So, do you see the queer thing about people like me? Sometimes we hold your retribution.”<sup>7</sup>

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<sup>6</sup>Vulliard, É., (2019): 6. Original emphasis.

<sup>7</sup>Kincaid, J., (1988): 28

Kincaid draws our attention to an important ethical issue. There is an understandable desire to seek justice for the wickedness of the trade in enslaved people. If we desire retribution for enslavement, who do we turn to since the individual slave owners, financiers and insurers of the trade in enslaved people are no longer alive? Barclays Bank is a feature of our contemporary world, a world that is dealing with the long-term consequences of the enslavement of black Africans and settler-colonialism. The practice of holding corporations irreducibly morally responsible for their past wrongdoing is relevant to those of us with a concern for intergenerational justice. If we ask what we owe to past and future generations, we need to also ask whether that 'we' includes entities like business corporations. This thesis argues that it does.

We should resist the current propensity of theorists to characterise modernity in hyper-individualistic terms. One of the side-effects of such characterisations is an obsessive over-emphasis on methodological individualism in all spheres. Such tendencies are not so much wrong as one-sided and incomplete accounts of the social world. This thesis is written from a perspective that is conducive to the argument that it is corporations as well as individuals and groups of individuals that generate capacity for action, or power.

When we consider leading signifiers of the rise of Europe like the growth of towns, universities, religious orders, trading companies, and the European state, what we

find is not atomised individualism *per se*, but individuals organised in corporate and quasi-corporate forms. This trend was intensified by the rise of the modern business corporation.

Concepts like individual self-interest, individual responsibility, private ownership, contract, individual human agency and a sharp distinction between public/private spheres, are inadequate to the task in hand. The history of incorporation is a story of gradual extrication from responsibility which has been increasingly viewed in hyper-individualised forms with devastating and irreversible consequences.

This thesis argues for a recognition of the social nature of both moral agency and moral responsibility. Corporate interests must be aligned with the public interest. To fully grasp the complexity of our social world, we must recognise it for what it is: a corporate reality. The main aim of this thesis is to supplement individualistic accounts of that reality with corporate concepts.

There can sometimes be corporations with which we live in rich relation such as a preferred business whose products we admire, a favourite local pub, a sports team we support, a national institution like the NHS, a mosque, and a university one attended. In our everyday discourse we routinely express reactive attitudes towards these corporations. We have complex relationships with them. The global e-



commerce corporation we acclaim for speedy delivery we also condemn for its relentlessly brutal exploitation of its workforce.

We talk about blaming the banks for the global financial crisis. We praise the NHS for its response to a global pandemic. This thesis is interested in our practice of using the language of moral evaluation about corporations. Specifically how the practice of blaming corporations can be a proper part of the evolution of that complex relationship. A precursor to ceasing to support or trade with it, for instance, or indeed of having an ameliorative impact on it.

Faced with this lavish use of the language of moral evaluation when talking about corporations there are three alternatives open to us:

- 1) We can take a hard line and claim that such discourse is metaphorical.

Attributions of moral responsibility to corporations qua corporations may be useful but are in fact not literally true.

- 2) We may say that while such ascriptions are neither mistaken nor metaphorical, what we really mean when we blame corporation C for the climate emergency is that all or some individual members of C are blameworthy.

- 3) We may conclude that corporations qua corporations really are responsible for what they do, and we are right to blame them.

This thesis defends the third option by arguing that corporations are real social phenomena and members of the moral community. Therefore, it is appropriate to have reactive attitudes towards them. We rightly blame corporations for what they do, and there are instrumental and non-instrumental reasons for doing so.

The argument of this thesis is distinct in the following ways:

1. It adopts a non-standard approach to the moral responsibility question by connecting the question of moral responsibility to the power of corporations as much as to their agential capacities,
2. Its historical texture provides a unique perspective on this topic. Some benefits of this approach are that it offers a unique perspective on corporate moral responsibility while stimulating the cross-fertilisation of ideas between different academic disciplines,
3. It adopts a non-standard approach to the agency question by considering alternatives to the Davidsonian rational capacity paradigm (Davidson 1967/1980), \

4. It applies conceptions of responsibility with and without blame to corporations, and,
5. It includes a discussion of forgiveness in corporate cases which goes beyond what is normally found in the relevant literature.

The rest of this thesis is organised into two parts. The first part comprises two chapters that are concerned with power and agency.

Chapter One deals with the power question. The traditional approach views entities as being morally responsible because of their status as moral agents. This chapter argues that we should connect the question of moral responsibility to corporations' power as much as to their agential capacities.

Chapter Two deals with the agency question. This chapter argues that corporations really do exist, they are an important feature of the social world, the primary locus of agency is at the corporate level and talk about corporate agents is not reducible to talk about individuals. This chapter points towards a non-standard account of agency that brings into question the approach typically taken by theorists of the social view and their opponents.

The second part comprises three chapters that are concerned with responsibility, blame and forgiveness.

Chapter Three deals with one aspect of the responsibility question. An influential argument against corporate moral responsibility is based on an analogy between corporations and sociopaths (Wolf 1985, Wolf 2013). This chapter develops and applies Nicola Lacey and Hanna Pickard's clinical model of responsibility without blame to corporate cases (Lacey and Pickard 2013). The upshot is that even if corporations are analogous to sociopaths, we should treat them as being in the moral realm. This approach has a functional benefit insofar as it helps us deal with the long-term consequences of corporate atrocities. It also has a therapeutic benefit of helping corporations improve in the here and now.

Chapter Four argues that there will be occasions when we wish to put blame back in the picture. Blaming enriches our relationships to each other and to the institutions we interact with. A world bleached of our spontaneous blame-feelings would be pretty dull with no drama at all. None of the other important responses (like remorse, apology, forgiveness) would have any colour left either. Cultivating (rather than suppressing) our natural practice of blaming wrongdoers like corporations enables them to see the moral significance of their actions. The main argument of this chapter is that by treating corporations as blameable moral agents we are taking ourselves seriously as moral beings. We are also taking them and what they do

seriously. It is also a way of resetting the relationship between powerful entities that abuse their power and those with less power who are wronged by them.

Chapter Five is concerned with how we stop blaming and why we may wish to do so. One way of stopping blaming is by forgiving those who have wronged us. This chapter argues that there will be occasions when it is appropriate to forgive corporations. Forgiveness typically follows some kind of formal acknowledgement of the harm done. This can be a corporate apology and/or the payment of reparations of some kind. This chapter further argues that some of the things corporations do are so deeply wrong they are unforgivable.

The main conclusion of this thesis is that while the practice of blaming corporations has an important instrumental value, the true significance of blaming corporations lies in its non-instrumental value. This to do with maintaining the dignity and self-respect of those who have been wronged by them. Blaming corporations is a way of resetting asymmetries of power between corporations and their victims. This thesis concludes by identifying two areas where there is scope for further research. The first is to do with the rights and duties of corporations. The second is to do with systemic blame.

## **Part I: Power and Agency**

## Chapter One: Corporate Power

### *§1.1 Introduction*

Typically questions of responsibility are closely aligned to questions of agency. A distinct feature of this thesis is the argument that we should adopt a non-standard approach to the responsibility question by connecting corporations' moral responsibility to their power no less than to their agential capacities. This chapter aims to make that connection. It does so by focussing on business corporations (§1.2), placing them in their historical context (§1.3) and discussing why they are so dangerous (§1.4).

When it comes to corporate moral responsibility, we can identify two methodological approaches: realism and pragmatism. Realism aims to establish the nature of metaphysical reality independently of our aims and purposes. So far as this thesis is concerned corporations are really existing social phenomena regardless of whether we recognise them as such. This is consistent with a structuralist approach:

“... there exist, within the social world itself and not only within symbolic systems (language, myths, etc.), objective structures independent of the

consciousness and will of agents, which are capable of guiding and constraining their practices or their representations.”<sup>8</sup>

The ‘objective structures’ Bourdieu refers to in the preceding quotation include corporations. The following chapter advances this realist view of corporations as moral agents existing ‘over and above’ their individual members in the way Bourdieu describes.

There are also pragmatic reasons why we should aim to establish an account of corporate moral responsibility that best serves our interests. We face many diverse challenges in this corporate age, and how to cope with the consequences of the rise of business corporations is one of the major issues that demands a response. One such response is to blame them.

There is a major asymmetry of power between business corporations and individuals or groups of individuals, invariably favouring the former at the expense of the latter. Some of the things business corporations can do they should never have been able to do which is apparent when we survey the consequences of their destructive power.

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<sup>8</sup>Bourdieu, P., (1989): 14



We inhabit a world which is increasingly dominated by business corporations to the extent that we may describe the contemporary world as a corporatocracy. As Joel Bakan writes of business corporations:

“Today, corporations govern our lives. They determine what we eat, what we watch, what we wear, where we work, and what we do. We are inescapably surrounded by their culture, iconography, and ideology. And, like the church and the monarch in other times, they posture as infallible and omnipotent, glorifying themselves in imposing buildings and elaborate displays.

Increasingly, corporations dictate the decisions of their supposed overseers in government and control domains of society once firmly embedded in the public sphere. The corporation’s rise to dominance is one of the remarkable events of modern history.”<sup>9</sup>

The rise of business corporations is unsurprising in an era of rapid and intense globalisation. Some business corporations are akin to city states such is their size and power. Business corporations are seemingly permanent features of our lives, many of them existing since before we were born with a long horizon stretching into the future. They are the dominant force directing our world. It is unsurprising we often fear them.

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<sup>9</sup>Bakan, J., (2005): 5

The power and agential status of business corporations are not separate issues. Power relations are themselves capacitating. Being an agent puts an entity in a certain normative category; being an extremely powerful agent increases the ethical stakes. The agency question is typically seen as being prior to the power question. Yet we should be interested in applying normative categories like responsibility and blame to corporations even if we have not answered the agency question. The 'power' question is independent of the 'agent' question insofar as it is possible to answer it in such a way as to conclude that we should apply concepts like 'responsibility' and 'blame' to corporations even if they are not agents in the conventional sense traditionally theorised in the philosophy of agency.

There is an analogy between Daniel Dennett's conception of the so-called intentional stance' and what we might call 'the responsibility stance'. (Dennett 1979, Dennett 1981, Dennett 1987, Dennett 1991, Dennett 2009).<sup>10</sup> Just as we may adopt the intentional stance to something without having a strong view about what is going on 'inside' it, we may also adopt the responsibility stance to something despite having a strong view about the precise nature of its agential status. This chapter argues that the actions of powerful business corporations can have such atrocious consequences,

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<sup>10</sup>The intentional stance is discussed further in Chapter Two.

that our interests are best served by adopting the responsibility stance towards them.

### *§1.2 What are business corporations?*

A business corporation is a very specific kind of corporation dedicated to maximising shareholder value by increasing profits. Economies of scale, locational efficiency and the attractions of market dominance incentivise increasingly intense incorporation. There are undoubtedly very many advantages to this process, though it poses no fewer grave threats and challenges.

Business corporations have three distinct features.

1. There is what Philip Pettit has termed an “asset lock.”<sup>11</sup> The members who provide the finance that any business corporation requires, i.e., the shareholders, cannot remove their support at will. They may sell their shares to others, but they cannot remove their capital from the business corporation to use for their own purposes.

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<sup>11</sup>Pettit, P., (2017a): 1

2. Limited liability. Individual shareholders are not personally financially liable if the business corporation declares bankruptcy.
3. The business corporation is not corporately liable if any of the individual shareholders declares bankruptcy.

These have the combined effect of juridifying the business corporation. They also force us to conceive of it as a legal entity separate from the different categories into which the members divide: the entity that is governed by its directors, invested in by its shareholders and that employs its managers and workers. This makes for an important contrast with regular corporate bodies which equate with the membership as a whole, for example where what a club does the membership does. The business corporation is an entity distinct from and logically prior to its individual members.

A distinguishing feature of business corporations is that they are commercial and profit-seeking. Business corporations as they are currently constituted function first and foremost to serve their shareholders and maximise shareholder value by maximising profits. Their relentless and remorseless machine-like drive to do this explains to a large extent why they cause so much harm. This is an inextricable feature of business corporations caused by their highly structured and hierarchical internal decision-making and legal structures. We should not be surprised when business corporations cause harm in the pursuit of profit since this is part and parcel

of what it is to be a business corporation. This deep internal structure, which persists through time as the individual members change, is also the locus of blameworthy responsible agency in corporate cases.<sup>12</sup>

### *§1.3 Historical excursus*

Many contemporary challenges manifest themselves as the long-term negative consequences of corporate activity. As corporations including business corporations are increasingly required to actively engage with critiques of their past and the long-term consequences of their actions, we should undertake an approach which draws on the expertise of many different modes of enquiry.

The histories of corporations are increasingly contested. These criticisms are rooted in a view of them as inter-generational entities. Their long horizon implies that they have moral obligations towards present, past and future generations of individuals less powerful than them, and whose lives are deeply affected by their actions. As we become increasingly aware of these entities' long and complex histories they are subjected to negative moral evaluation in the present. A key aim of this thesis is to

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<sup>12</sup>This does not only apply to businesses. We find similar structures in other types of corporations like states, for example.

provide a conceptual framework for attempts to incorporate the stories of those who have been wronged by corporations into the historical narrative.

David Ciepley argues that the U.S. government is a sovereign state with respect to other states but is a corporation with respect to the people.<sup>13</sup> He further argues that the U.S. Constitution is best understood as a popularly issued corporate charter rather than a social contract (Ciepley 2017). Ciepley provides a helpful historical context which underpins his argument about the prevalence of the corporate model in shaping societies and their institutions.

The history of the corporate form in Europe stretches back to at least Roman times. Ciepley argues that Medieval Europe was constituted, organised and governed by corporate bodies based on the Roman law of corporations. These corporate bodies included monasteries, bishoprics, confraternities, universities, towns, communes, and guilds and they were responsible for governing and organising the associational life of Europe (Ciepley 2017).

According to Ciepley, these early corporations had two key features:

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<sup>13</sup>Ciepley, D., (2017): 434

First, the government of a corporation, although invested with authority by the sovereign, was not itself sovereign, but was limited in two main ways. First, corporations were not above the law. Second, every corporation had a duty to fulfil the purposes for which it was formed. This is relevant to the argument below that a key problem with contemporary business corporations is not their existence per se, but their current iteration which compels them to maximise short term profit. It is this compulsion which causes pandemonium.

Second, early corporations were endowed with special rights, some of which the members of the corporation exercised individually (such as immunity from tolls) and others they exercised corporately (such as the legislative rights of the corporation qua corporation) (Ciepley 2017).

The corporate form of association and governance has been the distinctive way in the West of constituting, organising, and augmenting collective power. Although there are important differences between them, the corporate form paved the way for the modern business corporation and other key institutions like the European state, which were modelled as corporations. Given the role played by private charter companies in European settler-colonial projects more generally, we can see how the corporate model has become a global phenomenon.

The modern business corporation and the modern constitutional state embody a common genealogy and a common governance technology, at the heart of which is the delegation of authority by written charter. This is unsurprising given that the earliest and most influential American colonies, Virginia and Massachusetts, began as literal business corporations: the Virginia Company and Massachusetts Bay Company (Ciepley 2017).

The earliest forms of business corporations were aggregations of individuals into a *persona ficta* rather than a natural person. A business corporation owns property, buys and sells, contracts, and pleads in court in its own name, i.e., as a juridical person separate from natural persons. This legal process whereby business corporations are assumed to be like a legal person i.e., an individual human, is potentially very dangerous. Their status as *persona ficta* does not in itself necessitate any link to ethical considerations on the part of the business corporation. Once institutions like business corporations have been separated from ethics then there is a risk that serious pathologies may emerge.

Business corporations have served as an instrument of settler-colonialism, causing the global spread of capitalism and the global imposition of capitalist law. This proclivity is baked into the structure of business corporations operating under conditions of capitalism. As Marx and Engels wrote:



“The need of a constantly expanding market for its products chases the bourgeoisie over the entire surface of the globe. It must nestle everywhere, settle everywhere, establish connections everywhere.”<sup>14</sup>

Although the modern iteration of the business corporation is part and parcel of our everyday lives, it is a relatively recent legal and political construction. The earliest forms of the joint stock company emerged in England in the seventeenth century, established under a Royal Charter to facilitate the violent and rapacious colonisation of India and the Americas (Dalrymple 2019, Hicks 2020, Phillips and Sharman 2020). Business corporations like the Royal Niger Company, the British and Dutch East India Companies, the Hudson’s Bay Company (HBC) and the Virginia Company allowed the wealth of several people to be combined and brought under the name of a single, new entity characterised by Andrew Phillips and J. C. Sharman as company-states (Phillips and Sharman 2020).<sup>15</sup>

Phillips and Sharman argue that what we take for granted as features of the modern business corporation and the delineation between the public and the private spheres of state and corporate influence were all shaped by or in response to company-states. They pioneered the separation of management from ownership, legal personality,

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<sup>14</sup>Engels, F. and Marx, K., (1848/1969): 46

<sup>15</sup>In this section only, the terms ‘business corporation’ and ‘company-states’ are used interchangeably when discussing their role in colonisation. Thereafter the term ‘business corporation’ is used.

limited liability and the joint-stock form. Contemporary debates about the management of public debt and the state's monopoly on the use of violence are rooted in the evolving relationship between the company-states and governments of the time (Phillips and Sharman 2020).

Company-states were hybrid ventures i.e., they were profit-seeking multinational business corporations whose founding charters granted them sovereign powers of war, peace and rule normally associated with nation-states (Phillips and Sharman 2020). As the driving force behind the settler-colonial projects in Asia, North America, Africa and the South Pacific they were the vanguards of the development of capitalism, settler-colonialism and the trade in enslaved people (Van Lent and Smith 2020).

The problematic history of company-states includes their role in advancing the interests of white European settlers at the expense of Indigenous peoples, their exploitation of them and the ecocidal and genocidal impact of their actions.<sup>16</sup> These events are not confined to the past since their consequences continue to be felt. For example, the Indigenous people of Canada continue to experience socio-economic deprivations that are characteristic of countries with settler-colonial histories.

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<sup>16</sup>As Eduardo Galeano points out, in Latin America the actions of U.S. and European states and business corporations led to a genocide of Indigenous people. The population of the Indians of the Americas alone was reduced from over 70 million people to 3.5 million people in one hundred and fifty years. This to say nothing of the devastating impact of the trade in enslaved people on Latin America and the Caribbean nations. Galeano, E., (1997): 38.

Business corporations like HBC exemplify the racist and colonial company-states that enabled racial extractivism, inequality and oppression. There is a direct through-line that runs from the HBC's founding status as a settler colonial company-state, serving as the de facto government in parts of north America for two hundred years, to its current iteration as a major retail business group operating in Canada and the U.S. This illustrates the long horizon and problematic histories of many such entities.

Leo Tolstoy's comment about the British East India Company illustrates the power and global reach of these company-states:

"A commercial company enslaved a nation comprising two hundred millions."<sup>17</sup>

William Dalrymple characterises the British East India Company as the world's first aggressive multinational business corporation that, at the height of its powers, had an army that was larger than the British army, controlled a land empire that was larger than the British empire, ruled over a fifth of humanity and whose revenue accounted for half of all British trade (Dalrymple 2019).

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<sup>17</sup>Tolstoy, L., (1908) §5

The relationship between the British East India Company and the British state serves as an early model for the contemporary relationship between business corporations and modern states. The formidable power of these entities was such that it is not an exaggeration to characterise them as having world-shaping capabilities demonstrated by their key role in creating the first truly global international system. Then, as now, they were some of the key actors shaping global politics. By dint of their hybrid nature, company-states benefitted from considerable institutional advantages.

The presence of business corporations has always been accompanied by anxieties about their status, their political power and their influence. They have never been solely mercantile enterprises. They have always had a distinctly political dimension, at times overtly engaged in diplomacy, fighting wars and governing large territories. Modern examples of business corporations performing these roles on behalf of nation-states are the very powerful and influential private military business corporations like Academi (previously Blackwater) responsible for war crimes such as the Nisour Square massacre.<sup>18</sup>

Given their genesis as enablers of settler-colonialism and the trade in enslaved people, it is unremarkable to note that from their inception, business corporations

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<sup>18</sup>'[Trump pardons Blackwater contractors jailed for massacre of Iraq civilians](#)' Michael Safi *The Guardian* 23.12.2020. Most recently accessed on 31.12.21.

had enormous potential for producing harms whose range, scale and impact far exceeds the harms individuals may cause. Many business corporations are deeply implicated in acts of historic injustice and given their complex histories, we cannot easily draw a clear boundary between 'then' and 'now' when it comes to holding them morally responsible for their past wrongs. For example, the Royal Niger Company was a key player in the military subjugation and colonisation of modern-day Nigeria. It was instrumental in organising and carrying out the looting of the Royal Court of the Obas of Benin City in the 1890s (Hicks 2020). The Royal Niger Company changed its name to The Niger Company in 1929 when it became part of the United Africa Company. Unilever acquired the United Africa Company in the 1930s and it continued to exist as a subsidiary of Unilever until being absorbed into the parent company in 1987.

Since the Royal Niger Company no longer exists as such, this raises an ethically interesting question about what, if any, obligations Unilever has when it comes to cultural restitution, repatriation, apology, reparation and the decolonisation of museums by returning looted items to their original locations. Unlike individuals, business corporations do not live a natural life span which involves the human trajectory of birth, maturity and death. This is a further reason why we must engage in a debate about what, if anything, all kinds of corporations but especially business corporations owe to those who have been wronged by them in the past. Chapters

Three, Four and Five argue that part of the point of blaming and, in some cases, forgiving them is to help us address these issues.<sup>19</sup>

#### *§1.4 Why business corporations are so dangerous*

Thomas Hobbes's *Leviathan* begins with the argument that the state is an automaton:

“For seeing life is but a motion of limbs, the beginning whereof is in some principal part within; why may we not say, that all automata (engines that move themselves by springs and wheels as doth a watch) have an artificial life?... Art goes yet further, imitating that rational and most excellent work of nature, man. For by art is created that great LEVIATHAN called a COMMON-WEALTH, or STATE... which is but an artificial man...”<sup>20</sup>

Hobbes's theory of corporate agency highlights the potential relationship between the rise of corporations like business corporations and the rise of AI.<sup>21</sup> The creators of business corporations, like software designers, had good intentions. The problem is that business corporations, just like a potential runaway AI, have no intrinsic interest

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<sup>19</sup>Chapter Five discusses the possibility that some corporate actions are so bad that they are unforgivable.

<sup>20</sup>Hobbes, T., (1651/1985): 81

<sup>21</sup>See Pettit, P., (2017b) for an evaluation of Hobbes's theory of corporate agency.

in our welfare and are seemingly beyond the control of those who created them, This is directly analogous to the specific example of business corporations which are legal constructions; abstract entities designed with the ultimate goal of maximising financial returns for their investors above all else.

Nick Bostrom's paperclip maximiser thought experiment illustrates how business corporations and AI are disanalogous. It was designed to illustrate the existential risks AI pose to humanity and the urgent need to incorporate machine ethics into AI design (Bostrom, 2003). The thought experiment describes an advanced AI tasked with manufacturing paperclips. If this AI were not programmed to value human interests, or to use only designated resources in circumscribed time, then its optimised goal would be to turn all matter in the Universe, including humans, into either paperclips or machines that manufacture paperclips.

In the worst-case scenario of the singularity, killer robots become entirely independent and destroy humanity and all other forms of life except those required to sustain the robots themselves. Business corporations will not destroy all humans, at least not wittingly, since they act through individual humans or groups of humans. They require the continued existence of humans at a level where they are able to continue to work for them and/or consume their goods and/or services. Even so they are capable of creating massive damage to human interests.

For now at least, business corporations are much more powerful than AIs. The analogy between AI and business corporations gives us an insight into the idea that in both cases, we have created something that is beyond our control, and which does not necessarily have human interests at heart. It also conveys the thought that the singularity has already happened. We are surrounded by business corporations which are embodied cyborgs that control us, and which are already causing far more harm than any AI we could invent. The analogy is useful insofar as it illustrates business corporations' vast and seemingly uncontrollable power.

Consideration of technology corporations has tended to focus on the threats posed by the technology they deploy, for example how surveillance capitalism is a threat to human autonomy (Zuboff 2019). While these are very serious threats, there are at least two things such accounts miss. The first is that business corporations themselves pose an even greater threat than their technological capacities. People do very harmful things to other people by working through business corporations. If a family has had their life destroyed by a business corporation, there is little reason why they should particularly care about an imagined future threat of AI. The second is that theorists like Zuboff tend to think the problem is surveillance rather than capitalism. As this section will demonstrate, we cannot fully get to grips with the particular wrongdoing of business corporations unless we appreciate the capitalist environment in which they operate.



Arguably the biggest threat to our survival comes from the corporate systems we started building many centuries ago. Business corporations were designed for the common good. They were supposed to make our lives easier, and in many ways they have. Yet there always has been a destructive side to them. We have never really learned how to control them. Consequently they have grown to the extent that they are seemingly beyond our control.<sup>22</sup>

The harms caused by business corporations are invariably committed in the context of profit-making activity, and which ill-treat workers, consumers and the general public. Much of this activity, like fraud for example, falls under the scope of the law. Yet difficulties in securing convictions in cases of corporate wrongdoing, and high rates of recidivism even when there have been successful prosecutions, means those crimes are committed with relative impunity. This impunity has led to numerous corporate scandals, the common themes of which are corporate crimes like massive accounting fraud, insider trading, influence peddling, dubious tax-avoidance schemes, perks for insiders and complicity by overcompensated directors. In extreme cases these corporate crimes have included atrocities such as ethnic cleansing, genocide and ecocide.<sup>23</sup>

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<sup>22</sup>The analogy between corporations and AI is revisited in §2.7 of the following Chapter. It is discussed as a possible response to the objection that there are only individual agents, and, at best, corporations are an artificial form of agency.

<sup>23</sup>While ethnic cleansing and genocide may be carried out with impunity, that does not necessarily make them beyond the law. Consider for example the legal situation before and after the Second World War.

In a study of corporate crime, John Coffee has shown that while the US government is able to send hundreds of thousands of people who are poor and/or black to prison every year, corporate entities and their high-level executives have effectively become immune from any meaningful prosecution for very serious crimes, including murder (Coffee 2020). One of the several examples Coffee gives is when General Motors (GM) included a faulty ignition switch in more than thirty million cars. The switch, which could shut off the engine while the car was being driven, resulted in at least one hundred and twenty-four documented deaths. Although the US government alleged that GM executives had known about the flaw for many years before its public exposure in 2015, not one was prosecuted.<sup>24</sup>

Coffee presents an empirically-based argument that business corporations really are getting away with murder (Coffee 2020). There is a systematic failure to hold individuals and business corporations to account for very serious corporate wrongdoing. At best, prosecutors have been content to fine the companies sums which are a fraction of their huge profits and let their executives off the hook. Such cases are relevant to this thesis for the following three reasons.

First, they raise the question of whether we are dealing with ‘bad apples’ or ‘bad barrels’. We should be attentive to the likelihood that there is something about the

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<sup>24</sup>Coffee, J. C., (2020): 40, 42-43

nature of business corporations that enables such egregious conduct by their individual members.

Second, they give us an insight into the extent of business corporations' structural power and influence.<sup>25</sup> They use this power to hire the world's best legal teams, lobbying governments and judicial systems so they can act with impunity. Business corporations can persuade governments and judicial systems to minimise any financial penalties, and their wealth is such that any fines they do have to pay are a tiny fraction of their financial assets.

Third, they demonstrate that there is little or no incentive for business corporations or their members to analyse and reflect on their conduct to ensure that harmful outcomes are minimised. This offers individuals a powerful incentive to incorporate themselves into groups which operate outside the law and beyond moral censure. Business corporations are akin to organised crime syndicates and terrorist groups often with a global reach. They organise their activities so that knowledge of their criminal operations is not widely shared, which protects their most senior members.

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<sup>25</sup>The structural power of business corporations is derived from the fact they are the primary locus of economic performance in capitalist systems. States rely on investment by business corporations to generate economic growth and create jobs. In turn, the political fortunes of policymakers are tied in part to the performance of the economy. Business corporations will decide when, where and how much to invest in line with their key aim which is to maximise profits. Investment will not occur if business corporations do not expect to achieve this aim. By withholding or by threatening to withhold investment business corporations can significantly affect economic performance, and subsequently affect the electoral prospects of policymakers. The ability to withhold investment means that policymakers have an automatic imperative to create environments that are business-friendly and, more generally, consider the interests of businesses in the policy-making process. The rest of §1.4 discusses in more detail various aspects of the structural power of business corporations.

Coffee's study of corporate wrongdoing has found that there are very high rates of recidivism among large public business corporations (Coffee 2020). This happens even when they are fined, enter into plea bargains in the form of deferred prosecution agreements, and are forced to promise to impose internal compliance programmes designed to prevent future misconduct. In spite of these measures, the same business corporations repeatedly violate the law (Garrett 2016, Coffee 2020). The conclusion being that very serious corporate crime pays.

There is something interesting and important happening at the corporate level which is missed if we only concentrate on 'big fish' individual wrongdoers. This is to do with the size and nature of business corporations per se, the impersonal nature of their bureaucratic structures, the socio-economic environment they operate in and their structural power. These are discussed in turn below.

Large and complex business corporations can be harmful in ways that much smaller companies and individuals can never be. In large business corporations there is a division of labour up to and including at the highest levels of responsibility.

Decisions are so heavily mediated it is relatively easy for them to be disowned. It becomes incredibly difficult to track the decision-making process such that an individual or group of individuals can be held to account for 'signing off' on a decision that can lead to atrocities. There is a basic epistemic problem here to do

with the problems of proving knowledge and intent when pursuing individual wrongdoers in a corporate setting. Transnational business corporations' operations involve thousands of employees across several continents relating to millions of transactions. There are often many people involved in making important decisions whose consequences are often out of the view of the people making them. Even if they are not, they can be rationalised as being done by the corporate entity rather than by individuals or groups of individuals.

The corporate setting is the framing mechanism that supervenes on the behaviour and actions of its individual members. One reason why individuals may create and join corporations is the pursuit of untrammelled power.<sup>26</sup> Doing so significantly increases the corporation and its individual members' capacity to cause harm. The structure of the corporation enables us to do the kinds of things we could never do if we acted as individuals. This is partly because of the power individuals wield in a corporate setting. It is also to do with the structural power of the business corporation per se and their long horizon.

Corporate culture can have a contaminating effect on individuals acting in a corporate setting. This is why we should scrutinise the effects of power on

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<sup>26</sup>Sigmund Freud and Carl Jung offer interesting theories about what motivates individuals to form and act through corporate entities (Freud 1908/1963, Freud 1915/1981, Freud 1930/2002, Jung 1917/1966, Jung 1951/1968). Their theorising is to be contrasted with that of Gilles Deleuze and Felix Guattari who offer a different explanation for the emergence of entities like corporations and systems like capitalism (Deleuze 1992, Deleuze and Guattari 1983/1992). I am grateful to Dr. Chris Wilson for his observations in this area.

individuals working in business corporations. We are concerned with something more than the overt impact the corporation has on the intentions, desires and actions of its members. We should focus on the structural factors that tacitly shape beliefs and values in a corporate setting. For example, in terms of regimentation, the structuring of social space and the internalised control of individual behaviour. This suggests there is a complex mix of institutional and individual factors in play when it comes to corporate wrongdoing. The picture of corporate life is more complex than the view put forward by those who see it as merely the interaction of atomised autonomous self-interested individuals.

There are certain kinds of actions that are only possible because individuals are embedded in a corporate framework. The individual may be the *actus reus* for the action, but it may not be the individual's action qua individual. It may be the case that the individual is acting qua business corporation and/or in cohort with other individuals qua business corporation. Under the description in question, the social is prior to the individual and the social in this case is the corporate setting.

The impersonal nature of corporate life can make it easier to make decisions that have terrible consequences when the corporate insiders are unlikely to ever know let alone meet the victims of their actions. It is hard to conceptualise and empathise with harms that are generated through slow-moving abstract corporate violence. Individuals may see themselves as just one link in a very long chain making it easier

to disown their actions and describe them instead as being the actions of the corporation. Displacing Indigenous peoples in the Amazon Rainforest is something the business corporation is doing rather than something the corporate employee is doing personally.

The decisions of the high-ups are enacted by their mid-level enablers who may lack the clout or insight required to resist the demands that are being placed on them by their superiors. They may also be ambitious to get on in the corporate world and so will not do anything that rocks the boat and risks their career trajectory. Refusing to do as you are told in an authoritarian workplace is also made more difficult if the individual fears the financial consequences of being fired for not following orders.

It is easier to assemble, constitute and unify as a group that shares the same corporate social space as opposed to geographic space. In this shared social space the structured relationships, processes and goals of a business corporation supervene on the thoughts, emotions and actions of their members who introject its prevailing culture (Child 2017). The social space is constituted in such a way that the cumulative advantages of propinquity accrue to the corporation and its members insofar as they work diligently towards the realisation of a common goal, regardless of the consequences.

This partly explains why a dysfunctional business corporation endures notwithstanding changes to its individual members. It may be possible to identify some individuals whose actions contributed in a significant way to corporate scandals. Yet it would be unreasonable and disproportionate to blame only them when the malpractice was so widespread and deeply embedded within the corporate culture. Accordingly, we should look to key individuals and the business corporation itself. This illustrates how the culpability of key individuals is best understood in a corporate context which frames their behaviour when they act in that setting.

The preceding discussion has addressed the recurring story of the otherwise innocent person whose moral compass goes awry in a corporate setting. We should resist the temptation to portray this as a rigid dichotomy between 'good' individuals and 'bad' corporations. Yet there is something about the nature of business corporations that facilitates very serious wrongdoing. This can be further elucidated with reference to specific harms caused by corporate bureaucratic structures.

A bureaucratic corporate structure is not a necessary condition for wrongdoing, though it is a highly significant administrative structure that channels the energies of its members for corporate ends. We should think of a corporate bureaucracy as a way of organising individuals in a corporate setting that is highly structured and rigidly hierarchical with standardised rules of operation. The combined effect of



these characteristics can make the individual motivations of their members irrelevant (Weber 1922/2019). Hence the phenomenon of the 'company person' who exhibits a loyalty and commitment to their business corporation that overrides everything else. The 'company person' will do whatever the business corporation requires of them.

Corporate bureaucracies can become self-perpetuating institutions operating independently of their members, who are reduced to functionaries of unaccountable and mysterious (insofar as they are unseen) forces. They can resemble complex, impersonal systems operating with little need for individual human intervention. They can grow at an exponential rate surpassing our ability to control or understand them. When it comes to corporate bureaucracies, the danger is that we come to rely on increasingly convoluted forms of bureaucratic systems. In worst-case scenarios, the structuring processes of corporate bureaucratic power can lend themselves to the kind of moral tunnel-vision that licenses individual participation in atrocities like ecocide and genocide.

This does not absolve individuals of their responsibility for wrongdoing. Individuals can offer mendacious and self-serving reasons for knowingly doing wrong. These can be psychological escape-hatches that should not be allowed to exculpate wrongful acts. There are examples of very brave individuals who refuse to do things they know to be wrong, often at very great risk to themselves and their families. We

should avoid sweeping generalisations about all corporate bureaucracies being wicked or evil. Like any institution, they can eradicate bad practices and orient their goals and policies towards doing good things.

Broad, differentiated, highly structured and hierarchical corporate bureaucracies can harness different individual dispositions and ambitions to achieve common goals by offering their members a range of incentives. As individual roles, responsibilities and incentives vary, so do individual actions, perspectives and motives for action. Bureaucratic corporate structures can shape, amplify and inhibit the agency of their individual members. For example, they can create a social-psychological space where individuals can shirk the full weight of their role in wrongdoing by claiming they were 'following orders'. Alternatively those higher orders can structure and direct group efforts to the extent that the corporate space may be used by the 'company person' to embrace their role, ardently expressing their commitment to the project in hand.

This may lead to a 'distance' opening up between the individual's action and its effects. This distance can be spatial and/or psychological. Whatever form this distance takes, it can have terrible costs if the individual becomes blinded to the consequences of the externally-imposed ends furthered by their everyday work. Individuals can become automatons unreflectively carrying out orders without due regard for the consequences of their actions. This is not an unintended consequence

of being a member of a bureaucratic corporate structure. They are designed to be like this.

We can use Hallvard Lillehammer's analysis of indifference as a vice to develop a more fine-grained understanding of the more or less dynamic role played by indifference in corporate bureaucracies (Lillehammer 2014a).<sup>27</sup> We gain an insight into the ethical significance of indifference when we consider indifference as what Lillehammer calls the 'flip-side' of caring about something.<sup>28</sup> There are different ways of conceptualising caring, but at the very least we can say that a state of affairs can manifest caring where individuals show themselves to be empathically connected in some way. Once this empathic connection is severed through indifference, atrocities may follow.

According to Lillehammer, one use of the term 'indifference' denotes a lack of interest or attention.<sup>29</sup> This can be exhibited in two ways. First, individuals can show indifference towards something by not showing any awareness of it. This may be the result of forgetfulness or ignorance. Second, individuals can show indifference towards something by showing a lack of care or interest in something as being either consciously or unconsciously outside a domain of affective or motivational

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<sup>27</sup>See Lillehammer, H., (2014b) for a discussion of indifference as a virtue.

<sup>28</sup>Lillehammer, H., (2017): 25-32

<sup>29</sup>*Ibid.* 1-2

engagement (Lillehammer 2017). The ‘company person’ may be indifferent to the fate of those affected by the corporate policies they administer not because they have failed to notice them, but because they are cold and heartless administrators. As Lillehammer acknowledges, we can also describe business corporations per se as either ‘caring about’ or ‘being indifferent.’<sup>30</sup>

When it comes to indifference as a vice, Lillehammer identifies four different states of indifference, of which three are most relevant to this thesis: blinkered indifference, exclusionary indifference and negating indifference (Lillehammer 2014a).

Blinkered indifference is purposeful and dynamic. In cases of blinkered indifference, individuals and/or institutions may pursue ends we approve of, but it is the means they take that are ethically problematic. We see the manifestation of blinkered indifference as a vice when in their pursuit of some end, the subject fails to focus their attention on the ethically significant costs embodied in the pursuit of that end. The different forms blinkered indifference can take include a manifestation of the division of labour and the disposition to ‘follow orders’ (Lillehammer 2014a). We can say that these can be part and parcel of the bureaucratic corporate mindset at the

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<sup>30</sup>*Ibid.* 12, 15

level of the individual or at the level of the corporate bureaucracy itself (exhibited as a kind of group-think or corporate ethos of getting the job done regardless).<sup>31</sup>

In cases of exclusionary indifference, we may decide to not care about something in order to mark our separation or difference from that thing.<sup>32</sup> An individual or an institution like a bureaucracy displays exclusionary indifference towards some object where this can be explained by some aspect of the nature of the object itself.

The racist corporate bureaucrat displays exclusionary indifference when they enthusiastically administer policies which have catastrophic consequences like genocide and ecocide. This may entail violating the land rights of Indigenous people, obliterating the local environment, destroying water supplies and putting threatened species of non-human animals at risk.<sup>33</sup> We can go further and say that the racist corporate bureaucrat actively cultivates their indifference to the suffering of

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<sup>31</sup>Hannah Arendt's concept of the banality of evil can be used to track the relationship between the individual and their corporate setting (Arendt 1963/2006). For example, in bureaucracies where the individual is doing a certain kind of thing automatically or when they are following orders to the extent that they have become amoral subjects, indifferent to daily atrocities. Arendt's way of analysing the banality of evil exemplifies Lillehammer's conception of blinkered indifference. We can characterise Adolf Eichmann as an egregious example of the 'company person.' Recent research poses a serious challenge to Arendt's theorising about Eichmann, arguing that he was an enthusiastic fascist and anti-Semite who knew what the consequences of his actions would be (Stangneth 2016). The plausible picture of Eichmann as a genocidal Nazi stands in sharp contrast to the picture of the man drawn by Arendt. One way of translating this into Lillehammer's terminology is to say that Arendt wrongly described Eichmann as a case of blinkered indifference when in fact his was a case of exclusionary or negating indifference or, even more plausibly, when it was not really a case of indifference at all, as opposed to cold blooded cruelty (Arendt 1963/2006, Lillehammer 2014a). This thesis does not consider further the debate about the motives of Eichmann and other Nazis (Arendt 1958/1966, Arendt 1963/2006, Arendt 1987, Goldhagen 1996, Stangneth 2016). I am grateful to Professor Lillehammer for his clarification of how the Eichmann case and Hannah Arendt and Bettina Stangneth's analysis of it applies to his theorising about indifference.

<sup>32</sup>Lillehammer, H., (2014a): 14-15

<sup>33</sup>For example, the joint projects undertaken by Adani and General Electric (GE) to build coal-fired power stations in Australia and India which are having genocidal and ecocidal consequences. See [#StopAdani](#) Most recently accessed on 31.12.2021. See also the example of the repeated attacks on the Mapuche people by various timber corporations discussed in the Introduction to this thesis.

Indigenous people in order to mark them out as undesired members of an out-group, where 'undesired' has the connotation of mere absence.

Negating indifference occurs when individuals or corporations are indifferent to the suffering of others because they are identified as belonging to a group whose members are intrinsically unworthy of our concern.<sup>34</sup> The kinds of harm this thesis is interested in do not paradigmatically involve an act of negation, although they could if the corporation is doing something that is racist. For example, the racist corporate bureaucrat enthusiastically implements discriminatory policies because they regard Indigenous people as unworthy of care. Being indifferent to those we regard as sub-human are examples of negating and exclusionary indifference (Lillehammer 2014a). Historic and contemporary examples of atrocities are replete with examples of exclusionary and negating indifference exhibited by the individuals and corporations charged with enacting ethically deplorable policies such as ecocide and genocide.<sup>35</sup>

In the case of blinkered indifference we can see how this plays out when business corporations are relentless in their pursuit of profit to the extent that they disregard

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<sup>34</sup>Lillehammer (2014a): 19-23

<sup>35</sup>Eduardo Galeano describes the ecocidal and genocidal impact of sugar cane imported by European settler-colonialists on Latin America and the Caribbean (Galeano 1997). Sugar cane had a genocidal impact because the demand for sugar produced plantations worked by enslaved labour. It also had a devastating impact on the ecological landscape of Latin American and Caribbean nations. Galeano uses the phrase 'King Sugar' such was the constellation of power and wealth generated by the sugar cane plantations and the trade in sugar. Galeano, E., (1997): 59, 60, *passim*

the ecocidal consequences of doing so. Fossil fuel corporations are so concerned with maximising shareholder value they act without due regard for the impact their actions have on the environment. They have been willing to falsify and suppress scientific evidence which proved the link between their activities and climate change. Even after publicly acknowledging their attempts to mislead the public about climate change, these business corporations remain so blinkered in their pursuit of profit that they employ lobbyists to oppose, derail and undermine governments' attempts to introduce measures that will curtail their activities. The many examples of corporate ecocide illustrate how the blinkered indifference of fossil fuel corporations to the consequences of their actions seriously undermines the ethical status of the pursuit of profit.

Some forms of exclusionary indifference are ethically indefensible because of the disproportionate harms caused to those who are excluded from the range of concern; or because the harm in question is itself importantly entangled in the purpose the state of indifference serves (Lillehammer 2014a). We can see how this plays out when we consider how business corporations promote a racialised form of capitalism, where the historical development of capitalism and racism are inseparable (Du Bois 1935/1998, Williams 1944/1994, Robinson 1983/2021, Johnson 2021).

The term 'racial capitalism' refers to how racism is deployed by business corporations as a technique for exploiting black people and for fomenting the hostility of many working-class white people towards black people, so as to enable white capitalists to extract value from everyone else (Johnson 2021). This is an argument that is deeply influenced by earlier arguments for the centrality of enslaved people to the rise of capitalism (Du Bois 1935/1998, Williams 1944/1994, Robinson 1983/2021).<sup>36</sup> As W. E. B Du Bois wrote:

"Black labour became the foundation stone not only of the Southern social structure, but of Northern manufacture and commerce, of the English factory system, of European commerce, of buying and selling on a world-wide scale; new cities were built on the results of black labour, and a new labour problem, involving all white labour, arose in both Europe and America."<sup>37</sup>

Du Bois is arguing for the emergence of a racialised form of capitalism that relies upon the elaboration, reproduction, and exploitation of notions of racial difference.

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<sup>36</sup>A recurring theme of this Chapter is the lengths business corporations may go to in trying to thwart the actions of democratically elected governments which will not do their bidding. There are also examples of business corporations and other corporations like states and governments working closely together to further their common interests and in doing so they cause a great deal of harm. One historic example is when various corporations in Britain conspired to resist attempts to abolish the trade in enslaved people and the practice of using enslaved labour in the British Empire. These corporations included business corporations like Barings and Lloyds Banks, the City of London Corporation and the British government. This nexus of individuals and corporate entities whose wealth, power and status were a result of their prominent role in the trade in enslaved people and the practice of using enslaved labour was known as 'the Interest' or 'the West Indian Interest.' (Taylor 2021).

<sup>37</sup>Du Bois, W. E. B. (1935/1998): 5



This is a form of global corporate capitalism that is concomitant with exclusionary indifference where indifference to an out-group, in this case an ethnic group, plays an instrumental role in the pursuit of business corporations' own ends. It should be noted that it is not just the indifference, but also the disadvantage or harm to the out-group, that plays an instrumental role.

Business corporations operating in a system of racialised capitalism have a structural incentive to pursue short term profit, even if this is not a constitutive feature of their design or legal status. Consider the analogy with individuals, neither designed, nor legally required to be selfish, but structurally incentivised to be so in an environment of hostility or distrust. The way business corporations are currently constituted in a system of global capitalism explains their seemingly endless capacity to cause serious harm. Milton Friedman argued:

“... there is one and only one social responsibility of business; to use its resources and engage in activities designed to increase its profits so long as it stays in the rules of the game, which is to say, engages in open and free competition, without deception or fraud.”<sup>38</sup>

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<sup>38</sup>Friedman, M., (1962/2002): 133

Friedman's analysis misses how business corporations are often in a position to write 'the rules of the game' so they are rigged in their favour. The need to control corporate structural power is a necessary fact that has not been adequately addressed not least because their power is such that it often ensures no such control is brought about. They are able to deploy their structural, financial and institutional power in such a way as to set the rules of the game to their advantage and to the detriment of others. Business corporations are structured in such a way that they will remorselessly try to achieve whatever purpose has been set for them i.e., to enrich their shareholders regardless of the consequences. When it comes to 'the rules of the game' this is the only one that matters. Consequently, business corporations can be dedicated to the paradigm of indefinite growth, both in terms of its size and its market share. According to Wade Rowland when it comes to business corporations:

"There is no ultimate limit to corporate size, no ideal number, though it is often in the corporation's interest to stop short of achieving full monopoly power in order to maintain the fiction of market competitiveness. This is done for both ideological and regulatory reasons. As long as the company can argue that its market remains free, it can credibly fend off public indignation and regulatory backlash, each of which has the potential to damage profits."<sup>39</sup>

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<sup>39</sup>Rowland, W., (2006): 99

Business corporations are driven to serious wrongdoing by their fundamental structure and the structure of corporate law. The structural imperative to show a short-term profit makes corporate scandals if not inevitable then extremely likely. The very nature of the business corporation as a socio-legal entity means that corporate employees who do wrong are only doing what the system requires them to do. Corporate CEOs and their boards currently face a continual pressure to grow their earnings at all costs. If they choose to make an ethical and humane decision, for example a fast-food business corporation altering its practices to reflect a commitment to the rights of non-human animals, they can expect to be sued by their shareholders and possibly acquired by a more ruthless competitor if this decision threatens short term profits. This leads to a view of business corporations as a nexus of individuals acting within a corporate structure for the purposes of private gain rather than fulfilling any social and ethical duties to the local community.

In worst-case scenarios, business corporations can be powerful entities motivated by a need for a return on their investments unmoved by ethical and humane considerations. The common goal of transnational fossil fuel corporations is to monetise as much of human activity and the natural world as quickly and efficiently as possible. The overriding purpose of the world's powerful institutional force can thereby be at odds with a flourishing planet and a viable future for humanity faced with environmental catastrophe.

The many corporate scandals referred to in this thesis are rooted in the corporate structure and in corporate law. As such, business corporations are indicative of an acute systemic badness where the pursuit of a return on their investments leads to serious wrongdoing. Business corporations exist to maximise shareholder value; they do not exist to do nice things.<sup>40</sup>

There are systemic reasons why business corporations warrant special attention. 'Systemic' means that business corporations are inclined towards serious wrongdoing by (a) the nature of the corporate agent that is produced by the current iteration of the incorporation process for businesses, (b) the socio-economic system in which most business corporations operate, i.e., a racialised capitalist corporatocracy and (c) their formal, independent structure. Capitalism's tendency to pursue shareholder value and profit for their own sake may compromise responsible corporate management. These values are not necessarily aligned with moral values.

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<sup>40</sup>Consider the example of the tobacco industry which suppressed scientific evidence that established the link between smoking and fatal diseases like cancer. The tobacco industry did other wicked things like intentionally making their products more addictive, falsely branding cigarettes as being low tar when they knew smokers would resist quitting smoking in the belief that smoking low tar cigarettes was a healthier option and targeting advertising campaigns at children in less developed countries as 'replacement smokers.' It is noteworthy that many of the people employed by the tobacco industry to falsify and suppress evidence that smoking cigarettes can have lethal consequences were also employed by the fossil fuel industry to suppress and deny evidence linking burning fossil fuels to the climate emergency (Oreskes, N. and Conway, E. M., 2011; Coraiola, D. M. and Derry, R., 2020). Also see *The Insider* (1999) Dir. Michael Mann Production Companies Touchstone Pictures, Spyglass Entertainment and Forward Pass. There is also a convincing argument that the tobacco industry is a global criminal enterprise to be found in [U.S. Racketeering Verdict Big Tobacco Guilty As Charged](#)' Campaign for Tobacco Free Kids Most recently accessed on 30.12.21.

When we consider corporate scandals like the Enron debacle in the context of the systemic nature of the problem, we may conclude that the key players like the bankers, the financiers and the Enron executives were only doing what the system required of them i.e., to maximise shareholder value.<sup>41</sup> Yet it was the pursuit of this requirement that ultimately led to the collapse of Enron. Analysed as such, business corporations under a system of corporate capitalism are profit-making machines which may destroy themselves in pursuit of that profit. Hence Marx's observation that:

“All that is solid melts into air, all that is sacred is profaned, and man is at last compelled to face with sober senses his real conditions of life, and his relations with his kind.”<sup>42</sup>

This focus on capitalist business corporations comes with four caveats:

First, many corporations are hybrid in nature meaning they are not easily classifiable as distinct types of corporation. The first business corporations were very similar to states in terms of their nature, size, impact and function. This is also true now in

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<sup>41</sup>The Enron scandal was an accounting scandal involving Enron Corporation, a U.S., energy corporation. Enron perpetrated one of the biggest accounting frauds in corporate history. Its executives used accounting practices that falsely inflated the company's revenues while hiding its many losses, making it the seventh-largest corporation in the U.S. Once the fraudulent practices were exposed the company went into rapid decline, eventually filing for bankruptcy in December 2001. See *Enron: The Smartest Guys in the Room* (2005) dir. Alex Gibney Prod. 2929 Entertainment, HDNet Films, Jigsaw Productions.

<sup>42</sup>Engels, F. and Marx, K., (1848/1969): 16

some cases. More recently we see that there are other types of hybrid corporations like the NHS and the BBC which are in some respects non-profit public institutions while in other respects they are profit-making businesses.

Second, this thesis's argument for blaming corporations does not hinge on its highly sceptical view of the socio-economic structures which they inhabit, i.e., racialised corporate capitalism. It is conceivable that a full-throated capitalist could agree with this thesis's arguments for the instrumental and non-instrumental value of blaming corporations.

Third, this thesis stops short of the view that business corporations should be abolished *tout court*. It may be that one downstream consequence of this thesis's arguments is that some of them should be. There are real-world historical and contemporary precedents for this. Following the First War of Independence in 1857, the East India Company was abolished by the British government (Dalrymple 2019). More recently, the *News of the World* was shut down following the phone hacking scandal in the U.K. in 2011.<sup>43</sup> One basic reason why we should not abolish business corporations is because they have the power to put right the very serious harms they

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<sup>43</sup>This point encapsulates the complex relationship we have with business corporations. On the one hand, individuals can be so closely aligned with these institutions their lives are part of the destructive machine-like operation of capitalism. On the other hand when business corporations collapse entire communities can be destroyed.

have caused. For example, fossil fuel corporations could be repurposed to use their power and resources to do social good instead of causing ecocide and genocide.

Fourth, the underlying theme of this thesis is neutral with respect to the types of corporation we are discussing and the socio-economic systems they operate in. This thesis's arguments for blaming corporations also apply to corporations in alternative socio-economic systems like fully automated luxury communism. Under such conditions there would still be large, complex institutions like businesses, public bodies and bureaucracies which should be morally responsible for their actions.

In *The Age of Uncertainty*, J. K. Galbraith argued that the notion of consumer sovereignty is a convenient myth advanced by business corporations to hide the true nature and extent of their structural power.<sup>44</sup> According to Galbraith, business corporations are not merely responding to the whims of individual consumers, efficiently allocating scarce resources as they do so. The structural power of business corporations is such that they are the ones who are really in charge.

A key feature of business corporations' structural power is their vast wealth. It is not only business corporations that are wealthy. Religious corporations like the Catholic Church are powerful in part because they are very wealthy. Nor are all business

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<sup>44</sup>'The Big Corporation' Episode 9 of *The Age of Uncertainty* (1977) Written by John Kenneth Galbraith Prod. BBC TV, CBS, KCET, OECA.

corporations extremely rich since many of them face bankruptcy and ruin. Those that do not may be small-scale enterprises that are just about getting by financially.

Yet the wealth of many corporations invariably far exceeds the wealth of individuals, and business corporations often possess wealth that outstrips the gross domestic product of many small and medium-sized nation-states.<sup>45</sup> Corporations use this wealth to further advance their own interests and to insulate themselves from the consequences of their actions. It is also often the case that the funds they use for these purposes are a tiny fraction of their total wealth.

A further feature of business corporations' structural power is how they relate to democratic government. Given business corporations' vast power we should be deeply concerned that there is a lack of democratic control and accountability when it comes to their activities. This concern was expressed by President Theodore Roosevelt in his 'New Nationalism' speech in 1910:

"The citizens of the United States must effectively control the mighty commercial forces which they have called into being. There can be no effective control of corporations while their political activity remains . . . It is necessary that laws should be passed to prohibit the use of corporate funds

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<sup>45</sup>"69 of the richest 100 entities on the planet are corporations, not governments, figures show" *Global Justice Now* 17.10.2018. Most recently accessed on 02.03.21.



directly or indirectly for political purposes . . . Corporate expenditures for political purposes . . . have supplied one of the principal sources of corruption in our political affairs.”<sup>46</sup>

Many business corporations are politically influential and legally privileged. Some business corporations are often more powerful than other corporations like states, national governments and IGOs. Consequently governments and IGOs struggle to force business corporations to comply with environmental and health and safety legislation. For all the superior power governments have in relation to business corporations, and this includes the US government, they still find themselves in a position where they are forced to negotiate with those business corporations when it comes to the tax rates they impose and collecting the tax revenues.<sup>47</sup>

In 2014, the newly elected president of Chile announced plans to tax wealthy individuals and corporations in order to finance education reform and reduce inequality. The subsequent bill which was presented to the Chilean parliament was significantly watered-down as a result of negotiations with business interests. The newly elected M.P. Gabriel Boric observed:

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<sup>46</sup>President Theodore Roosevelt ‘[New Nationalism](#)’ speech (1910) Most recently accessed on 05.07.21.

<sup>47</sup>‘[Disarming Senators, Apple Chief Eases Tax Tensions](#)’ Nelson D. Schwartz and Brian X. Chen *New York Times* 21.05.13. Most recently accessed on 19.02.21.

“When entrepreneurs speak out and act accordingly, it’s shameful – the power that business has is tremendous. Here entrepreneurs said that there would be no investment, that there would be a slowdown and unemployment would increase. They say it but they are also those who do it. That is, if there is more unemployment or a slowdown it is because they themselves stop investing. So they have a kind of negotiating position that is disgraceful for a democracy.”<sup>48</sup>

This gives us an important insight into the structural power of business corporations which stems from the highly privileged position they occupy in capitalist systems. This means there are at least two ways in which business corporations can pressure governments and states to do their bidding. The first is the overt and direct use of organised pressure they can bring to bear on political processes. The second is the structural power they can exert on political processes as a result of their investment decisions (which includes decisions to not invest or invest elsewhere). Sometimes, the real or imagined threat to not invest or invest elsewhere is enough to persuade elected politicians to adjust their plans accordingly.<sup>49</sup>

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<sup>48</sup>Quoted in Fairfield, T., (2015): 412

<sup>49</sup>For a fuller discussion of the structural power of business corporations see Fairfield, T (2014) and Jaffrelot, C., Kohli, A., and Murali, K., (2019).

Given business corporations' structural power we should be concerned that there is a lack of democratic control and accountability when it comes to their activities. It often seems as if it is large-scale business corporations rather than governments that are calling the shots. *Fortune* magazine wrote in 1952:

“Any President who wants to run a prosperous country depends on the corporation at least as much as—probably more than—the corporation depends on him. His dependence is not unlike that of King John on the landed barons of Runnymede, where Magna Carta was born.”<sup>50</sup>

An important difference between corporations like governments and other corporate entities like business corporations is that the former are mostly democratically accountable. In a democracy, an unpopular government can be voted out of office by a disgruntled electorate. Many business corporations lack this kind of democratic control and for that reason they are more like violent authoritarian dictatorships.

The problematic nature of the relationship between the corporate structure and democracy increases business corporations' capacity to cause harm. If they are undemocratic, it is hard to bring business corporations under the kind of control that

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<sup>50</sup>“A Political Role for the Corporation” by John Knox Jessop *Fortune Magazine* quoted in Miliband, R., (1969): 147

may be necessary to hold them responsible for their actions and to minimise or eradicate the extensive harms they cause.

Business corporations' constant threats to relocate elsewhere serve as a timely reminder to many governments that they are expected to toe the line when it comes to enacting any legislation which may restrict corporate power. It should be clear that business corporations use these tactics to advance their own interests. They knowingly force governments to kowtow to their wishes should those governments consider measures that threaten corporate interests.<sup>51</sup> Such behaviour on the part of business corporations is a flagrant attempt to bully governments and is anti-democratic.

Business corporations have also worked with other corporations like states and intelligence agencies to overthrow democratically governments whose programmes are a challenge to Western business interests, as illustrated by the involvement of many U.S. business corporations in Operation Condor.<sup>52</sup> In cases where they have conspired to overthrow democratically elected governments, intimidating and harming those who will not do their bidding, business corporations appear to be

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<sup>51</sup>'[Facebook under fire over move to 'bully democracy' in Australia](#)' Archie Bland, Amanda Meade and Victoria Bekiempis *The Guardian* 18.02.21. Most recently accessed on 20.02.21.

<sup>52</sup>'[The CIA's Secret Global War Against the Left](#)' Branco Marcetic *Jacobin* 30.11.21 Most recently accessed on 20.02.21. See also Vargas Llosa (2021) for a fictional treatment of Operation PBSuccess, This was the violent coup which led to the overthrow of the democratically elected Guatemalan government in 1954. It was backed by the CIA and the United Fruit Company (UFC) whose profits were threatened by the newly-elected Guatemalan government's plans to end exploitative labour practices and their proposed land reforms.

running a global protection racket. As Eduardo Galeano writes about the role played by some business corporations in Latin America:

“Standard Oil and Shell seat and unseat kings and presidents, finance palace plots and coups d'état, have innumerable generals, ministers, and James Bonds at their command, and make decisions about peace of war in every field and every language.”<sup>53</sup>

In the battle with other corporations and democratically elected governments to control access to natural resources, some business corporations not only spark coups d'état they also initiate wars between nations such as the Chaco War of 1932-1935.<sup>54</sup>

As business corporations strive to maximise shareholder income they may also use their considerable muscle to force concessions from governments that are likely to make the lives of ordinary people worse off. They do this by encouraging states to enact anti-trade union and right to work legislation, to relax or do away with consumer and environmental protections, to reduce workers' rights, to lighten regulatory measures and to reduce corporation tax. At worst this includes the loss of

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<sup>53</sup>Galeano, E., (1997): 157

<sup>54</sup>Galeano quotes U.S. Senator Huey Long who, in a speech condemning Standard Oil for provoking the Chaco War, described the corporation as a “... criminal... evil ...wicked ... domestic assassin ... foreign assassin international conspirator... a gang of rapacious highwaymen and thieves... a bunch of vandals and thieves.” *Ibid.* 163

job security, more dangerous workplaces, the loss of important checks on the quality of our food, the decline of public health and planetary extinction.

Business corporations pose a unique moral and political challenge. This is partly due to the blurring of lines between where the corporate sphere ends, and the political sphere begins. This gives us an insight into the structural nature of political corruption, where corruption is defined as the abuse of public office for private gain. Corporate state capture is the highest point of political corruption. When this happens, business interests can rig the legislative and regulatory processes in their favour. This is also known as regulatory capture and is harmful because legislative and regulatory agencies come to be dominated by the interests they are supposed to regulate rather than by the public interest.

This is encapsulated in the case of Rex Tillerson who was the CEO of ExxonMobil, one of the world's three largest fossil fuel corporation, before serving as Secretary of State in the administration of US President Donald Trump (himself the former CEO of a global business corporation).<sup>55</sup> The revolving door between the corporate world

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<sup>55</sup>A historic example of regulatory capture occurred in Britain in May 1823. Elected representatives and business corporations agreed to a series of ameliorative reforms to the living and working conditions of enslaved people in the West Indies proposed by the British government. It is unsurprising that these individuals and corporations approved of the government's proposals since they had written them. Those individuals and corporations with a vested interest in the continuation of the trade in enslaved people and the use of enslaved labour had taken control of this process as a way of thwarting the emerging abolitionist movement. They drew up and approved of measures which appeared to make wide-ranging reforms but which in reality would cause the minimal amount of disruption to the highly lucrative business of sugar cultivation. As the Colonial Secretary Lord Bathurst stated at the time, these reforms "... contain[ed] nothing but what the Committee of West India Planters authorised me to believe was fit & right to be done." Quoted in Taylor, M., (2021): 64

and the US government is not confined to any single administration, although Donald Trump's government was, at the time of writing, one of the most business-heavy in US history.<sup>56</sup>

Business corporations have entrenched their power by expanding their legal rights, which are protected by the U.S. Constitution. A key moment in the history of business corporations was the ruling in 1819 that bestowed property rights on business corporations.<sup>57</sup> This led the then Chief Justice of the United States to declare that a business corporation is a legal person or an artificial legal entity distinct from its owners and officers.<sup>58</sup> A key consequence of this decision was that business corporations came to be seen as having the same rights as private individuals rather than something created by the state to serve the public interest. This has given business corporations a legal status akin to that of individual citizens. In various cases, the U.S. Supreme Court has granted business corporations some of the same Constitutional rights as individual citizens. Specifically, business corporations are protected by the First and Fourteenth Amendments. The First Amendment protects religious freedom, the right to free speech and the right to assemble peacefully. The Fourteenth Amendment protects citizens from state actions. It also provides equal protection under the law, with the state being unable to discriminate against anyone

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<sup>56</sup>'[Trump's Cabinet will be one of most business-heavy in U.S. history](#)' Drew DeSilver *Pew Research Centre* 19/01/2017. Most recently accessed on 19/03/21.

<sup>57</sup>*Dartmouth College v. Woodward (1819)* by John R. Vile [The First Amendment Encyclopaedia](#) Most recently accessed on 26.06.21.

<sup>58</sup>Painter-Morland, M., (2011): 85

in its enforcement of the law, be they artificial persons like business corporations or 'real' flesh-and-blood persons like human individuals.

As things currently stand, there is no reason to think that business corporations will surrender or dismantle their structural power. We can reasonably assume that they will in fact seek to preserve it at the very least and more likely aim to increase it. This may come at a significant cost to us all given their capacity to do serious harm.

The potentially catastrophic effect of fossil fuel corporations' capacity to make politicians offers they cannot refuse, flout electoral laws, demand favours and extract payback is illustrated by the climate emergency. Specifically, many fossil fuel corporations oppose regulatory measures like the regulation of methane, block carbon taxes and fund climate deniers.<sup>59</sup> Fossil fuel corporations have spent many decades and large sums of money insulating themselves against any serious attempt to significantly minimise their power.

Fossil fuel corporations are prepared to do far worse in order to defend their shareholders' interests. Their influence on and collusion with states have had lethal consequences for environmental rights activists like Ken Saro-Wiwa.<sup>60</sup> This

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<sup>59</sup>Though some do not precisely because that's how they ensure they can continue operating in a profitable (and still polluting) manner.

<sup>60</sup>Ken Saro-Wiwa was an environmental activist concerned by the mistreatment of the Ogoni people in the Nigerian federation. He and eight other activists were executed by the Nigerian state on 10<sup>th</sup> November 1995. The allegations surrounding the death of Saro-Wiwa amount to a conspiracy involving the Nigerian state, its



illustrates the extent to which some corporations are prepared to conspire to suppress any threats to their wealth, power and interests. It further illustrates that there is an important difference between a group of individuals who happen to find themselves in a situation where they cause harm and the co-ordinated actions of powerful, large-scale like states and business corporations with specific goals and purposes to cause those harms.

A final element of the structural power of business corporations has to do with a particular aspect of their economic power. Facebook has announced that it will seek to introduce a private currency in the form of a cryptocurrency to be used in a permissioned blockchain-based payment system it will also develop.<sup>61</sup> One of the defining features of state sovereignty thus far has been the state's monopoly on the minting and circulation of a state-specific currency. Some technology corporations are aiming to take over this prerogative from governments. This would vastly increase their structural power since monetary policy is not neutral. It is one of the main levers for the distribution of wealth and the maintenance of privilege.

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judiciary, armed forces and police. It also includes a global, large-scale fossil fuel corporation alleged to have bribed prosecution witnesses in the trial of the activists. It is also alleged to have organised and financed the systematic campaign of terror against the Ogoni people. For an extended discussion of this case see '[The complex life and death of Ken Saro-Wiwa](#)' Roy Doron, Toyin Falola and Laura Seay *The Washington Post* 29/07/2016 Most recently accessed on 14/06/20.

<sup>61</sup>'[Facebook's Libra currency to launch next year in limited format](#)' Hannah Murphy FT 27.11.20.

Social media corporations already have substantial power in virtue of their access to the personal data of billions of people across the planet. The development of their own independent currency and currency-delivery system means they will acquire another level of control. There is a very real prospect that there will be a substantial shift of sovereign power and political decision-making away from democratically elected governments to Silicon Valley. As a character in the film *Network* says:

“There is no America. There is no democracy. There is only IBM and ITT and AT&T and DuPont, Dow, Union Carbide, and Exxon. Those are the nations of the world today ... The world is a collage of corporations, inexorably determined by the immutable by-laws of business.”<sup>62</sup>

We are witnessing the emergence of a new form of planetary power with state-like characteristics. They are able to compete with states when it comes to the control of information, issuing currency and social provision (such as their own corporate campuses with accommodation, retail outlets, transport systems and charity provision like shelters for the homeless). We have seen the hybrid form of this model of corporation with company-states. These new emergent ‘corporate nations’ are independent of states and in many cases they are larger and more powerful than

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<sup>62</sup>*Network* (1976) dir. Sidney Lumet Prod. Howard Gottfried and Fred C. Caruso Production Co. MGM.

states. Hence the recent startling call by some for the most powerful global business corporations to be given a seat at the United Nations.<sup>63</sup>

### *§1.5 Conclusion*

This review of the power of corporations to cause harm, and a historically informed account of how that power has actually been realised, leads to four observations.

1. Many people are killed globally as a result of corporate activity,
2. There is a real danger that life on the planet will significantly worsen if the power of large business corporations is not drastically curtailed,
3. The harm caused by corporate fraud and thefts, in terms of numbers of people affected and total economic losses, is vast, and,
4. Corporations are able to dominate those who depend on them.

Insofar as the threat posed by corporations is to do with the operation of structural power, this is a political problem. This does not mean those problems are not relevant to philosophical enquiry. The nature and extent of corporate power, and the

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<sup>63</sup>[Give Amazon and Facebook a Seat at the United Nations](#) Ben Schott *Bloomberg Opinion* 03.10.21. Most recently accessed on 04.12.21.

many lethal consequences of the exercise of that power, is such that we should ask the following important normative questions about corporations:

- a) What is their metaphysical status?
- b) Are they fit to be held morally responsible for their actions?
- c) What is the point of blaming them?
- d) Is it appropriate to forgive them for their wrongdoing?

These questions are especially pertinent when it comes to business corporations operating in a system of corporate capitalism where they can be mandated to maximise shareholder value. This means their actions are not always aligned with our long-term planetary interests.

The answers to these questions may help us to think more clearly about the moral and political problems to do with the structural power of corporations. The rest of the thesis aims to address these questions. It does this by arguing in the following chapter that corporations are really existing moral agents. Chapters Three and Four argue that there are both instrumental and non-instrumental reasons for blaming them. Chapter Five discusses forgiveness as a way of stopping blaming, and whether some corporate actions are so atrocious they are unforgivable.

## Chapter Two: The Agency Question

### *§2.1 Introduction*

An important objection to the argument that corporations are blameworthy is that they lack the necessary agential capacities. According to this potentially fatal objection, only individuals are moral agents. If only entities with agential capacities are morally responsible for their actions, and if corporations are not agents in the relevant sense, then it is inappropriate to blame them.

This chapter answers the following two questions:

1. What is it about corporations that makes them agents?
2. What is it about corporations that makes them moral agents?

The chapter begins by presenting a taxonomy of agents before discussing canonical arguments for the view that corporate agents are really existing social phenomena that are logically prior to and independent of their individual members (§2.2, §2.3, §2.4). The three sections that follow discuss key objections to these arguments (§2.5, §2.6, §2.7). They are ordered by their centrality to the load-bearing features of the argument that corporations are blameworthy moral agents. The responses to these

objections raise interesting questions about the standard view of agency in individual and corporate cases.<sup>64</sup> The main conclusion of this chapter is that corporations are irreducible agents (§2.8). This lays the conceptual foundations for discussions of corporate moral responsibility in the following two chapters.

## §2.2 *A taxonomy of agents*

Though theorists may disagree about the agential status of individuals and groups, they generally agree when it comes to the fundamentals in the standard story of agency (Davidson 1967/1980). According to this standard view there is a close connection between intentional action and acting for reasons, with intentional actions being typically performed for reasons.

A standard desire-belief conception of agency construes action in terms of intentionality; where intentionality is viewed as having been caused by the agent's mental states and events. Action events are special because they have certain distinctive causal antecedents which are beliefs and desires. An agent does something because they believe something or other is the case and they desire something or other to be the case. The beliefs in question crucially involve a means-

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<sup>64</sup>There is a further objection which is discussed in the context of the discussion of Susan Wolf's view of corporate moral responsibility in the following chapter (Wolf 1985, Wolf 2013).

end belief regarding how the desire acted on can be satisfied. We have a causal explanation of the agent doing what they do when we explain it in terms of their beliefs and desires. The agent's beliefs and desires are the antecedent causes of their action and bring it about that they behave in a certain way.

Whether a corporation can meet the conditions for agency so described depends on how it is organised. Philip Pettit and David Schweikard distinguish between three levels at which the agency of individuals may combine (Pettit and Schweikard 2006):

1. The combination involves a single effect of many actions on the part of many individuals. When there is just a single effect of many uncoordinated actions there is aggregate agency. For example, commuters in Hull driving home from work. Informal collectives of this kind lack the required structures and processes for group agency.
2. A single action is performed by many individuals. Many individuals are pursuing a single goal, which they can presumably only realise by acting together. This is to be distinguished from the single effect brought about by many individuals. Philip Pettit gives the example of sunbathers on a beach pursuing the goal of saving a child who is in difficulty in the water (Pettit

2017b). They pursue this goal together in what Pettit terms the “doubly robust” fashion which is characteristic of agency.<sup>65</sup>

3. There is a single group agent constituted by many individuals. Corporate agents are a specific type of hyper-structured and deeply integrated group agent based on a formal decision-making process. For example, business corporations that act to maximise their shareholders’ returns. They are structured internally such that they exist independently of and logically prior to their individual members. The primary centre of agency is at the level of the group rather than its individual members.

When we say that corporate agents are logically prior to their individual members we mean that there is a form of corporate agency which we need to presuppose in order to understand what individuals are doing within those groups. We may also mean that when individuals act, sometimes we cannot make sense of what they are doing independently of how they are socially situated. Acting on behalf of or within a corporation is one way of being socially situated in this way.

Corporate agency is distinct from (though related to) the much-analysed social phenomenon of joint agency (Gilbert 1989, Searle 1990, Searle 1995, Searle 2010,

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<sup>65</sup>Pettit, P., (2017b): 250



Bratman 1999, Bratman 2014, Tuomela 1995, Tuomela 2007). Joint agency occurs when two or more individuals engage in joint action, for example when they go for a walk together or undertake some common project like dancing the Tango. In these accounts, there are some shared or joint intentions, or intentions that are suitably collectively directed, present among the participants to make joint actions possible.

Joint agency is not the same as corporate agency: two or more individuals acting jointly do not necessarily bring a corporate agent into existence. There is a kind of agency in play with corporations that transcends their individual members, and which transcends the agency of individuals acting together when they share an intention. We can make sense of joint actions without ascribing a single locus of belief, desire and agency to the joint agent per se. It is sufficient for joint action that the bearers of the underlying intentions are individuals. We do not need to ascribe group-level intentions. While joint agency is neither sufficient nor necessary for corporate agency, there may be joint actions in the context of corporate agency. For example, the practical mechanisms of forming a corporate agent may include shared or joint intentions among the individual members. This is likely given that corporations are created by individuals and groups of individuals.

### *§2.3 Corporate agency*

We can make the notion of corporate agency intelligible with reference to two features of corporations. The first is what Peter A. French has called the corporate internal decision structure, hereafter CID (French 1979, French 1984). The second is illustrated by the discursive dilemma, recently articulated by Christian List and Philip Pettit (List and Pettit 2011, Pettit 2017b, List 2018). These are analysed in §2.3.2 and §2.3.3 respectively following a brief discussion of realism about corporate agents.

#### *§2.3.1 Realism about corporate agents*

Being a realist about corporate agents has a number of advantages. It enables us to see the social world as it really is rather than looking past corporate agents as if they were not there. This is an important claim about a significant aspect of the social world that wields vast structural power, and which causes very serious harms. By thinking in terms of really existing corporate agents we can relate to the social world in a distinctive way. By recognising a corporation as an agent, we can interact with it, criticise it and make demands on it in a way that is not possible with a non-agential system. Nor do we have to relate to it in a way that requires individual-level

analysis. The primary centre of agency in such cases is the corporation qua corporation rather than any individual member.

Being a realist about corporate agents means that we can analyse corporate-level system regularities that may be overlooked if we concentrate solely on what is happening at the individual level. This is important because it will shape how we respond to systems that display patterns of corporate-level behaviour determined in abstraction from much of what is happening at the system's lower levels. We can describe an event in two ways: with reference to the intentions of the individual members of the corporation and with reference to the goals and interests of the corporation for which they work. The latter may diverge from the former.

To be a realist about corporate agents is to argue that corporations have reasons for behaving in a certain way because they have certain interests and goals, which may diverge from the interests and goals of their individual members. Far from being spooky, this realist view will chime with many people's experiences of corporate life.

### §2.3.2 *The CID*

Peter A. French defined a CID structure as an organisation of personnel for the exercise of a corporation's power with respect to its ventures and interests.<sup>66</sup>

According to French, a CID structure produces decision-making, ratification, and action processes thereby forming a corporation into a functioning intentional and morally responsible entity (French 1979, French 1984). The structures are such that they transcend the corporations' individual members. They exist apart from and prior to the individual members, remaining in place through time as individual members come and go. It is these structures that are over and above the individual members of the corporation and which form the locus of independent corporate agency. In French's argument, the CID is the mechanism that licenses the predication of intentional agency to the corporate entity.

The corporation is something more than the mere aggregate of its individual members. As well as it being the case that corporate actions are not always reducible to individual actions, it is also the case corporate intentions are not always reducible to individual intentions. If we were to subtract the individual members from the corporation, there would be a remainder to which we can coherently attribute agential capacities.

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<sup>66</sup>French, P. A., (1979): 211, 212, 213 *passim*

The corporation's CID has two key elements. The first is an organisational flow-chart that delineates roles and responsibilities within the corporate structure. The second is the corporate recognition rule(s), usually embedded in corporation policy. When these elements work together, they constitute a synthesis of various decision-making sections of the corporation. The CID is an authority system defining the roles and responsibilities of the members of the corporation, their rank and how their responsibilities are interrelated. The agential capacity of the corporation qua corporation is in part derived from the fact that relevant individuals collectively accept the procedures outlined in the CID as their procedure.

The CID is crucial to this part of French's argument since it:

“... licenses the descriptive transformation of events, seen under another aspect as the acts of biological persons (those who occupy various stations on the organisational chart), to corporate acts by exposing the corporate character of those events.”<sup>67</sup>

At the heart of the CID is a collective decision-making mechanism. So described, the CID provides the grounds for attributions of corporate intentionality. French

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<sup>67</sup>*Ibid.* 212

maintains that in his argument corporate agency is a form of intentional agency.

Intentional agents are rational agents, and rational agents are agents that can make rational decisions and consider rational arguments (French 1984).

When a corporate act is consistent with an instantiation of or an implementation of established corporate policy then the action can be properly described as having been done for corporate reasons. It can also be properly described as being caused by a corporate desire coupled with a corporate belief and, therefore, as a corporate intention. While we can describe some events in terms of physical movements by individual human agents sometimes done for reasons, we can also describe them as corporate events done for corporate reasons. These corporate events are qualitatively different from whatever personal reasons the individual members have for doing what they do.

A corporate decision is recognised as such by (a) the procedure by which it came to be made and (b) the policy it instantiates. Therefore, the corporation creates a general policy that are the basic desires of the corporation. When the corporate act is consistent with corporate policy (its basic desires) then we can properly describe it as being done for corporate reasons, caused by a corporate intention (corporate desires combined with corporate beliefs.)

As discussed in the following section, it is conceivable that the corporate intentions as expressed through the CID diverge from the individual intentions of its individual members, including the individuals who wrote the policies and devised the CID. French characterises the CID as a group mind that supervenes on the minds and bodies of the individual members of the corporation. It is possible that each member disagrees with the policies they are enacting as a result of their actions. If the CID is the group mind in French's argument, then its individual members are the corporation's limbs.

### §2.3.3 *The discursive dilemma*

We can develop this important part of French's argument that corporate intentions diverge from the intentions of the corporation's individual members with reference to the discursive dilemma where a group does X because it believes Y even though none of its members either do X or believe Y.

Christian List and Philip Pettit propose an analysis of group agency in which the aggregation of judgements plays a central role (List and Pettit 2011, Pettit 2017b, List 2018). Theirs is an important point of departure from French's arguments. Whereas French argues that decision-making procedures, i.e., voting procedures, can be inconsistent, List and Pettit argue that group agents aspire to take collectively

rational decisions and they do this by adopting rational decision procedures (French 1984, List and Pettit 2011).

List and Pettit are concerned with group agency and group agents. This section retains List and Pettit's use of the phrases 'group agents' and 'group agency'. In the discussion that follows, their arguments concerning group agency and group agents should be taken to apply to corporate agency and corporate agents.

Formal rational-choice theory describes rationality as the disposition to maximise utility, i.e., to weigh up preferences in the light of subjective assessments of their costs and benefits and choose the option that maximises utility. This formal version of rational-choice theory is procedural since the content of preferences is irrelevant to maximising overall utility. This contrasts with rhetorical rational-choice theory where an agent is rational when they have certain substantive characteristics, for example self-reliance, autonomy and self-confidence. The rhetorical version of rational-choice theory is substantive.<sup>68</sup> By taking this approach, List and Pettit ensure that their realism about group agents coheres with the rest of our rationalist and scientific worldview. Their theorising gives us an account of the institutional structures, processes and mechanisms of aggregation that enable the group to function in this way.

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<sup>68</sup>Hereafter rational-choice theory refers to formal rational-choice theory.



For List and Pettit groups can engage in practical deliberation and develop group propositions that are not reducible to the sum of the propositions of all the individuals involved. Individuals deliberate from a group standpoint that is distinct from their standpoint as individuals. Therefore, moral responsibility should be attributed to the group proposition's author i.e., the group itself. This holistic approach to agency based on the discursive dilemma focuses on formally structured groups with explicit decision-making structures and procedures.

List and Pettit develop an argument for group agency that rests on their conception of group agents as rational i.e., they have goals/sub-goals, purposes and intentions they pursue through their actions (List and Pettit 2011). These goals/sub-goals, purposes, intentions and actions are distinctly goals/sub-goals, purposes, intentions and actions that are of the group qua group rather than its individual members. Their individual members do act but they act on behalf of the group agent and their actions are informed by the goals/sub-goals, purposes and intentions of the group agent that acts through them. The goals/sub-goals, purposes and intentions of the individuals may be the same as those of the group agent but, as the discursive dilemma demonstrates, this is not necessarily so.<sup>69</sup>

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<sup>69</sup>List, C. and Pettit, P., (2011): 2-7, 64-66

List and Pettit are concerned with group agents and the formation of joint intentions. The process by which such joint intentions are formed is a significant part of their story about the relationship between group agency and moral responsibility, which runs as follows. If a group agent is to show the rationality required for ascriptions of agency, its attitudes cannot be a majoritarian or some equally simple function of the attitudes of its members. The group agent has to develop a mind of its own, which leads to the kind of autonomy that we ascribe to group agents (List and Pettit 2011).

List and Pettit aim to show that majority rule is not the only form of organisation that fails to offer an independent voice that might be authorised and implemented by individuals. Judgment aggregation theory investigates which procedures a group could or should use to form collective judgments ('yes' or 'no') on a given set of propositions or issues, based on the judgments of the group members.

Such collective decision problems are vulnerable to the discursive dilemma, a phenomenon generalising the doctrinal paradox in jurisprudence. The source of the dilemma is that the propositions under consideration are logically interconnected. List and Pettit's discussion of the discursive dilemma illustrates a general difficulty that arises with any plausible issue-by-issue method of judgement aggregation, majoritarian or otherwise, that is designed to give a suitable collective output based on individual inputs.

List and Pettit's first example is based on the doctrinal paradox. It involves a three-member court that has to decide in a breach-of-contract case.<sup>70</sup> It has to rule on the truth (T) or falsity (F) of the following propositions:

Premise 1 concerning obligation (*O*): The defendant was contractually obliged not to do a certain action,

Premise 2 concerning action (*A*): The defendant did that action

Conclusion concerning liability (*L*): The defendant is liable for breach of contract

According to legal doctrine, obligation and action are jointly necessary and sufficient for liability. So, the conclusion is true if and only if both premises are true. It is understood that the three judges will resolve disagreements by majority vote and vote separately on each proposition. Judge 1 decides that *O* and *A* are true and therefore that *L* is true. Judge 2 decides that *O* is true, and *A* is false and therefore that *L* is false. Judge 3 decides that *O* is false, and *A* is true and therefore that *L* is false. The doctrinal paradox that arises is summarised in Table 1 below:

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<sup>70</sup>*Ibid.* 44-45

*Table 1: The doctrinal paradox*

	Obligation (O)?	Action (A)?	Liable (L)?
Judge 1	T	T	T
Judge 2	T	F	F
Judge 3	F	T	F
Majority	T	T	F

This shows that according to the majority decision yet contrary to legal doctrine, *O* and *A* are both true, but *L* is false. Yet, if both premises are true then the conclusion should also be true. The overall conclusion differs depending on how we aggregate the votes (viz. if we go by majority, the defendant is not liable (F in the bottom right box); yet for both *O* and *A*, there is a majority of two against one for their truth. If we aggregate in this way, the defendant is liable (top three boxes for *O* and *A* respectively). Hence, we get contradictory conclusions depending on how we count.

This is the doctrinal paradox. The judges collectively are expected to make decisions and provide reasons for those decisions. Their collective judgements are expected to satisfy certain principles of valid legal reasoning. Even if each individual's judgements satisfy those principles, validity is lost in the process of aggregation.

The judgement aggregation problem so described has some bearing on issues of group agency. As the example of the judges illustrates, there are cases in which groups of individuals are expected to arrive at collective judgements about propositions that are more than expressions of personal taste, and where there is an expectation that those judgements can be supported by reasons that the group collectively endorses.

Another example discussed by List and Pettit concerns a committee of scientists, charged with advising the public about climate change.<sup>71</sup> The panel seeks to form judgements on the following propositions:

Global carbon dioxide emissions from fossil fuels are above 6500 million metric tons of carbon per annum (proposition ' $p$ ')

If global carbon dioxide emissions are above this threshold, then the global temperature will increase by at least 1.5 degrees Celsius over the next three decades (proposition ' $\text{if } p \text{ then } q$ ')

The global temperature will increase by at least 1.5 degrees Celsius over the next three decades (proposition ' $q$ ')

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<sup>71</sup>*Ibid.* 45-46

Table 2 below shows the experts' judgements, which are all individually consistent

*Table 2: The discursive dilemma*

	$p?$	if $p$ then $q?$	$q?$
Scientist 1	T	T	T
Scientist 2	T	F	F
Scientist 3	F	T	F
Majority	T	T	F

A majority of scientific experts judge that emissions are above the relevant threshold, a majority judges that if global carbon dioxide emissions are above this threshold, then the global temperature will increase by at least 1.5 degrees Celsius and yet a majority judges that there will be no such increase in temperature. Therefore, the set of propositions accepted by a majority of the scientific experts is inconsistent.

The discursive dilemma consists in the fact that majority voting on interconnected propositions may lead to inconsistent group judgements even when individual judgements are fully consistent. For groups like the judges in the first example and the expert scientists in the second example, it seems reasonable to argue that

judgement aggregation is fundamental to group agency. These also exemplify groups whose function is to deliberate about the truth-value of propositions, and to do so on behalf of some wider community.

List and Pettit take an external view of group agency. Rather than ask what individual members mean when they use *We* language to talk about themselves, List and Pettit ask what outsiders mean when they attribute agency to groups. They are interested in the use of group-level concepts like the supposed preferences, beliefs, intentions or actions of a group to explain and predict group behaviour and to assign to those groups legal and/or moral rights and responsibilities.

List and Pettit draw on the work of Daniel Dennett to distinguish between two stances that one can take when thinking about an organism or a system such as a group agent: *the mechanical stance* and *the intentional stance* (Dennett 1979, Dennett 1981, Dennett 1987, Dennett 2009).<sup>72</sup> To treat the group as an agent is to take the intentional stance towards it. On their account, taking the intentional stance towards groups involves treating them as if they were capable of performing like individual human beings. In which case, the kind of authorship that is attributed to groups must correspond at least to some degree with the kind of authorship that individual human agents typically attribute to themselves and to each other.

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<sup>72</sup>*Ibid.* 11-16

The crucial link between group agency and judgement aggregation comes through List and Pettit's claim that rationality as represented in rational-choice theory is a defining property of agency. List and Pettit identify three kinds of standards of rationality:<sup>73</sup>

1. *Attitude-to-fact standards*. These standards rule in favour of representations that fit with how things are and rule against those that do not.
2. *Attitude-to-action standards*. These standards rule in favour of actions that are required (or at least permitted) by the agent's representations and motivations and rule against those that are not.
3. *Attitude-to-attitude standards*. These standards, described by List and Pettit as particularly important to their argument, require that all the agent's representations and attitudes are mutually consistent.<sup>74</sup>

Consistency in attitude-to-attitude standards matters when the agent's actions respond to the attitudes involved and when the actions of others respond to those attitudes. According to List and Pettit, there follows a "straightforward

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<sup>73</sup>*Ibid.* 24-25

<sup>74</sup>*Ibid.*



breakdown”<sup>75</sup> if an agent tries to act on inconsistent representations or motivations or if others orient themselves by the ascription of such attitudes. The closer representations and motivations are to action, the greater the problem inconsistency becomes. So, if an organism or a system is to be ascribed agency in List and Pettit’s account, it must act sufficiently like the agents described in rational-choice theory (List and Pettit 2011).

This means that it must hold beliefs that can be represented as mutually consistent propositions, and which correspond with the available evidence. It must have desires or goals that can be represented as further, mutually consistent propositions. Finally, it must choose the actions that best serve its desires, given its beliefs. The agent can make mistakes but is expected to continually monitor its thoughts and actions for deviations from rationality and endeavour to correct such mistakes.

This kind of argument makes the problem of judgement aggregation, as illustrated by the doctrinal paradox and the discursive dilemma, central to List and Pettit’s story about group agency. In order to be an agent, the group must organise itself in such a way that it can solve the problem of judgement aggregation using the procedures set out in rational-choice theory.

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<sup>75</sup>*Ibid.*

According to List and Pettit, the solution to the discursive dilemma is the identification of the group agent and its judgements by the results of the judgement aggregation process (List and Pettit 2011). List and Pettit aim to defend the logical possibility of group agents by showing there are rationally defensible procedures for aggregating judgements as a solution to the problems illustrated by the discursive dilemma. These procedures serve to avoid inconsistencies at the group level and are thereby conducive to group rationality. This is part and parcel of their conception of how a group of individuals can form a group agent that has a rational group mind and therefore, can be coherently held morally responsible for its actions.<sup>76</sup>

List and Pettit's judgment aggregation model is a proof of the possibility of corporate agency that is non-reducible such that if there any such corporations in the world they will then count as corporate agents. But it is consistent with that view that there are other types of corporate agents who do not aggregate their judgements in that way who are corporate agents, nonetheless. It is just that List and Pettit's proof does not apply to them. There is more than one way to be a corporate agent, but all that is required for the purpose of this argument is proof that there can be some. We can do this by means of the List and Pettit model, so we have the possibility proof. It just so happens that there are certain types of corporate agent in the world that approximate to this like certain democratic committees. So, we can

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<sup>76</sup>*Ibid.* 19

say there are corporate agents in the world because they approximate to the model we have used in our possibility proof. In other corporations that is not how they decide things.

For example, in very hierarchical institutions where there are huge asymmetries of power and where executive decisions are made on behalf of the institution, the List and Pettit model will not apply. This is a way of doing justice to List and Pettit in the context of a legitimate criticism of a certain model of rationality/rational agency. Their analysis gives us a model (judgement aggregation) of one possible type of group agency. They might agree, and probably should, that there could be other types. If their model does not work, there is another way of getting to their conclusion. For example, ones in which group decisions do not emerge from democratic procedures.

The group qua group has representational states, motivational states and a capacity to process those states, acting on them in the manner of an agent. It is organised to seek the realisation of certain motivations in the world, based on certain representations about what that world is like. When an action is undertaken in the name of the group, this is done to satisfy the group's desires according to the group's beliefs. This is what we mean when we say that groups qua groups conceive of themselves as the authors of their actions.

The group-level view is expressed in a 'voice' the members construct as they go along thereby establishing themselves as a reliable and functioning corporate agent others can do business with. This is how a group of individuals can constitute a group agent, authorising a group-level view they can endorse without resorting to majority voting. This comes at the cost of being prepared to accept the group-level view on an issue that is not responsive in some majoritarian way to the views of the individual members on that same issue. Consequently, there will be occasions when the members will be required to set aside their individual attitudes, recognising that in order to be a coherent and functioning group agent they must endorse group-level positions they may individually reject.

A group agent so described might emerge in cases where the individual members structure their decisions around a set of procedures designed to generate an internally consistent view on some issue that is the view of the group qua group. This emphasises the relevance of List and Pettit's arguments to corporate agents. They can be organised around highly structured and formal decision-making processes which persist for long periods of time, outlasting wholesale changes to the corporations' individual membership.

## *§2.4 Corporations as conversable intentional agents*

Taken together, the CID described by French and List and Pettit's account of the discursive dilemma underpin the argument that the category of group agents includes these hyper-structured corporate agents that exist independently of their individual members. This independence is important since it forms the basis of the argument for the autonomous status of corporate agents (where 'autonomy' is taken to mean 'independent').

Corporate agents are intentional agents insofar as their corporate-level intentions manifest themselves as purposes, goals and beliefs. The arguments concerning the CID explicate how and why these purposes, goals and beliefs can be licensed as corporate purposes, goals and beliefs. The discursive dilemma indicates how and why these corporate purposes, goals and beliefs may diverge from the purposes, goals and beliefs of the individual members. When corporations act in the world they do so in order to fulfil these distinctly corporate purposes, goals and beliefs as opposed to the purposes, goals and beliefs of their individual members.

When people constitute a company as a legal entity, they form a body that acts through its members as if it were an individual agent. They ratify a method of forming common judgements that can direct the corporation in the pursuit of its aims. These judgments will identify the opportunities for advancing the ends, the

relative costs and benefits of different options, the best overall means for realising their ends, and so on. They act as required by their purposes and according to their judgments. In some cases, they may act as a whole or they will authorise a member(s) or a subgroup to act on their behalf and in their name.

To be effective in a way that is analogous to individual agents, an incorporated group must organise itself in such a way that it is reliable in two ways.

First, the corporation follows certain procedures for assessing opportunities, costs, risks, benefits and means to achieve its ends that is available to the group as a whole via its individual members. By following the aforementioned procedures, the corporation forms reliable judgements about the world and its place in it.

Second, the corporation must be reliable in the actions that it sponsors. It will act in such a way that aims to advance its purposes according to its judgments.

So defined, there are many corporate bodies that count as agents that operate as reliable locus of decision and action. They range from any local, small-scale voluntary body that recruits its members with a view to furthering some cause to the largest transnational corporations. The latter is a corporate entity that deploys its resources to further the goal of maximising the profits that accrue to its shareholders as mandated by the board. These corporate bodies come in many different shapes

and sizes and exhibit many different styles. Some may be non-hierarchical and operate in a fully democratic and egalitarian manner. Others may not be.

Most corporations will not be like this, however, being much larger in scale and operating in a strictly hierarchical manner. The functions that shape the purposes of the corporation and enable it to make judgments may be distributed across many sub-organisations that are centrally co-ordinated. What they have in common is the CID (French 1979, French 1984).

We can piggy-back on French's conceptual analysis of the corporation's CID to characterise these entities as straightforward agents insofar as they mostly pursue certain key purposes in a reliable and consistent way according to mostly reliable judgements. They mostly behave in a way that enable us to identify plausible purposes and judgements in such a way that they can be mostly represented as promoting those purposes and guided by those judgements.

In terms of decision theory, the corporate agent has a system that gives us a basis for predicting how its judgements would respond to new evidence and a basis for predicting how it would act in the event of such a response. The corporation has a system that governs how it would update in counter-factual situations, which is grounded in the CID (French 1979, French 1984).

Corporations are best interpreted as having certain purposes, forming certain representations and acting so as to satisfy those purposes according to those representations. To the extent that corporations pursue certain aims and purposes in an executively reliable way according to evidentially reliable judgements, they are straightforwardly representable as agents. Their behaviour allows us to identify independently plausible purposes and judgements such that in general they can be seen as oriented toward the promotion of those purposes under the guidance of those judgements.

Corporations can not only be represented as agents acting reliably in accordance with more less reliable judgments with a view to promoting certain purposes. They can also actively represent themselves as agents by speaking for themselves, for example by speaking through a spokesperson authorised to speak on its behalf, or through a co-ordinated network of authorised spokespeople. The actions, reactions and responses that form our social practices of moral responsibility are a form of conversation (the conversation does not have to be two individual human agents speaking to each other.)

For example, in the case of some corporate harm, the wrongdoing is the first contribution to the 'conversation' (e.g., a business corporation pollutes a river.) Regardless of the intention to cause harm, this behaviour communicates to those who have been wronged the wrongdoer's disregard for their interests. When the



victims respond with anger, indignation or contempt they are exhibiting their interpretation of the wrongdoer's behaviour. The wrongdoer then has the opportunity to respond to these reactive attitudes, for example by issuing an apology, cleaning up the river and promising to not act in this way again. This is one way in which corporate agents can satisfy the interlocutory and conversational requirements of a Strawsonian account of reactive attitudes, with this process acting as a surrogate for the kind of interpersonal interaction between individual human agents envisioned in P. F. Strawson's original argument (Strawson 1962/2008). This is discussed at length in the following chapter.

Typically, those who are authorised to speak on behalf of the corporate entity announce the purposes of the corporate body and the various judgements it makes. In so doing, the spokespeople invite others, be they members of the corporation, other individuals or other corporate bodies to judge them in relation to their judgments, purpose and actions.

There will be some cases where the spokespeople may be required to apologise on behalf of the corporate entity they speak on behalf of. This is because the corporation may fail to live up to its purposes and judgements. One contemporary example is Tony Hayward, the CEO of BP, apologising for the Deepwater Horizon oil spill:

“The explosion and fire aboard the Deepwater Horizon and the resulting oil spill in the Gulf of Mexico never should have happened — and I am deeply sorry that they did. None of us yet knows why it happened. But whatever the cause, we at BP will do what we can to make certain that an incident like this does not happen again.”<sup>77</sup>

There are a number of incentives for the corporation to not fail in this way. There are the legal penalties the corporation may face if it falls short in some way. Other corporate bodies may refuse to enter into contractual relations with the corporation that cannot be taken at its word. Given these incentives we can reasonably expect the actions of the corporate entity to cohere with the purposes or judgements announced by the authorised spokespeople. So characterised the corporation forms intentions which are then communicated by those who are authorised to speak on its behalf.

The public declaration of an intention commits the corporation to that intention which further commits the corporation to act in such a way that is required by that intention. Similarly, when the spokespeople announce that the corporation will act in such a way or such ways that are necessitated by the intentions, they are making certain promises on behalf of the corporation.

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<sup>77</sup>[U.S. House Testimony](#) 17.06.2010. Most recently accessed on 05.07.20.

This approach characterises the corporation as analogous to the kind of individual agent that can speak for itself, that can express intentions and make explicit or implicit commitments, make promises and be held responsible for whether they keep their word. Characterised in this way, corporations are, in effect, persons and can represent themselves as such.

Corporations are able to speak for themselves and offer an interpretation of their own purposes, representations and actions. They are not just interpretable by us as agents, they interpret themselves as agents. They not only interpret themselves as agents, but they also communicate that interpretation to their members and to those who interact with them in this way. Corporations invite their members and those who interact with them to take an intentional stance and to view them from that perspective.

Corporations speak for themselves when they authorise a spokesperson to speak in their name and express the corporate view in this or that domain. These spokespersons will give an account of the corporation's goals, offer a narrative about the corporation, justify its judgements, make sense of its actions and in some cases express remorse or regret, for example by apologising for some of the corporation's actions. In specific interactions with other agents, the authorised spokespeople will declare its intentions, based on certain assumptions, to perform in a given way. In so doing they will commit the corporation in a contractual manner.

Pettit argues that in speaking for themselves, corporations resemble individual human agents and are what he calls conversable agents:

“... they can use words as the means of forming their purposes and representations, not just as signs to report attitudes that are already formed.”<sup>78</sup>

When asked about whether they believe something is the case, individuals ordinarily think about whether they ought to believe it based on whether the available data supports the claim, answering that they believe it, disbelieve it or have no view either way depending on the available evidence (Anscombe 1957/1963). Similarly, when asked whether they intend or desire something, individuals ordinarily reflect about whether the prospect is something they ought to take up in light of their concerns and interests and then reach a judgement about whether they do or do not intend or desire that thing (Anscombe 1957/1963).

The significance of this point is that individuals do not merely report their attitude (as they may give a report on some other individual's attitude.) People do not ordinarily speak about what they desire or believe or intend as they would about a

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<sup>78</sup>Pettit, P., (2017a): 6

third person, speculating about what attitudes they hold and scrutinising their past behaviour and current intentions to help them out with the exercise. It is more likely that they avow that attitude, conveying it in a way that marks them out in their capacity to form, re-form or even un-form what they believe, and desire as required by the available evidence.

When an individual is asked if she is going to the party that evening, she replies, 'I'll be there.' If she is reporting the attitude, as she might report the attitude of another individual, she can explain and excuse her not going to the party in one of two ways. First, by arguing that she changed her mind between the time of reporting and acting, with the change of mind being justified by new evidence or other considerations coming to light, for example if it turns out that someone she strongly dislikes is also going to the party. Second, by arguing that she was misled in some way, for example that she was misled by the evidence about someone else's belief or intention about going to the party. If she avows the belief or intention to go to the party, she signals that she has made up her mind, not merely that she found she was so minded. If she then does not go to the party, she can deploy the excuse of having changed her mind, but she will not be able to do so by appealing to the excuse that she must have gotten her mind wrong or misread her own mind somehow (at least normally.) The latter excuse can only be deployed if she had presented herself as someone reading her mind in the way in which she might try to read the mind of another.

As individuals, we tend to avow beliefs and intentions rather than merely reporting them since by so doing we make them more expensive: we knowingly deprive ourselves of an excuse whereby we can get off the hook in case of failure. By making our words more expensive we also make them more credible. We thereby give ourselves a better chance of persuading others to rely on us and to enter into co-operative relationships with us. We commit ourselves to the attitudes we communicate, and we may go a stage further and commit ourselves in the manner of making a promise to act in a certain way. The individual gives a stronger response to the invitation by saying, 'I promise I'll be there.'

This has the effect of making what we say even more expensive and even more credible. Because avowals and promises serve us so well in forming lasting and meaningful relationships, we often go to some trouble to indicate that we are just reporting on ourselves rather than making an avowal, or just making an avowal rather than a promise. For example, the individual may go to great pains to say of the party, "My intention is to go but I could change my mind." This is importantly different from saying, "I'll definitely be there." Also different is the statement, "I think I am inclined to go because I think it'll be fun, but I could be mistaken."

We strive to get the phrasing of our intentions correct because we value the relationships we enter into, and we find it much harder to sustain meaningful

relationships when we or others repeatedly fail to live up to our or their avowals and promises. Using Pettit's terminology, we count as conversable agents because we understand the meaning of words in common, we base what we affirm verbally on reasons, and we can use words to speak for ourselves (Pettit 2017a). We interpret ourselves in words and we give those interpretations unique first-person authority by investing those utterances with the force that comes with making avowals and promises. We put our reputation on the line by using words to describe our intentions, attitudes and desires in a certain way. If we are seen to be the kind of people who live up to their avowals and promises, then we are subjects with whom others can do business.

We communicate that we form attitudes based on reasons that are relevant to those attitudes. We also give others a reason to expect that we believe the things that we assert and that we will act in line with our expressed intentions. In cases of corporate agency, the corporation's official spokespeople are not merely reporting the attitudes of the individual members as if they had taken a census about those attitudes and then report on what they seem to be. As the discursive dilemma illustrates, it may be the case that many or all of the individual members do not agree with the corporate-level attitudes being expressed. The official spokespeople speak for the corporate agent with the sort of authority that is analogous to that which individual agents assume when they speak for themselves. This authority is

ascribed to the spokespeople by the members of the corporate agent who, in so doing, implicitly or explicitly commit themselves to rallying behind those words.

For example, the appropriate officials of a corporation can enter a contract under which they commit to repay a certain debt according to a certain schedule at a certain rate of interest. Insofar as those officers acted according to the rules and CID of the corporation in accepting and entering into the contract, they made it the case that the corporation formed the required intention and promise.<sup>79</sup> They made up the mind of the corporation. This rules out the possibility that a certain sub-section of members of the corporation may legitimately claim that the officers got their intention and promise wrong, and that the corporation is not obligated to meet the debt.

Individual agents and corporate agents have a powerful motive to authorise the words used in avowals and promises since it enables them to be credible and form productive and meaningful relationships with others.<sup>80</sup> The members of a corporation have an equally powerful incentive to authorise the words of their official spokespeople when they make avowals and promises in the name of the corporation. Unless they authorise those words, and are prepared to live up to those

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<sup>79</sup>Where the rules and CID are endorsed by the members explicitly or implicitly.

<sup>80</sup>Notice that this is the kind of case where what the corporation decides or does arguably goes beyond the kind of mechanical procedure described in the discursive dilemma.



words, in this example by being prepared to meet the debt according to the agreed schedule, then they cannot expect to gain the benefits of incorporation. They cannot expect other individuals and other group agents to take them at their word and co-operate with them accordingly.

Each corporation will have an incentive, shared by its members, to endorse only purposes and judgements (i.e., attitudes) that it can live up to and, given the attitudes it endorses, to take all the actions that its attitudes require. If it fails to perform in that way, if it fails to live up to its word, then the corporation cannot hope to attract others to co-operate with it, for example by taking it at its word and establish contractual relations in some domain or other.

Like individual human agents, corporations are conversable group agents we can characterise as persons: agents that can speak for themselves, give their word in explicit or implicit commitment to others, and be held answerable for whether or not they keep their word.

The rest of this chapter discusses a series of objections to the idea of corporate moral agency. The responses to these objections should be seen as a critical manoeuvre which raise some important questions about how we view agency. The aim is to suggest that both some of those who argue for corporate moral agency and their opponents have a too simplistic view of what it is to be a rational, unitary and

autonomous agent. The responses to these objections give us some reasons to press against traditional conceptions of individual and corporate agents. The gist of the responses being that perhaps individual agents are less unified and autonomous than is normally claimed, and that corporate agents are more unified and autonomous than we might expect.

### *§2.5 First objection: only individuals have agential capacities*

Manuel G. Velasquez's argument that only rational, unitary beings acting on their own beliefs and desires have agential capacities is one way of denying corporate agency (Velasquez 1983). Corporations are not rational and unitary beings.

Therefore, they are not agents. According to this line of argument, only individuals have agential capacities. This is a highly significant objection which is potentially fatal for accounts of corporate agency.

According to Velasquez, agents are the kinds of entities that act through their own voluntary bodily movements or omissions, and they intentionally bring about those actions through those movements or omissions (Velasquez 1983).<sup>81</sup> Velasquez's argument is based on a conception of agency where an action originates in an agent

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<sup>81</sup>Hereafter only 'bodily movements' will be referred to, though we may also be referring to cases where there are 'bodily omissions'.

if that agent directly carries out the bodily movements that constituted the action or that had those effects and if they did so intentionally. That is, the movements are a conscious execution of an intention to perform the action or achieve the effect. So, we have a *mens rea* requirement for agency (the action derives from the agent's intentions) and an *actus reus* requirement for agency (the action derives from the same agent's bodily movements).

The idea of an action originating in an agent is tied to another idea, that individual humans have a certain kind of mental and bodily unity. An agent 'originates' an action in this sense when they (i) form a plan of action in their mind and (ii) execute that intention through bodily movements over which they have direct control. The notion of 'directness' is important because we would normally speak of a body as belonging to oneself. In this account of unified agency, the body over which the individual has direct control is the body they refer to as 'their body' and actions which are said to be their actions are brought about by this body.

Velasquez argues that corporate acts do not originate in the corporation but in the corporation's members (Velasquez 1983). When it comes to the *actus reus* requirement, corporations should not be seen as an entity distinct from its members. Corporations do not act except through their individual members. When it comes to the *mens rea* requirement, individual agents intentionally bring about actions through the medium of their own bodies. An act is only intentional if it is carrying

out an intention formed in the mind of the agent whose bodily movements bring about the act. Corporate policies and procedures do not satisfy the *mens rea* requirement for agency as they are not the corporate mind. They are entirely the products of the intentional actions of individual agents which originate in those agents' minds.

Velasquez's argument is rooted in a view of agency based on mental and bodily unity that only individual humans possess. Intentional agents are 'mental' insofar as they have minds by which they form plans or intentions. They are 'bodily' insofar as they have bodies whose movements they directly control. They are a 'unity' insofar as the agent who forms the intentions also directly controls the bodily movements by which those intentions are executed. It is in virtue of this unity that the individual is said to originate actions, where the actions are carrying out the intentions the individual has formed. It is also in virtue of this unity that the individual's actions can be said to be intentional; intentional action requires a unity of mind and physical instrumentality.

Traditional responses to this individualistic conception of agency argue that corporations are relevantly unitary as given by their internal decision-making structures. (French 1984, List and Pettit 2011). The preceding sections of this chapter have discussed key arguments for the view that corporations are rational, intentional and conversable unitary agents with group minds. They exist 'over and above' their

individual members and are agents in their own right, supervening on their individual members.

We can illustrate how traditional arguments for corporate agency offer a view of corporations as unified agents with reference to this chapter's earlier discussion of corporate apologies. Tony Hayward is authorised to speak on behalf of BP in virtue of their formal CID structure which delineates the roles and procedures necessary to make corporate agency possible. The CEO occupies a role within that structure that permits them to speak on behalf of the 'whole' that is BP. Tony Hayward is not some random person apologising for the Deepwater Horizon oil spill. Analysed thusly, corporations are the kind of unified agents that can apologise, make promises and be trusted to keep their word (by entering legally binding agreements).

There are other ways of responding to arguments like Velasquez's. These ways of responding to Velasquez's argument suggest that there are other ways of thinking about corporate agency. First, it might be argued that Velasquez's argument underestimates the extent to which agency is socially embedded (§2.5.1). Second, we can grant opponents of corporate agency their objection that corporations are not unitary rational beings but respond that their arguments overestimate the unity of individual agents (§2.5.1).

### *§2.5.1 Agency as a social phenomenon*

Velasquez's argument is based on an atomistic view of agency, regarding it as a non-relational property of agents considered in isolation from wider social and physical contexts. It also regards agency as a single unified capacity that is embodied by a stable unitary rational entity. It is the kind of argument that can also be characterised as having a transcendent view of individual agency. That is, it is a form of agency that is unaffected by the social contexts in which that agency operates. Velasquez's theorising disregards the extent to which agency is socially constructed and the exercise of that agency is affected by unequal distributions of power.

There is no form of agency that transcends these social relations. What agents do is a matter of their circumstances which shape what they can and cannot do and what they do and do not care about. What powers an agent has to have an impact on their social world are often the products of history and forces outside of the agent's control. We must be attentive to the putative agent's relationship to the social context and governing normative practices.

Velasquez argument proceeds from a view of individuals as being entirely self-contained entities unaffected by their social setting. We should resist the idea that agency is a single thing, the contours of which we all agree on. There is a variety of forms of agency which are shaped by changing social circumstances. To this extent,

agency is socially constructed, and the individual is not entirely in control of their agential capacities. For example, our values, motivations and judgments have a social origin. Our traditional conception of conscious, rational, reflective and unified agency fails to account for the extent to which we are prone to socially induced unconscious biases whose operations are not readily discernible and our capacities for moral agency are enhanced or disabled by social context in ways which we can fail to recognise and would tend to reject if informed.

Velasquez's approach is based on a conception of agency that is overly idealised, assuming that our practices involve interactions between equally empowered and situated agents. It fails to account for the possibility that some of our cognitive and affective processes are concrete and automatic, some are relatively circumscribed by social contexts, while others are more deliberative and abstract. This means that our psychological dispositions are less inclined to be content neutral or predictable and stable across different situations than we might otherwise normally claim. This raises the possibility that our rational capacities are a product of the interaction between our bundles of psychological dispositions and the social contexts in which they operate.

Velasquez's conception of agency is entirely focused on individual human organisms. It denies the possibility that agential status is shaped at least in part by the arrangement of our social, political and ideological circumstances and by the

uneven distribution of power. It is as if Velasquez conceives of individuals as self-contained, autonomous silos which are entirely in control of themselves.

We cannot understand individual agency except by situating individual agents in broader social contexts. We should avoid the temptation to develop separate accounts of individual agency on the one hand and group or corporate agency on the other hand. Individual agency depends on and is constituted by the social contexts in which individuals are embedded. This is a view of individual agency that presupposes social embeddedness.

#### *§2.5.2 The role of rationality in agential unity.*

One point on which proponents of individual agency and proponents of corporate agency tend to agree is with regard to the role played by the agent's rational faculties when it comes to achieving agential unity. Agents are said to be unified when there is a coherent and consistent relationship between their 'mind' (where plans are formed based on the agent's beliefs and desires) and their 'body' (which enacts those plans to fulfil those beliefs and desires). The basic idea is that if an agent reflects on a desire and rationally wills it, then we can say that the resulting action has been produced by the agent as a whole. Each part of the agent has a role to play in this process, and it is the role of reason to give the agent's final assent to the deliberative proposals.



This is not a compulsory way to think about all agents found in the real world. On the contrary, the role of concepts like 'rationality' and 'intentionality' has arguably been overstated in traditional accounts of both types of agency.

One implication of List and Pettit's argument is that we may observe some individual whose individual choices systematically contravene rational-choice theory. Given the nature and scope of human behaviour this would be unsurprising. It would also be unsurprising if the agent is disinclined to correct those supposed mistakes given the nature and scope of human behaviour. List and Pettit's argument implies that in such cases we must conclude that they are not the author of their own actions and therefore not an agent. This would be mistaken since a great deal of individual and collective human behaviour would seem to contravene rational-choice theory so described.

A further implication of List and Pettit's argument is that unless an individual or a corporate agent has beliefs and desires that are consistent in something like the way that is argued for in rational-choice theory they will either be unable to act at all or will act in such a chaotic way that its actions will be unpredictable. This is the "straightforward breakdown" that List and Pettit argue will result if an individual or corporate agent tries to act on the bases of inconsistent representations and

motivations that are near the “coal-face” of action.<sup>82</sup> An agent acting in such a way has fallen short of the standards of rationality demanded for agency individual or otherwise by List and Pettit.

The mistake here is to proceed from the view that agents make decisions by consulting a pre-existing set of propositions about desires and beliefs and then arrive at their chosen actions as a result of logical deduction. If this is how individuals make decisions, then logical inconsistencies in those propositions will cause the serious problems identified by List and Pettit. This is a very big ‘if’ underpinning what is a modelling strategy used by rational-choice theorists rather than an empirically grounded view of human psychology.

In List and Pettit’s argument, there is a very close relationship between rationality and agency. Rational, consistent and predictable decisions and actions are an important feature of agency so described. This approach fails to acknowledge that we can ascribe agency to individuals by analysing behaviour that is not easily captured by rational-choice theory. We find that there are also associations between emotional states and actions that are not obviously rational, which may even be irrational. This observation is based on a particular way of interpreting rational choice theory namely, as a descriptive theory vulnerable to empirical refutation.

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<sup>82</sup>List, C. and Pettit, P., (2011): 24-25

For example, an agent *X* desires revenge after another agent *Z* wrongs them. *X*'s desire for revenge is not abated by the likelihood that acting on this desire will harm them as well as harming *Z*. We may have good grounds for predicting that *X* may act in this way even if we believe (and *X* believes) that such behaviour is irrational. If we then observe *X* behaving in this way, we do not have to conclude that they are not in control of their actions or that they are not an agent. They can be the author of an irrational act. This exemplifies human-like agency since it is as characteristically human-like behaviour as the kind of behaviour accounted for in rational-choice theory.

What we should take from this is that irrational behaviour makes sense and can be 'owned', but only against the background of behaviour that is broadly rational. The key point being that List and Pettit overemphasise the extent to which agents of any kind are rational and unitary. One way in which the rational-choice paradigm can be criticised in the context of corporations is by arguing that much corporate agency is irrational in the sense that it does not exemplify the CID. For example, because the corporation is corrupt, or otherwise dysfunctional.

Also, if corporate agency is analysed solely in terms of judgment aggregation according to rational-choice theory, then this leaves little conceptual space for the attribution of emotional states and agency to individuals and to corporations. This is

an interesting observation though accounts of corporate agency do not rest on corporations having emotional states at the group level. As the two following chapters will discuss, it is sufficient that corporations' CID and decision-making structures supervene on their individual members who do have emotional states.

## §2.6 *Second objection: the autonomy objection*

Velasquez's second objection relates to the extent to which agents are autonomous. (Velasquez 1983, Rönnegard and Velasquez 2017). According to this line of argument, when it comes to understanding corporate agency we must pay strict and exclusive attention to individuals' choices, actions, motivations, intentions, and values.

Velasquez is responding to a particular way of arguing for irreducible corporate agency which runs as follows. When a corporate member acts, the corporation may be said to have performed their act much as when an individual's bodily limb moves the individual is said to have moved their limb. So, the CID structure is a kind of group mind directing the actions of the corporation's individual members, which are its 'limbs' (French 1979).

Velasquez argues that this approach to corporate agency is misguided. He presents an account of corporate life that rests on individuals driving corporate behaviour and shaping corporate priorities. Even in cases where there is a high degree of co-ordination, there is nothing 'over and above' the agency of the individual members of the corporation.

Velasquez argues that a corporation, unlike a body, is made up of autonomous individuals (Velasquez 1983). Velasquez's view of autonomy within a corporate setting is closely linked to his view of what it is to be a unitary, rational agent.

According to Velasquez, the individuals who comprise the corporation are autonomous because their minds and their bodies are under their direct control rather than the direct control of the corporation (Velasquez 1983). In corporate settings, action does not originate in an action belonging to the corporation to whom the act is attributed, but in bodies belonging to those individuals whose direct movements constituted or brought about that act that is then attributed to the corporation.

Corporations do not originate acts in the manner required for attributions of agential capacities i.e., by directly moving one's own body. Nor do they have control over the bodies of their individual members. Corporations can have policies and procedures which their members are expected to follow. But these members are autonomous individual agents who directly control their own minds and bodies. They can think

for themselves and refuse to carry out the direct bodily movements necessary to bring about the corporate act. In other words, an individual can refuse to enact a corporate policy they disagree with. So, there is a significantly different relationship between the mind and the body in individual and corporate cases. In the latter, there is a lack of autonomy because the corporation's 'limbs' (its individual members) can refuse to carry out the 'orders' coming from its 'mind' (the CID structure and the corporation's policies/procedures).

Velasquez conceives of agency as being confined to individual human minds and bodies, transcending the social setting the individual finds themselves in. A key reason why Velasquez refutes notions of corporate-level agency is because he thinks individual agents always act according to beliefs and desires which originate in their minds. What they do is always up to them and if the corporate setting requires them to do something they disapprove of they can, as autonomous agents, refuse to do so. Therefore, individuals always act qua individuals, even in highly structured and formal corporate settings. If they comply with the policies and procedures of their corporate setting it means they are freely choosing to do so.

This exaggerates the extent to which individuals acting in corporate settings are free to act otherwise. We sometimes struggle to explain why we do what we do. Our actions are affected by social contexts we are embedded in and a degree of automatic processing that operates below the level of conscious awareness. The upshot is that

we should be chary of approaches to moral agency that overestimate the role of individual autonomy. It may be that some actions are undertaken freely while at other times they are not. Sometimes we are free to act differently, while at other times we may be less so.

There are at least two ways to respond to the autonomy objection. The first is to do with the nature of corporate life (§2.6.1). The second is to do with the relationship between individual and corporate agency (§2.6.2).

#### *§2.6.1 The nature of corporate life*

One response to Velasquez's objection is to argue that he paints an overly optimistic picture of how much individual autonomy there is in the corporation. He underestimates how difficult it may be for individuals to refuse to carry out the corporate acts they disagree with.

Velasquez's argument is constructed around a conception of a self-contained body that the individual is fully in control of. Such control, and thereby autonomy, is part and parcel of Velasquez's conception of what it is to be an agent. In Velasquez's argument it is as if individual agents are like silos.

Velasquez's argument disregards the extent to which individuals introject the culture and values of their corporate environment. Consider the cases of individuals who spend their entire working lives in corporate settings which have a very strong, clear and distinct ethos. Also consider the extent to which the members of these corporations tacitly internalise their corporate values, especially those who have spent a great deal of their lives in those institutions. This suggests that Velasquez's view of individuals' mental autonomy is over-stated, disregarding how far our beliefs and desires are shaped by the corporate settings we inhabit.

In cases of corporate wrongdoing, individuals may try to defend themselves by claiming they were implementing corporate policies. Velasquez would reject this defence, arguing that each individual forms their own plan of action and acts it out; they are not the corporation's plans or actions (Velasquez 1983). Whatever the action is that the individual performs, it is their action in the form of a bodily movement that fulfils an intention they have formed in their own mind. The individual in a group setting is always free to think and do otherwise. For example, they can disagree with corporate policies and refuse to carry them out. They can try to change corporate policies. They can resign if needs be. For this reason, agency cannot be transferred to a third party; it always tracks back to individuals (Velasquez 1983).

Velasquez presents us with an atomistic view of corporate life that presents an exaggerated and idealised version of individuals. It is as if there is nothing more to



corporate activity than individuals acting in splendid isolation. It completely disregards the impact of immaterial but extremely powerful and effective phenomena such as hierarchy, policy, or culture. It is as if the behaviour of individuals in a corporate setting is not shaped by such things. Individuals are also presented as utterly unaffected by evanescent phenomena like relationships or social bonds and not at all reliant on practical support from their colleagues. In the story told by Velasquez these self-contained individuals somehow manage to coordinate their behaviours so well in a corporate setting without seeming to deal with other individuals in any meaningful or lasting way.

Velasquez's hyper-individualistic approach fails to do justice to how phenomena such as culture, hierarchy, relationships, corporate policy, family commitments and social bonds and expectations scaffold agential capacities of the individual and the corporation. Whistleblowers are extremely brave individuals who sometimes risk everything including their own personal liberty to expose and put a stop to corporate malfeasance. The punishments meted out to whistleblowers understandably give others pause for thought when it comes to speaking out. It is also wrong to think that people can and will simply walk out of jobs if they are asked to do something they do not approve of or if there are rules that they think are unfair. There is a very basic reason why this does not happen as easily as Velasquez implies, which is to do with economic precarity.

Let us consider the case where the individual is part of a corporation that is causing harm. According to Velasquez, since they are autonomous, they can refuse to enact the policies they disagree with and/or quit their job. The previous chapter's discussion of the nature of corporate life illuminates why this may not be quite so straightforward.

There are also epistemic factors we should consider. It is easy to paint scenarios involving easy cases to do with extreme and egregious examples of corporate wrongdoing where we can say people know that what they are doing is wrong. There are far more difficult cases that operate at the margins where it is less clear that people are being required to do something that is wrongful. There are also epistemic factors in play in such scenarios. For example, if a corporation is structured such that its members lack access to sufficient information about their options or the effects of their choices. It may be the case that some individuals genuinely do not know how their actions in a corporate setting contribute to serious harms that are being done. It may also be the case that those individuals are genuinely not at fault for their lack of knowledge. This gestures towards the possibility that agential capacities and the extent to which individuals are autonomous are affected by asymmetries of knowledge.

There may be cases where the individual can clearly see the part their actions play in the 'bigger picture' of corporate harms or in cases where individuals are bullied and

harassed. In such cases, instead of refusing to comply what is perhaps more likely to happen is that people quietly get on with their jobs while looking for somewhere else to work.

#### *§2.6.2 The relationship between individual and corporate agency*

We should aim to develop a view of agency as a distinctly social phenomenon. For this reason we should reject atomistic accounts of individual moral agency like those of Velasquez, preferring instead accounts which seek to understand individuals as they act, and are responsible for those actions, in a social context.

In order to make sense of this expectation we should be specific, clear and consistent about the states and capacities that are being attributed to the corporation qua corporation as opposed to the individuals that compose it. A problem with the autonomy objection is that it implies there is a clear and distinct sense in which the individual acts under their own auspices at all times even when they act in a corporate setting.

When analysing the actions of individuals in a corporate setting, we should draw a distinction between the corporate setting as providing an enabling structure for their

actions and the corporate setting as a 'but for' structure.<sup>83</sup> When we characterise a corporation's structure as being a 'but for' structure in the context of corporate wrongdoing we mean that it is constitutive of the kind of wrong the individual(s) did that they did it as part of this corporation.

One example is the case where an individual is breaking the speed limit while driving their company car. There is one scenario where they are speeding at the weekend while visiting a family member and another scenario where they are speeding during the working week while visiting a company client. The corporation is involved in both cases, but they are subtly different actions when it comes to the agency question. In the first scenario the individual is acting of their own accord though the corporation provides an enabling structure by providing them with a company car. We can describe this as an instance of speeding that has been enabled by the corporation. In the second scenario they are doing it under the auspices of the corporation so 'but for' the corporation they would not be able to act in this way.

Analysing the individual's action in the context of a 'but for' structure helps us understand what the social meaning of that action is given the kind of instance of wrongdoing it was. It presents a conception of agency wherein those being held to

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<sup>83</sup>A 'but for' structure is one where were it not for the corporate structure it would not have been possible for the individual's actions to occur.

account for their actions do not only include the individual perpetrators of the wrongdoing.

### *§2.7 Third objection: corporations and AI revisited*

One of the problems with the theoretical debate about corporate agency is that it is invariably framed in all-or-nothing terms. While those who defend corporate agency accept there are also individual agents, their opponents deny that corporations are agents *tout court*. So far as they are concerned, there are only individual agents and, at best, corporations are an artificial form of agency (so ‘unreal’).

We can revisit the analogy between AI and corporations from the previous chapter as a useful way of responding to this objection. This analogy contains two important insights into the agential capacities of corporations. The first is to do with important parallels between artificial and electronic agents (like AI) on the one hand and corporate agents (like business corporations) on the other hand (§2.7.1). The second is to do with how corporations, like AI, are a human invention which, as we fear will be the case with AI, is beyond the control of any individuals or groups of individuals. (§2.7.2).

### *§2.7.1 Parallels between artificial agents and corporate agents*

Corporations and AI are both ‘artificial agents’ i.e., autonomous entities which act upon and alter an external environment, directing their activity towards achieving goals. Corporations are constructs designed to pool information, intelligence and other resources to engineer wider efficiencies and to generate collective outcomes. These outcomes transcend the input that generated them. Corporations are meant to be different from, and more than, the sum of their parts. To this extent, they are irreducible entities that exist ‘over and above’ their individual members.

When people incorporate for any purpose(s) they form a body that acts through its members as if it were an individual agent. We can take them to form reliable judgements or representations about the opportunities at hand or the best means of realising those purposes; and they act more or less reliably to satisfy their purposes according to their judgements. As well as being rational, these corporations are independent of their individual members. Like AI, corporations are autonomous agents able to process information about a complex environment and act in order to realise their goals.<sup>84</sup>

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<sup>84</sup>There is also a disanalogy between the agential status of corporations and AI. Corporate agents are different kinds of agents from robots and non-human animals. They are not biological organisms (like cats and birds), and they are not just electronic systems (like the little robot).

Corporate agents operate on the basis of psychological adjustments among their members rather than the basis of any natural or mechanical infrastructure, though they may require some. They are similar to AI in that they fit the functional profile of agents previously discussed. This tells us that there is not a straightforward schema of what it is to be an agent, and that agential capacities may be a matter of degree rather than kind. It may be the case that corporate agents are an unusual and artificial form of agent. In which case, they are not unique in that respect.

#### *§2.7.2 AI and corporations as autonomous agents*

One of the preoccupations of the AI community has been trying to figure out a way of getting machines to mimic the human mind. This is a distraction because machines that are capable of learning do not have to be capable of thinking like humans. All they require are vast amounts of data, which they quickly process searching for patterns on the basis of which they make inferences, and then for further patterns in their own failures to draw the optimal inferences. This is how they learn from their mistakes, without stopping to reflect on what it really means to learn or to make a mistake.

The notion of a machine that rapidly surpasses human capabilities, and then surpasses the capabilities of other machines, and then keeps going, is vertiginous.

We already inhabit a world populated by powerful corporations that are artificial thinking machines insofar as they are designed to be capable of making decisions for themselves. Information goes in and decisions come out that are not necessarily reducible to the inputs of the individual members.

Analysis and application of corporate decision-making has been one of the streams of AI history.<sup>85</sup> Herbert A. Simon provided a framework through which all activity in a corporation could be understood using a matrix of decision-making (Simon 1947/1997). While working for the RAND Corporation, Simon tried to model human problem-solving in terms that a computer could put into operation. To do this he borrowed elements from the framework that he had developed in his study of decision-making processes in corporations. To get AI to think 'like' a human, Simon made it think like a corporation (Simon 1947/1997). This tradition continues with many contemporary AI systems seeking to replicate the decision-making processes of corporations rather than mimic human thinking.<sup>86</sup>

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<sup>85</sup>[Herbert A. Simon Nobel 1978 | Do we understand human behaviour?](#) UBS Nobel Perspectives Most recently accessed on 21.03.21.

<sup>86</sup>Kate Crawford advances the important argument that AI is neither artificial nor intelligent (Crawford 2021). Crawford argues that AI systems are embodied and material insofar as they are made from natural resources, fuel, infrastructures, logistics, histories, classifications and the labour of humans. On this last point it is important to note that seemingly autonomous AI algorithmic systems (like the mechanics of self-driving cars and searching for online images) far from being autonomous in fact depend on, among other things, millions of poorly paid workers enduring appalling working conditions, often in the Global South, manually processing data (Crawford 2021, Jones 2021). Crawford further argues that AI systems are not rational, autonomous or able to discern anything without extensive computational training with large datasets or predefined rules and rewards. This way of analysing AI is consistent with this chapter's view that the capacities of AI systems, like those of individual agents and corporate agents such as business corporations, depend on a much wider set of political, economic and social structures. To the extent that AI systems are designed to serve existing dominant interests, they, like other entities with agential capacities, are a registry of power relations.



Corporations develop to the extent that it is unimportant who the individual members are, it is the corporation they act through that matters in terms of its function, incentive structure design and so on. Insofar as corporations do act, their agential capacities, their manner of doing so and their power to do so is out of the control of any of their individual members. These corporations require individuals to act through, but the individuals themselves do not necessarily have a meaningful impact on the higher-level features of the corporation. So, it is not just that corporations, like AI, have agential capacities; they have autonomous agential capacities, i.e. agential capacities that can be independent of individual human agents to some extent.

## *§2.8 Conclusion*

There are influential theorists who argue forcefully that corporations are not agents, only individual humans are agents. According to these theorists, the actions of corporations can be reduced to the actions of their individual members (Wolf 1985, Velasquez 1983).

This chapter has presented the standard response to view which argues that corporations are highly structured and integrated reasons-responsive conversable

intentional rational agents (French 1979, French 1984, List and Pettit 2011, Pettit 2017a, Pettit 2017b, Pettit and Schweikard 2006). Where these reasons are moral reasons, their agential status is coextensive with their status as moral agents. Such is their structure and degree of integration that corporate agents are logically prior to and independent of their individual members.

This chapter has raised some important questions about the rational, unitary and autonomous nature of agents, whether individuals or corporations. In responding to these questions this chapter has presented a socially embedded picture of agency in the context of corporate life as being richer and more nuanced than traditional approaches acknowledge. This chapter has argued that corporations are bona fide agents, and that the basic criteria for agency are shared between individuals and corporations, and in each case depend on the social embodiment of the entities in question.

What follows is a consideration of the downstream consequences of this conception of corporations as irreducible moral agents. The next two chapters are concerned with the normative status of corporations, their fitness for attributions of moral responsibility and the different ways in which we might hold them to account for their wrongdoing. Chapter Three discusses how we can hold corporations morally responsible without blaming them. Chapter Four puts blame back in the picture and

examines the instrumental and non-instrumental value of blaming practices in corporate cases.

## **Part II Responsibility, Blame and Forgiveness**

## Chapter Three: Responsibility Without Blame

### *§3.1 Introduction*

In standard accounts of corporate agency, agential capacity is often linked to a putative agent being responsive to reasons (French 1979, French 1984, List and Pettit 2011). Where moral agency is not seen as coextensive with agency, additional arguments are made where capacity for moral agency is linked to an agent being responsive to moral reasons. Regarding the fitness of corporate agents to be held morally responsible, List and Pettit introduce two distinctions. The first distinction is between recognition of moral reasons and appropriate responses to those reasons. The second distinction is between ability and reliability. A candidate for moral agency might be able to recognise moral reasons, or to respond appropriately, without being reliably disposed to exercise those abilities.<sup>87</sup>

This gives us a basic taxonomy of criteria for moral agency, of which the least demanding moral criterion is the ability to recognise moral reasons. Next is the ability to respond appropriately to moral reasons. The most demanding moral criterion for a presumed agent would require recognition of moral reasons and

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<sup>87</sup>List, C., and Pettit, P., (2011): 158

appropriately respond reliably to those moral reasons for acting (or not acting).<sup>88</sup>

This thesis concentrates on the most demanding of these criteria because it is controversial, it is interesting (in part because it is controversial) and because it is the most demanding. If corporate agents can satisfy the most demanding moral criterion then we can be reasonably confident that corporations are in the moral realm.

Consequently, this chapter focuses on the persistent concern that corporations are not moral agents. That is, while corporations have some kind of agential status insofar as they are like algorithmic processing systems that respond to their external environment, they cannot be said to respond to moral reasons. This is because they lack the kind of inner life that enables them to sympathetically identify with those moral reasons. Therefore, we should take a purely objective stance when dealing with corporations. This is consistent with them being practically (or legally) responsible for their actions, though not morally responsible. This is a way of theorising about corporations that views them as analogous to sociopaths, a line of argument associated with Susan Wolf (Wolf 1985, Wolf 2013). It also relates to Peter F. Strawson's distinction between cases where we believe the entity we are dealing with is generally an appropriate target of our reactive attitudes and those where it is not (Strawson 1962/2008).

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<sup>88</sup>*Ibid.* Chapter 7 provides a full discussion of the normative status of group agents, especially with regard to conditions for moral responsibility in corporate cases.

Wolf and Strawson draw a series of very strict distinctions that create unnecessary dichotomisation between being/not being responsible and being/not being an appropriate target of our reactive attitudes. This chapter aims to demonstrate that rich conceptual territory lies in between those dichotomies. It does so by developing and extending Nicola Lacey and Hanna Pickard's clinical model of responsibility without blame to include corporations (Lacey and Pickard 2013).<sup>89</sup>

This chapter begins with a discussion of the three main types of responsibility. (§3.2). This is followed by an overview of the current debate in the literature about corporate moral responsibility (§3.3).

Susan Wolf's has a two-part argument against corporate moral responsibility. The main part of her argument is based on an analogy between corporations and sociopaths (Wolf 1985, Wolf 2013) (§3.4). One way of responding to this is to argue that we can nonetheless bring corporations into the moral realm by developing and applying Lacey and Pickard's clinical model (§3.5). We can justify the application of the clinical model to corporate cases in two ways. The first is the functional benefit it brings by allowing us to make sense of corrections for historic injustices (§3.6). The second is the instrumental/therapeutic benefit it brings insofar as it enables corporations to improve their behaviour (§3.7). The second part of Wolf's argument

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<sup>89</sup>Hereafter the use of the phrases clinical or 'clinicised' model refer to the notion of responsibility without blame.

against the moral responsibility of corporations is her rejection of the CID structure as a locus of moral agency. The functional and instrumental/therapeutic justifications for the application of the clinical model each show how the CID structure is, contra Wolf, an important locus of corporate moral agency (§3.6, §3.7).

There is a second way of responding to Wolf's analogy. The model of corporate social responsibility (CSR) may serve as a surrogate for the kind of good will required in a Strawsonian account of moral responsibility that is a necessary condition for bringing an agent in from the purely objective stance to the reactive stance (Strawson 1962/2008) (§3.8). If the CSR model is such a surrogate then we have a further reason why we can bring corporations into the moral realm. There is coda which considers sceptical concerns about the CSR model based on the phenomenon of 'window-dressing' (§3.9). The chapter concludes that notwithstanding the various benefits of applying the 'clinicised' model to corporations, there are compelling reasons why we may wish to put blame back in the picture (§3.10).

### *§3.2 Different types of responsibility*

Susan Wolf identifies three types of responsibility: causal, practical and moral responsibility. She argues that corporations are only causally and/or practically



responsible. Viewing them as such serves a forward-looking instrumental function insofar as it can bring about the desired changes in corporations' conduct (Wolf 1985, Wolf 2013).

Causal responsibility applies to those cases where we are only concerned with a primary cause of a situation. For example, the harm done when an avalanche destroys a cabin. It is unintelligible to attribute moral responsibility to the prime cause. We may observe that the avalanche is responsible for destroying the cabin but in so doing we do not blame the avalanche in a moral sense. If we say something like, 'Blame the avalanche' we are simply observing that the avalanche is the primary cause of the event. Here 'blame' is shorthand for 'the avalanche did it.'

To be practically responsible normally presupposes causal responsibility. To be practically responsible means an individual must be able to foresee the consequences of an action and incorporate such expectations into their deliberations about whether to proceed (Wolf 1985). The individual assumes the risks associated with the action they perform, either bearing the damages or reaping the rewards. Wolf gives the example of being practically responsible for hitting a ball through a window she was playing near because she should have foreseen the likely consequences of her actions.<sup>90</sup> In this scenario, it would be reasonable to present the bill for repairing the

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<sup>90</sup>Wolf, S., (1985): 276

window to the person practically responsible for the damage that has been caused.

In this scenario we can also see that an agent can be causally and practically responsible for the outcome. She is not morally responsible for the broken window since she cannot be blamed in this way for playing with a ball on a public playing field specifically designed and built for that purpose.

We see how practical and moral responsibility come apart when we consider scenarios where we regard agents as practically responsible for actions that are not their own. For example, when visiting a friend's house, a young child breaks a cup. It seems reasonable to offer to pay for the damage as the child's parent or carer, while remaining confident that one cannot be blamed in a moral sense for being negligent. Nor is the parent or carer causally responsible for the damage; they offer to pay on behalf of their child. The child is causally responsible while the parent assumes practical responsibility. It could also be the case that the child is morally responsible for their actions, for example if they broke the cup on purpose knowing it would upset someone they have always secretly disliked. This would depend at least in part on the age of the child since we do not usually view very young children as morally responsible agents. In corporate settings there is an argument for classifying some of these cases of vicarious responsibility as moral because the 'I' held responsible is constitutively part of a 'we', one representative of whom did it.

When we say that an agent is morally responsible for some outcome, we mean something more than  $X$  is causally connected to  $Y$ . This is a notion of responsibility in a far deeper sense than causal or practical responsibility. Wolf explains moral responsibility as follows:

“To claim that an agent is morally responsible is to claim that he or she is liable to deep blame or praise, that he or she is capable of being guilty or heroic, that he or she is capable of deserving credit or discredit for what he or she does.”<sup>91</sup>

In Wolf’s argument, moral responsibility means that an action reflects deeply on the agent in question. There is a significant difference between an avalanche destroying a cabin and person  $A$  breaking a glass because they want to ruin person  $B$ ’s day. Destroying the cabin does not reflect on the avalanche in the same way that  $A$ ’s actions reflect on them. We cannot blame the avalanche for destroying the cabin in this deeper sense since the avalanche did not mean to do it. The avalanche cannot act out of spite by intending to destroy the cabin in the way that  $A$  intended to ruin  $B$ ’s day.

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<sup>91</sup>*Ibid.*

Moral responsibility is to do with a kind of accountability for meeting the standards of behaviour we impose on each other out of mutual respect and concern. This is why *A*'s conduct discredits them. It presents *A* in a bad light because they have behaved with a lack of respect or concern for *B*'s welfare. This gestures towards an important way of analysing attributions of moral responsibility and morally reactive attitudes as a distinctly social phenomenon insofar as they are about how we live with ourselves and each other.

This diverges from the approach taken by theorists like Wolf. Discussions about what makes an entity an appropriate candidate for being morally responsible are mainly to do with what makes them 'capable' of deserving credit or discredit. This capability is, so far as Wolf is concerned, to do with what is going on 'inside' the putative agent. They are only in the moral realm if they have what she terms the relevant kind of inside (Wolf 1985, Wolf 2013).

### *§3.3 An overview of the current debate in the literature*

When it comes to attributions of moral responsibility there are two main traditions in the literature. The first is methodological individualism, which analyses and explains social phenomena in terms of subjective individual motivation. When it comes to blaming corporations for their wrongdoing, we should reject the possibility

of attributing moral responsibility to corporations as distinct from their individual members. For individualists, talk of blaming corporations *per se* is mistaken since only individuals are responsible moral agents (Velasquez 1983, Velasquez 2003, Wolf 1985, Wolf 2013, Hasnas 2017). According to methodological individualism:

- i. Each individual member of a corporation who freely and intentionally acts is an agent whose actions or failures to act help bring about some state of affairs.
- ii. Each individual human agent is morally responsible for their role in bringing about this state of affairs.
- iii. Each individual human agent is blameworthy for their role in bringing about that state of affairs if it is bad or harmful.

This is to be contrasted with the social view. Proponents of this view would agree with points (i) to (iii) above but make two further claims:

- iv. The corporation can bear a moral responsibility for its actions that is over and above the moral responsibility of its individual members.
- v. Therefore, in addition to blaming individuals, it is coherent to apportion blame to the corporation *qua* corporation because of this additional and separate moral responsibility

There follows a discussion of a case study that illustrates what is at stake in the debate.

### *§3.3.1 Case study: the Herald of Free Enterprise, 1987*

The tragedy of the sinking of the *Herald of Free Enterprise* in 1987 features heavily in the literature about corporate moral responsibility, cited by individualists and proponents of the social view alike (Pettit 2007, List and Pettit 2011, Hasnas 2017).

Nearly two hundred people drowned in this tragedy. Although the negligent employees and P&O European Ferries (Dover) Ltd, the parent company that operated the ferry, were subject to certain civil liabilities they could not be convicted of manslaughter. A subsequent enquiry found that there were serious malpractices at the corporate level. Namely, a prevailing corporate culture of sloppiness with poor routines of checking and management. The same enquiry failed to identify individuals who were seriously enough at fault to be prosecuted (Colvin 1995).

The tragedy is presented here to demonstrate how we can address a particular limitation of methodological individualism to do with what Philip Pettit calls a

responsibility deficit.<sup>92</sup> Pettit is referring to a scenario wherein a corporation's actions lead to serious, possibly fatal harm but no individual member, or combination of members, has acted in such a way that they can be held responsible for the harm done either individually or as a group. This leads to what he calls "... a deficit in the accounting books."<sup>93</sup> Proponents of the social view argue that a major advantage of their approach is that it resolves the responsibility deficit by attributing moral responsibility to the corporation (List and Pettit 2011).

John Hasnas argues that we should eschew accounts of corporate moral responsibility as an unnecessary safeguard against what he calls the "phantom menace" of the responsibility deficit.<sup>94</sup> Hasnas sees the failure to hold anyone responsible for the tragedy of the *Herald of Free Enterprise* as a legal anomaly rather than a deficit in moral responsibility. This has since been addressed with the change in the law brought about by the Corporate Manslaughter and Homicide Act (2007).<sup>95</sup> The range of legal penalties that corporations now face are such that Pettit's concern that the absence of corporate moral responsibility will lead to a responsibility deficit incentivising irresponsible behaviour is misplaced. There are now sufficient well-publicised penalties and sanctions in place to incentivise individuals and corporations to conduct themselves appropriately. According to Hasnas, even in

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<sup>92</sup>Pettit, P., (2007): 192-193, 194

<sup>93</sup>*Ibid.* 194

<sup>94</sup>Hasnas, J., (2017): 94, *passim*

<sup>95</sup>*Ibid.* 97

cases where there continue to be legal anomalies which prevent corporations from being held practically responsible for their actions, a purely metaphorical notion of corporate moral responsibility will do the necessary work of disincentivising corporate misdeeds (Hasnas 2017).

Hasnas concedes that people routinely anthropomorphise corporations by using the language of praise and blame, especially when things go wrong. This is no less damaging to the corporation's financial bottom line as literal moral responsibility would be. It does not matter if corporations really are morally responsible for what they do. So long as we talk about them as if they are, they will fear the reputational damage caused by such talk. This is because the market mechanism works such that the financial risk of having their reputation destroyed is severe enough to incentivise corporations to curtail any wrongdoing by their employees. It is irrelevant whether attributions of moral responsibility are literal or metaphorical. Either way the damage will be done and the fear of going out of business will be enough to force corporations to toe the requisite moral and legal lines.

What Hasnas's optimism fails to explain is why corporations continue to act wrongly if, as he claims, these checks and balances are firmly in place. We could just as easily argue that free market capitalism is the problem, not the solution. It was the absence of oversight and regulation of the ferry industry that helped bring about the sinking of the *Herald of Free Enterprise*. The fear of reputational damage did not



prevent the corporation that owned the *Herald of Free Enterprise* from putting so many lives at risk. It is more likely to be the case that the fear of reputational damage motivated them to obfuscate their role as the scale of the tragedy unfolded.

Pettit calls the scenario where no one is or can be held to account a responsibility deficit.<sup>96</sup> Susan Wolf uses the phrase “leftover blame”<sup>97</sup> by which she means the moral responsibility we want to ascribe to the individuals whose actions were involved but are unable to.<sup>98</sup> Faced with the choice between attributing the blame to the corporation they are members of or withdrawing the blame and reassessing the case as one where non-moral forces produce regrettable results, Wolf argues that we should choose the latter option.<sup>99</sup>

Manuel G. Velasquez takes a similar approach to Wolf, referring to cases where there is a responsibility deficit as “... an unintentional happening.”<sup>100</sup> By his lights the corporate act is one for which no one is morally responsible since it is the unintentional result of the interlinked and co-ordinated actions of several corporate members, none of whom knew about or intended that outcome.

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<sup>96</sup>Pettit, P., (2007): 192-193, 194

<sup>97</sup>Wolf, S., (1985): 273

<sup>98</sup>It should be noted that Manuel G. Velasquez and Susan Wolf do not explicitly address this event. Their arguments are applied to this case study.

<sup>99</sup>Wolf, S., (1985): 273

<sup>100</sup>Velasquez, M. G., (1983): 10

For Wolf and Velasquez, the sinking of the *Herald of Free Enterprise* as described here would be an example of an unintentional happening caused by non-moral forces.

We could characterise their view as being that sometimes very bad things just happen. For Pettit, it is an example of what happens when there is a responsibility deficit. The view Pettit goes on to develop addresses this issue in a way that is radically different from Wolf and Velasquez. As discussed in the previous chapter, List and Pettit's conception of the discursive dilemma postulates a loci of corporate agency that is 'over and above' the corporations' individual members. Therefore, in such cases we do not need to accept that sometimes bad things just happen.

Cosmically speaking, perhaps some things do just happen, but we should not explain this tragedy in this way. We can attribute moral responsibility to the corporation per se either in addition to or instead of attributing moral responsibility to its individual members thereby addressing the responsibility deficit.

For individualists like Wolf and Velasquez, no cosmic injustice is perpetrated if we do not ascribe moral responsibility for corporate harms (Wolf 1985, Wolf 2013, Velasquez 1985). For them, it is often the case that unfortunate events occur for which there are only causal but no moral responsibility ascriptions to be made. For example, if a bolt of lightning kills someone during a storm. This is a non-intentional event and as such the only responsibility-attributions to be made are of the non-moral variety, i.e., causal and, in some cases, practical responsibility. Similarly, when harm is caused in the course of satisfying corporate goals it may be the case that no

one within the corporation intended the resulting harm (nor had an obligation to prevent such harm). If that is the case, there is no moral difference between the lightning bolt and the corporation that brought about the harm. Neither is morally responsible.

There are four related problems with accepting the idea of 'leftover blame'. First, it renders powerful entities even more unaccountable for their actions. Second, it fails to respect corporations by not taking their wrongdoing seriously. Third, it fails to respect and take seriously those who have been affected by their wrongdoing. Fourth, it may incentivise individuals to organise themselves into groups that cause serious harm but do so in such a way they avoid being held to account for their wrongdoing. Terrorist groups, organised crime syndicates, religious institutions, states and some business corporations are examples of corporate entities that would benefit from 'leftover blame.'

There is a third conceptual route through cases like these which stands between blaming individuals and blaming corporations. That is, to hold corporations responsible without blaming them. This approach is based on Lacey and Pickard's theoretical and clinical model for treating individuals with disorders of agency like sociopathy (Lacey and Pickard 2013). It is also based on a recurring trope in the academic literature which views corporations, especially business corporations, as being analogous to sociopaths (Wolf 1985, Wolf 2013, Bakan 2005).

### §3.4 *The analogy between corporations and sociopaths*

The first part of Susan Wolf's argument against corporate moral responsibility is based on an analogy between corporations and sociopaths (Wolf 1985, Wolf 2013).

According to Wolf, there are two individually necessary conditions for moral responsibility. The first is the cognitive capacity to be sensitive and responsive to complex reasons for and against certain actions. This is also a necessary condition of practical responsibility. The second is the emotional capacity to sympathetically identify with and respect for those reasons. What is going on 'on the inside' is relevant because in some influential interpersonal models of blaming, such practices are supposed to lead to pang of remorse on the part of the blamed (Fricker 2016).

Hence the significance of the analogy between sociopaths and corporations, neither of which according to Wolf can experience such pangs and are therefore not blameworthy. Wolf argues that corporations are practically responsible for their actions because they satisfy only the first of her necessary conditions. Moral responsibility cannot be attributed to corporations *qua* corporations, though they may be legally culpable for their actions in some cases. This culpability is derived from their practical responsibility.

Wolf's extended argument against corporate moral responsibility proceeds from her characterisation of sociopaths as being capable of the same kind of practical reasoning as the rest of us. What they lack are ordinary human sympathy, respect, and whatever motivations the rest of us have to keep our behaviour within moral bounds. Sociopaths understand that if they do something society disapproves of, they may be made to suffer in some way. They lack the kind of inner disapproval that echoes the social disapproval of moral wrongs. While they may be able to practically reason for or against some particular action, sociopaths cannot sympathetically identify with those reasons. They can intellectually understand that murder is considered immoral; they cannot understand why they ought not murder someone. A diagnosed sociopath writes:

"The reality is that I have nothing of what people refer to as a conscience or remorse. The concept of morality, defined as an emotional understanding of right and wrong, goes right over my head like an inside joke of which I am not a part. Consequently, I have only the slightest interest in it and no special insight into evil, or no more than a certain level of self-awareness would reveal to any of us. Still, I often wonder what life would be like to feel that things were right or wrong, to have an internal compass to direct me to my moral north. I wonder what life would be like to always be 'feeling' certain

ways about things, to have conviction, which is apparently how many people experience the world.”<sup>101</sup>

According to Wolf, if it is right to think of sociopathy as a kind of disorder, rather than as a character trait or a vice, then we ought not to hold reactive attitudes towards sociopaths (at least not based on behaviour that is informed and shaped by their sociopathy). They may be viewed as dangers, even as enemies, but only in the sense of enemy that might equally apply to predators like tigers or sharks. For Wolf, a sociopath is not only not accountable for being a sociopath, their sociopathy is not even attributable to them. Therefore, we cannot blame them for not adhering to the rules they are incapable of being motivated to obey.

Wolf argues that sociopaths may be practically responsible for their actions. They can foresee the consequences of their actions and can incorporate this foresight into their deliberations. Being able to assume the risks of their actions is sufficient in Wolf’s argument for practical responsibility, but insufficient for moral responsibility, which requires intellectual and emotional capacities. Sociopaths may be practically responsible for their sociopathic behaviour without their sociopathic character being attributable to them at all. We should take an objective attitude towards the sociopath. Lacking the capacity for empathy, the sociopath is unable to fully

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<sup>101</sup>Thomas, M. E., (2013): 134-135

understand what other people are like. So, reactive attitudes like anger, indignation, or resentment at their callous indifference to us are misplaced. The sociopath does not 'get it' because they cannot 'get it' so we should not be dismayed that they have no concern for us. We should protect ourselves from sociopaths as we would protect ourselves from predators, but we should not feel hurt or insulted by their indifference.

We can see why Wolf is drawn to the analogy between corporations and sociopaths. Corporations can be vast, amoral, powerful, and seemingly unfeeling (though not unresponsive) entities that can cause unspeakable harm. We should be mindful that we live among such entities, and it is understandable why we seek to hold them to account given the harm they can do.

According to Wolf, corporations (like sociopaths) do not possess a unified consciousness, so they lack the emotional capacity necessary for moral agency. Wolf views corporations as having the cognitive capacity to recognise the features of unwonted behaviour in virtue of the thoughts and deliberations of their members. What they cannot do is sympathetically identify with the reasons for or against certain actions. Therefore, it is inappropriate to regard corporations as blameworthy. This is due to what Wolf calls the peculiar feature of corporate agents. They have the cognitive capacities to be reasons-responsive, but they lack the relevant kind of inside necessary for being moved to respond to these reasons on their own. It is

important, however, to hold corporations, like sociopaths, practically responsible for their actions since they have the capacity to cause severe harm.

We can extend Wolf's analogy and maintain that corporations, like sociopaths, strive to be uncontained. Corporations can be analysed as a projection of individuals' desires for uncontained power.<sup>102</sup> Disordered agents like sociopaths need a responsible containing mechanism. For example, we may seek to manage sociopaths by containing them by limiting their access to harmful materials and/or vulnerable people. Corporations, like sociopaths, can cause the most harm when there is a lack of containing structures, like state regulation and/or ownership or being held morally responsible for their actions (with or without blaming them).

For the sake of argument, we can assume it to be true that we do not aim to hold sociopaths or corporations to account as a means of achieving retributive justice or as an act of societal revenge. We do so because we hope to incentivise them to act in accordance with societal expectations thereby containing their potential for harmful behaviours. According to Wolf, corporations (like sociopaths) can be moved to act within moral goals by holding them practically responsible for their actions. A corporation that pollutes a river can be made to pay for the river to be cleaned. So far as Wolf is concerned, we can get corporations to correct their wrongful and harmful

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<sup>102</sup>I am grateful to Dr. Chris Wilson for this insight.



behaviour by viewing them as causally and/or practically responsible for their actions and by applying the law. We do not need to view corporations as morally responsible agents to get them to correct their behaviour. The threat of legal penalties following the application of the law is sufficient to achieve the desired outcomes.

### *§3.5 Responsibility without blame: the clinical model*

Nicola Lacey and Hanna Pickard argue for a conception of responsibility without blame in cases of wrongdoing involving individuals whose agency is disordered in some way (Lacey and Pickard 2013). The aim of their approach, which they call the clinical model, is to serve the demands of justice while furthering rehabilitative and related ends.<sup>103</sup>

This section aims to develop Lacey and Pickard's argument by focussing on corporations, particularly business corporations. If corporations are analogous to sociopaths, and if Lacey and Pickard are right that sociopaths are morally responsible without blame, then it is conceivable that contra Wolf, their 'cliniced' model also applies to corporations.

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<sup>103</sup>Lacey, N. and Pickard, H., (2013): 1, 3, 4, 11 *passim*

Lacey and Pickard are interested in our legal and moral interactions with individuals with psychiatric disorders such as personality disorders, addictions and impulse-control disorders (Lacey and Pickard 2013). Part of their argument, which is where the conflict lies with Wolf, is that it is important to treat people with disorders of agency who are not perfectly autonomous, reasoning, competent and well-functioning adults so as to bring them into the moral realm. This is done partly as a way of taking them and what they do seriously, and partly as a way of helping them to improve.

Typically, the purpose of holding another responsible is moral evaluation i.e., the assessment of them and their behaviour and good or bad, right or wrong. Our concept of moral responsibility is invariably grounded in the practice of holding others responsible via our reactive attitudes and moral emotions. This link can be more or less strong and is often taken to be constitutive. Because people with mental health difficulties are vulnerable beings not always totally in control of themselves it may not make sense to hold them responsible in this way.

If we shave away some of the strongly morally reactive attitudes to them that are normally part and parcel of holding someone morally responsible, we can still have a meaningful moral relationship to them. We can still hold them to account, which means they are expected to answer for their actions and explain themselves. In cases

of serious wrongdoing and criminal actions, this holding to account may entail some kind of confinement or imprisonment which is accompanied by therapeutic treatment. This process of holding vulnerable people responsible and accountable for their wrongful actions does not entail the expression of reactive attitudes like anger or disgust.

We can apply Lacey and Pickard's clinical model to corporations in a functional way that allows us to make corrections for historic injustices in cases where the original perpetrators and their victims are no longer alive, though the corporation continues to exist. We can hold the current iteration of these corporations responsible for historic injustices without blaming them. This is an irreducible notion of responsibility without blame whereby the corporation qua corporation is held responsible, but this responsibility does not distribute to its current individual members (§3.7).

The clinical model is intrinsic, forward-looking, and dynamic in the way that this thesis aims to theorise blame. So, there is clear methodological overlap between Lacey and Pickard's argument and the arguments of this thesis. Lacey and Pickard's argument is appealing because it is a way of respecting people with psychiatric disorders by taking them and their actions seriously with a view to rehabilitating them. The therapeutic aims of the clinical model can be applied to corporations. Using this model in corporate cases is a way of respecting corporations and taking

what they do seriously with a view to helping them change and improve their behaviour. (§3.8). The application of Lacey and Pickard's clinical model raises the following questions, which are answered in the following chapter: to what extent could it nevertheless be the case that in some scenarios we can put the blame back into the picture and why does it make sense to do so?

Lacey and Pickard's clinical model is to be contrasted with the justice model of punishment.<sup>104</sup> The justice model is less concerned with the rehabilitative ideal than the clinical model. In the justice model the justification of punishment, attributions of responsible agency in relation to the offence and the appropriateness of blame are very closely aligned. In the justice model, punishment is the hard treatment of the wrongdoer in response to, by reason of and in proportion to, their blameworthy conduct. Blameworthy conduct requires the wrongdoer to have the capacity for responsible agency. That is, minimally cognitive, and volitional capacity such that they know what they are doing when they commit an offence, and exercise choice and a sufficient degree of control when they do so. An individual is blameworthy when they are responsible for harm and have no excuse. Consequently, they are seen as getting their 'just deserts' when they are punished.

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<sup>104</sup>Punishment is the imposition of consequences in response to blameworthiness for wrongdoing or harm. These consequences are typically negative but may not be. What matters is that the consequences are serious and appropriate to crime and its intent.

Lacey and Pickard argue that the justice model is incompatible with the demands of effective clinical treatment which has therapeutic ends (Lacey and Pickard 2013). In the clinic, the point or purpose of attributions of responsibility is not moral evaluation but the motivation and capacity to change. In their argument, responsibility tracks agency where agency is defined as having power over one's behaviour. We are responsible for our actions and omissions insofar as we are their agents. According to Lacey and Pickard, agency and responsibility are not 'all-or-nothing' affairs, they come in degrees. In which case, people with disorders of agency are still seen as being responsible for their actions insofar as they can exercise choice and a significant degree of control over what they do. Therefore, they can be expected to take responsibility for their actions. While their cognitive and volitional capacities may be reduced compared to the norm, they are sufficiently intact for agency and responsibility to be attributed and engaged with.

Even in cases where individuals with psychiatric disorders do things which are illegal and/or immoral, their actions are viewed as being up to them and they could have done otherwise. The individual is seen as having the power to change their behaviour to a greater or lesser extent (with the aid of the extensive medical and psychiatric support that is part and parcel of the clinical model.) The clinical aim is to encourage, motivate and support them to do things differently. That is, by choosing to alter entrenched and maladaptive patterns of behaviour. Lacey and Pickard give the examples of the patient who quits using drugs and/or alcohol, the

patient with a borderline personality disorder who stops self-harming and the patient with an antisocial personality disorder who stops breaking the law.<sup>105</sup> By taking this approach, patients are seen by themselves and others as morally responsible (without blame), accountable for what they do and capable of change.

Lacey and Pickard do not view this as a binary distinction between the justice model and their clinical model. So far as they are concerned, their clinical model is attractive because it reconciles the two approaches. The practical application of their argument means that sentencing and punishment under the clinical model can serve the demands of justice while furthering rehabilitative and related ends.

The justice and the clinical models can each apply to corporations. The justice model applies insofar as we seek to punish corporations that do things which are illegal and/or immoral. If a corporation breaks the law then we normally expect it to face the legal consequences. This may take the form of the corporation being prosecuted and given a hefty fine.

This gives us an insight into how the rehabilitative ends of the clinical model may apply in corporate cases. We do not only punish corporations for its own sake. We impose fines and boycott their products to signal our legal and/or moral disapproval

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<sup>105</sup>Lacey, N. and Pickard, H., (2013): 11

of their actions in the hope they change their behaviour. Boycotting the goods and services of corporations participating in genocide is done with the aim of forcing those corporations to cease those activities. Similarly, when we fine corporations for polluting rivers, we do so in the hope that in future they will act with due regard for the environment.

The discussion of corporate crime in Chapter One was motivated by a concern that corporations were not only getting away with murder in some cases, but the imposition of legal penalties was not having the desired effect of changing and improving corporate behaviour. Notice how little was said in the context of the clinical model about the emotional content of these actions. Boycotting goods and services can be done without any direct interaction with those corporations. We simply stop buying their goods or services. Similarly, the imposition of a legal penalty can be done dispassionately. The courts that impose and administer the fine can deal with the corporation in a way that is purely transactional.

Blameworthy conduct requires that the wrongdoers have the capacity for morally responsible agency be they individuals or corporations. Theorists like Wolf argue that corporations lack this capacity so cannot be blameworthy in the way that individuals can. Nonetheless, attributions of causal and practical responsibility to corporations are coherent and desirable in themselves and in terms of their forward-looking instrumental value (Wolf 1985). This approach is consistent with the

rehabilitative aims of the clinical model. The imposition of legal penalties has an instrumental value to the extent that as well as punishing the corporation, the imposition of a hefty fine gives the corporation an incentive to act in accordance with society's laws, norms and expectations.

Wolf may concede the point and argue that there are two ways of defining 'moral responsibility', and that 'without blame' is merely a version of her practical responsibility. This response would miss something important about Lacey and Pickard's argument. The clinical model is an intermediary stage between denying that a putative agent is morally responsible and blaming them. Lacey and Pickard's clinical model can be adapted and applied in such a way that we can get corporations into the moral realm by holding them responsible without blame. This brings corporations into the moral realm by holding them responsible, while fulfilling the rehabilitative aims of the clinical model by withholding blame.

The phrases 'the clinical model' and 'in the clinic' are important because Lacey and Pickard are arguing for a conceptual framework for the effective clinical treatment of disorders of agency.<sup>106</sup> Lacey and Pickard maintain that in such cases ideas of responsibility and blameworthiness are separated from affective blame which they define as:

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<sup>106</sup>*Ibid.*



“... the range of hostile, negative attitudes and emotions that are typical human responses to criminal or immoral conduct.”<sup>107</sup>

Affective blame can include hatred, anger, resentment, indignation, disgust, disapproval, contempt, and scorn. It can be evident in any number of ways, including seeking retaliation, retribution, and vengeance, rejection and banishment from the community, and the withdrawal of basic respect. We typically feel these hostile negative attitudes and emotions are justified and appropriate because of the wrongdoer's actions. They deserve to be the object of our scorn. Typically, to hold another responsible, for example by blaming them, is to believe these reactive attitudes are appropriate, fitting and deserved.

Affective blame is different from the mere judgement that another is blameworthy, which Lacey and Pickard call “detached blame.”<sup>108</sup> According to Lacey and Pickard, affective blame is incompatible with effective clinical treatment even though we hold the wrongdoer morally responsible for their actions. Detached blame is appropriate in scenarios where patients are held responsible and accountable for problematic behaviours and negative consequences are imposed. Throughout this process, the clinician aims to avoid affective blame and maintain an attitude of concern, respect

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<sup>107</sup>*Ibid.*

<sup>108</sup>*Ibid.* 19

and compassion while questioning, challenging, and reproofing their patient's conduct. These attitudes underpin and are consistent with their clinical duty to help patients improve and recover.

What Lacey and Pickard have in mind is illustrated by this sociopath's account of being punished for hoarding overdue library books when they were a child:

“When I say this was one of my first experiences with justice, I should explain. I had been punished before, but there was always an element of moral condemnation in punishments that didn't make sense to me, so I largely ignored them as being an unpredictable cost of living as a child. The library book situation was something new. My parents were not mad at me. There was no moral condemnation. And paying a fine seemed a reasonable consequence of not returning the library books on time. If I had to pay fines, everyone had to pay fines, which meant that books would circulate faster, and I would have a better shot of checking out some of the more popular and desirable books. This sort of justice made sense to me in a way that moral judgements never did.”<sup>109</sup>

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<sup>109</sup>Thomas, M. E., (2013): 128

When they talk about ‘moral condemnation’ they are referring to the expression of the kind of hostile and negative reactive moral attitudes we associate with affective blame. As the sociopath writes, these expressions of moral emotions never made sense to them. What did make sense to them was the transactional nature of the consequence of being fined for not returning their overdue library books which they describe as “... a cold cost-benefit calculation” from their perspective.<sup>110</sup> These fines were issued in a purely clinical manner devoid of hostile moral emotions, which is what Lacey and Pickard have in mind when they refer to detached blame. What we see from this little story is the therapeutic value of treating sociopaths in this clinical manner devoid of moral condemnation since affectively blaming them was nonsensical (to the sociopath). The desired aim has been achieved since the dispassionate imposition of a sanction led to improved outcomes insofar as the sociopath now returned their library books on time. They were held responsible for their wrongdoing without affective blame, but with detached blame.

The distinction between detached and affective blame illustrates how responsibility and blame are conceptually distinct. The preceding vignette about the sociopath being fined for not returning their library books also illustrates how even if it says ‘on the tin’ that Lacey and Pickard’s is an account of responsibility without blame, this is actually a slight misnomer. It is not that we are doing without blame per se.

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<sup>110</sup>*Ibid.* 129

Instead, Lacey and Pickard are drawing an important distinction between different types of blame: affective blame (which they think we can do without in clinical cases) and detached blame (which they think we should apply in such cases). Blame is still very much part of the story; it is just that it takes the form of detached blame rather than affective blame. In which case, ‘responsibility without affective blame’ is a more accurate title for their argument. That blame seems inescapable even in clinical cases is grist to the mill of this thesis which aims to show that there is a point to blaming corporations whether or not they are analogous to sociopaths.

For Lacey and Pickard, attributions of responsibility are essentially attributions of agency. The behaviour in question is a mere manifestation of the requisite cognitive and volitional capacities. When the behaviour is criminal and/or immoral and there is no justification or excuse, the wrongdoer is blameworthy. How we react to this behaviour is, to a significant extent, up to us. It can be with anger and disgust, for example. In the retributive tradition, punishment is typically conceived of as the wrongdoer getting their just deserts, i.e., the hard treatment, stigma, censure, exclusion, or the absence of mercy that is justified by blameworthy conduct.

Responsibility, accountability and punishment can be imposed without affective blame. We often see the notion of detached blame being deployed in clinics and in courts. These are medical and judicial processes wherein individuals are held responsible for problematic behaviours, and they are held accountable for them, for

example by punishing them in some way. Crucially, these clinical and/or judicial processes are not accompanied by hostile, negative attitudes and emotions. Instead, punishment and treatment can be administered with an attitude of concern, respect and compassion.

The key difference between the justice and clinical models is whether or not in virtue of being responsible for criminal and/or immoral conduct we are licensed to affectively blame the wrongdoer. The clinical model offers an alternative conception of punishment, where conceptions of responsibility and blameworthiness are distinct from affective blame. Consequences are imposed on the wrongdoer in response to, by reason of, and in proportion to their blameworthy conduct, but not out of or in connection with affective blame. In the clinical model, the wrongdoer is seen as being responsible and blameworthy, but we choose to withhold affective blame for therapeutic reasons.

Consider the example of the heroin addict who steals from friends and family members in order to fund their habit. Under the clinical model we view them as having sufficient cognitive and volitional capacities to choose whether to steal. We also view them as having the capacity to choose to reform their lifestyle and cure their addiction (with the required support and treatment in place). Insofar as they can make choices and can do otherwise we view them as being responsible, accountable and blameworthy. Yet we choose to not be angry with them for stealing

or for being an addict. We choose instead to withhold affective blame, viewing them as someone requiring support and treatment in the hope their behaviour improves.

Even when dealing with people who have committed heinous crimes, the clinical approach considers the full life story of the wrongdoer, seeing them not only as someone who harms but as someone who has been harmed. Clinicians using this model either minimise affective blame or, ideally, avoid it altogether. In the clinic we should aim to replace affective blame with an attitude based on respect, compassion and understanding.

This is partly for pragmatic reasons since exhibiting the kind of reactive attitudes and moral emotions associated with affective blame can be counter-productive. To be blamed, and this includes self-blame, is not an enjoyable experience for most of us. To be blamed is to be the object of some other's hostile attitudes and emotions. Being blamed can have lasting negative effects on our lives. It may be detrimental to our sense of self-worth, our relationships with others, our hopes for the future and our motivation to change those aspects of ourselves that are difficult to face. In its worst manifestations, affective blame can be censorious finger-pointing which stigmatises, scapegoats and ostracises individuals. Furthermore, sociopaths have described the exhibition of moral emotions by others to them as being nonsensical, confusing and meaningless (Thomas 2013).

Hence the appeal of the clinical model where people are held accountable and responsible for criminal and/or immoral conduct but are treated with an attitude of detached blame. Affective blame can be detrimental to this curative process, triggering feelings of rejection, anger and self-blame. Being angry with someone whose agency is disordered may cause them to distrust and disengage from the recovery process. It may also lead them to further harm others or harm themselves, committing suicide in some extreme cases. Lacey and Pickard's clinical model allows for the reconciliation of the idea of 'just deserts' with a rehabilitative ideal. It leads to a form of punishment without the hard treatment and stigma that is typical of affective blame.

The clinical model proceeds with not only humanity and dignity but with a view towards the rehabilitation and reintegration of offenders into the moral community. It aims for the patient's psychiatric improvement and recovery. Where this involves criminal and/or immoral behaviour, then psychiatric improvement leads to reduced criminality and/or moral improvement. This is appealing for many reasons not least because it applies to cases requiring the treatment and rehabilitation of sociopaths and psychopaths who, like corporations, have the capacity to cause serious and irreversible harm.

We have seen that we can deal with sociopaths in a transactional way to regulate and control their behaviour. This analogy between sociopaths and business

corporations is advanced by a sociopath who acknowledges that they do not have a moral urge to do good things, but they can be encouraged to do so if it is to their advantage:

“A good analogy would be a corporation. There are lots of corporations that do things that you like, maybe even good things, like produce vaccines or electric cars, although the primary motivation is to make a profit. But just because you are trying to make a profit doesn’t mean you can’t do it by doing things you like, or that you are good at, or that comport with the way you see the world or want the world to see in you. In fact, behaving morally and well might smooth the path for you to pursue your own interest.”<sup>111</sup>

This foreshadows the functional and therapeutic/instrumental reasons why we may wish to apply the clinical model in corporate cases. The functional reasons are to do with dealing with cases of historic injustice. The therapeutic/instrumental reasons are to do with helping them to improve in the way that withholding affective blame in the clinical model helps individuals improve.

Sociopaths can be motivated to act in a way that is considered ‘right’ or ‘good’ insofar as they can respond to incentives to act in one way rather than another. For

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<sup>111</sup>*Ibid.* 136-137



example, a sociopath can acknowledge that a peaceful and orderly world is one that more comfortable for them to live in (Thomas 2013). They avoid breaking the law because doing so is consistent with their self-interest. If this is an accurate depiction of how the sociopath and, by analogy the corporation, operates, then we merely need to find a way of incentivising sociopaths and corporations to fulfil contracts and promises and to adhere to the law. Applying the clinical model is one way of doing so. We can use a clinicised cost-benefit analysis framework to incentivise disordered individuals and corporations to improve their behaviour and be non-disruptive members of society. In which case, Lacey and Pickard's clinical model has as much to offer corporations as it does individuals. The functional and therapeutic/instrumental reasons for applying the clinical model to corporations are discussed in turn below.

### *§3.6 Responsibility without blame in cases of historic injustice*

As Chapter One demonstrated, the deep history of corporations means that many of them have been involved in atrocities like ecocide and genocide. Historic cases of injustice illustrate how applying the clinical model to corporations is an interesting and important way of addressing issues we must deal with as a society, regardless of any claims made about its therapeutic value.

The fact that we live in a world which is still dealing with the long-term consequences of these serious wrongs requires us to urgently find a way of correcting historic injustices. Applying the clinical model can be one way of doing so. The clinical model is well-suited to this task because it means we can ascribe irreducible responsibility without affective blame for historic injustices to those corporations, though detached blame does apply. This means that we hold the current iteration of the corporation responsible, though this responsibility does not distribute to its current individual members who took no part in those past crimes against humanity. There are two thoughts here: one about the corporation then and now; another about the corporation versus its members (past or present).

The analogy with sociopaths is the main part of Wolf's two-part argument against corporate moral responsibility. The second part of her argument directly targets Peter A. French's conception of the CID structure as a locus of responsible moral agency, which was discussed in Chapter Two (French 1979, French 1984, Wolf 1985). This second part of Wolf's argument misses something important about the role of the CID structure. As the rest of this section and the section that follows aim to show, the CID structure is the locus of corporate agency.

The CID structure is relevant to the functional value of attributions of responsibility without blame in historic cases because it can be a deep structure that persists through very long periods of time as individual members come and go. When we

explain why the current iteration of a corporation is continuous with previous iterations even if there is no overlap of membership and/or the corporation's name changes, we can point to the persisting CID structures and processes as a key feature of the corporation's identity that endures.

In corporate cases, Wolf accepts that there is an 'entity' that is over and above its individual members, but this entity is not a moral agent. She argues that having excused all the past and present members of a corporation, there is nothing left but a set of abstract relations and a conceptual flow chart which cannot be blamed for anything (Wolf 1985). This 'entity' can, however, be held causally and/or practically/legally responsible for its actions.

Wolf argues that corporations are reasons-responsive in virtue of the reasoning and deliberations of their individual members. But this fails to capture what is distinct about the nature of the CID structure and the decision-making process in corporations. They are really-existing managerial algorithmic decision-making systems that are independent of and logically prior to the reasoning, deliberation, and decision-making of their individual members. This reasons-responsive unified structure is what is meant by there being something about the corporate entity that is over and above its individual members. The 'something' is the corporation's CID structure that both comprises and is independent of its individual members and

which endures. In which case the CID structure could be a relevant locus of corporate responsibility when dealing with historic injustices.

Mihailis Diamantis focuses on the legal aspect of this problem, arguing that a present-day corporate criminal is identical to a past corporate criminal if and only if it retains whatever corporate shortcoming led the previous iteration of the corporation to commit a crime (Diamantis 2018). We can develop Diamantis's approach as follows. First, by widening the analysis to moral responsibility as opposed to merely practical/legal responsibility. Second, by adding further necessary and sufficient conditions in cases where we are concerned with moral responsibility. On this revised model a present-day corporate wrongdoer is identical to a past corporate wrongdoer if and only if:

- a) It retains whatever key corporate structures and decision-making procedures led to the past iteration of the corporation to do wrong.

The present-day corporate wrongdoer is responsible for those past wrongs if and only if in addition to (a) above:

- b) It retains whatever corporate shortcoming led to the past iteration of the corporation to do wrong, and/or,

- c) The current iteration of the corporation benefits in some way from the merger, acquisition, spin-off and so on.

The thought behind (c) is that by taking on the benefits of merging with another business corporation for example, the new corporation is also taking on its legal and moral liabilities. It stands to reason that corporations must provide public benefits in exchange for the privileges that come with incorporation.

When it comes to holding the current iteration of a corporation responsible for historic wrongdoing we are referring to the structures and processes by which it is constituted, and which persist as the corporation's individual membership changes. The kinds of cases where we would expect to hold corporations morally responsible for past misdeeds without affectively blaming them are those where none of its current members were involved in that wrongdoing. For example, banks, insurance companies and other financial institutions which operate now and were involved in the trade in enslaved people in the eighteenth and nineteenth centuries. It makes sense to hold the current iteration of those corporations responsible for their past misdeeds because, among other reasons, they retain key elements of the corporate structures and decision-making procedures.<sup>112</sup>

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<sup>112</sup>A further key reason is that they continue to benefit from the financial returns on investments of the profits made from the trade in enslaved people.

We would not necessarily expect people to be angry with or resentful towards those structures. Similarly, we would not expect people to be angry with or resentful towards their current employees who were not alive at the time of the wrongdoing. This is why we are concerned with an irreducible notion of responsibility without blame. That is, we are holding the current iteration of the corporation qua corporation responsible for its past wrongs, and this responsibility does not distribute to its current individual members who played no part in those wrongs.

The notion of detached blame applies insofar as we should engage in dispassionate and clinical interactions with those corporations. We are holding them responsible for past wrongs without displaying the kinds of reactive attitudes and emotions like disgust which are associated with affective blame. It is a transactional and functional relationship with the corporation insofar as we are interacting with it to find a way in which it can make amends for its role in historic injustices, for example by apologising and/or paying reparations.

### *§3.6.1 Case study: Unilever and the Benin Bronzes*

Chapter One discussed the Royal Niger Company's involvement in the theft of the Benin Bronzes. In 1987 the United Africa Company (which had previously been the Royal Niger Company) was fully absorbed by Unilever. This raises an ethically

interesting question about whether Unilever has an obligation to arrange the return of the Benin Bronzes to Nigeria where 'obligation' is taken to signify one way of cashing out 'responsibility'.

This case is further complicated because Unilever did not directly cause the original wrongdoing, nor did it directly acquire the Royal Niger Company. It acquired the United Africa Company which had previously been the Royal Niger Company.

There are diachronic identity shifts which make the causal relationship between the current iteration of the corporation (Unilever) and the historic injustices that were carried out (by the Royal Niger Company) ethically complex. We should also be attentive to the fact that it may not be clearly the case that a single entity is causally responsible for the harm that has been done. For example, the British government, the British Museum and the Ethnological Museum of Berlin are corporate agents that are a very big part of the story when it comes to righting the very serious wrongs of colonialism in Africa (and elsewhere).<sup>113</sup>

So, why should we expect Unilever to take on this obligation to acknowledge and put right the serious and lasting harms that were caused by a company it acquired long after the events took place? We can refer back to the necessary and sufficient conditions for a present-day corporate wrongdoer being (i) identical to a past

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<sup>113</sup>The British Museum and the Ethnographic Museum of Berlin house the two largest collections of the Benin Bronzes outside of Nigeria. See Hicks, D., (2020) for a fuller discussion of this issue.

corporate wrongdoer and (ii) responsible for historic wrongs discussed above. In particular conditions (b) where it retains whatever key corporate structures and decision-making procedures led to the past iteration of the corporation to do wrong, and (c) where the current iteration of the corporation benefits in some way from the merger, acquisition, spin-off and so on. The CID structures of the Royal Niger Company and the United Africa Company are absorbed and integrated into the structures of Unilever thereby providing some degree of continuity. We can reasonably expect that Unilever acquired the United Africa Company because it benefitted or expected to benefit from doing so.

It is easy to get tangled up in discussions about the persistence of corporate identity through time. We can see with the example of the relationship between the Royal Niger Company, the United Africa Company and Unilever that one way in which the corporation persists through time is through the persistence of its structural features. We can also take a pragmatic approach to these issues, especially in cases of corporate responsibility in acts of historic injustice. There is a sense in which the corporation is the same entity, and a sense in which it is different. Whether we talk about it as the same entity depends on our interests and purposes. With respect to corporations and cases of historic injustice, our interests and purposes are such that we have good reason to engage with them in a morally sensible way. We should treat them as the same entity partly because there are key features like their CID



structures which persist through time. We should also treat them as the same entity because it is ethically sensible to do so.

Unilever and museums like the British Museum and the Ethnographic Museum of Berlin are part of the story of colonial theft and violence. Entities that are implicated in a wrongful state of affairs bear a heavier burden of obligation for alleviating the harmful circumstances they brought about. Furthermore, Unilever acquired the United Africa Company because it expected to benefit in some way. In so doing, Unilever takes on certain costs as well, including this obligation with regard to righting past wrongs.

We do not affectively blame Unilever or any of its current members for the past wrongs of the Royal Niger Company, by being angry with them for example.<sup>114</sup> Attributing responsibility without blame to Unilever in a non-distributive way means that the individual members are not held personally responsible for this historic injustice. We dispassionately look to the corporation qua corporation to fulfil its ethical obligations in this matter.

We should be attentive to the need to distribute responsibility in the form of certain obligations in a way that tracks power and challenges damaging asymmetries of

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<sup>114</sup>Although we are not angry with Unilever or its current members for the original theft of the Benin Bronzes, we may be angry with them if they refuse to fulfil their obligations to aid in the return of the stolen items.

power. Relatively powerless local people should be able to make demands of powerful corporations like Unilever that seek to benefit from their communities and/or which are part of the story when it comes to historic wrongdoing.

When a corporation like Unilever acquires another corporation that was involved in a past wrong, it is making itself part of that story. As part of the acquisition of that other corporation, Unilever takes on its structures and processes which then become part of Unilever's structures and processes. Making it corporations like Unilever's business to undertake the labour of recognising and putting right past wrongs done to those communities is one way of making them fulfil those obligations.

We should also be attentive to reasons why we may wish to put affective blame back in the picture. This section has shown there are compelling arguments for thinking that in some cases of historic injustice the clinical model is where the buck stops, but there may be other cases where it does not. For example, in more recent cases where corporations have been involved in wrongs like ethnic cleansing and genocide though some perpetrators and their intended victims are still alive. Wherever possible, those corporations and their surviving members should be held morally and legally responsible for their actions. These sorts of cases are discussed in the following chapter.

Another important issue is who gets to decide whether it is appropriate to hold reactive attitudes towards those corporations for their past wrongs. It may be the case that those who are descended from enslaved people and/or are suffering from the long-term consequences of the trade in enslaved people do resent certain corporations for their involvement in that historic crime. Similarly, there may be elderly survivors of ethnic cleansing and genocide and their relatives who begrudge corporations that enabled those crimes against humanity. This concern is to do with who has the standing to blame (or withhold blame), which is also discussed in the following chapter.

### *§3.7 The therapeutic value of applying the clinical model to corporations*

An essential part of Lacey and Pickard's argument for the clinical model is its therapeutic value. They reject the justice model in the kinds of cases they are interested in because it can be solely punitive. While they accept that wrongdoing entails punishment, their argument is that our responses to wrongdoing should have a therapeutic value. This is especially the case where we are dealing with people who are unwell in some way, for example in cases where we are dealing with people suffering from psychiatric disorders. When dealing with such people, we should aim to serve rehabilitative ends enabling them to improve and recover from psychiatric disorders to a lesser or greater extent.

Where this improvement and recovery involves criminal and/or immoral behaviour, then psychiatric improvement should be seen as leading to reduced criminality and/or moral improvement. This approach rests on a view of individuals as being capable of changing their behaviours even when they experience psychiatric disorders. The further therapeutic value of the clinical model is found in the respect, concern and compassion it shows for those it aims to treat 'in the clinic'. It takes them and what they do seriously, treating them as members of the moral community.

Reading across from individuals to corporations, we can see the instrumental or therapeutic value of applying the clinical model to contemporary cases of corporate wrongdoing. The therapeutic value of the clinical model is found in the extent to which its application in corporate cases leads to their improved behaviour. For example, by acting with respect for national and international law, by acting with respect for the rights of human and non-human animals and by acting with due regard for environmental concerns. This last point means that corporations act with a view to minimising or eradicating actions which harm the environment. They should also actively put right environmental harms they and other corporations have caused. This is based on a view of corporations that are doing wrong as being 'unwell.' In which case, applying the clinical model can be a way of actively changing the corporation's orientation so it 'recovers' and behaves 'better'.

Applying the clinical model in this way can be seen as a way of correcting a dysfunctionality. We can accept that corporations are like sociopaths because they lack a certain kind of agency is constitutive of what they are. But this does not give us a reason to withdraw attributions of moral responsibility. If corporations are like sociopaths then the clinical model applies, and we can hold them morally responsible for their actions albeit without blame. This approach retains an attractive feature of Wolf's argument that attributions of responsibility are of instrumental value in corporate cases since it may motivate corporations to improve and act in ways which merit our approval. It has the added benefit of going beyond Wolf's approach by bringing corporations into the moral realm.

Wolf argues that holding corporations practically/legally responsible for their actions can achieve these ends. We can go a stage further and achieve similar outcomes under the clinical model which also aims to prevent future wrongdoing. By developing and extending the clinical model to corporate cases, we can both sanction and rehabilitate corporations who cause harm while acknowledging their status as being morally responsible without blame. Bringing corporations into the moral realm is a way of respecting them by taking them and what they do seriously. It is also a way of respecting those who have been wronged by them.

This gives us a further reason to press on Wolf's critique of the CID structure. The instrumental/therapeutic approach, like the functional approach, rests on a conception of the CID structure as the locus of corporate agency. By focussing our attention on the CID structure we can explain how the corporation can change its behaviour as a result of applying the clinical model.

In Lacey and Pickard's argument, responsibility tracks agency where agency is the capacity to make decisions and act on them even in the context of psychiatric disorders. When agency is assigned to individuals and/or corporations it assumes certain decision-making capacities. Corporations, for example, make future-oriented plans and act on those plans. They can reasonably foresee the consequences of those plans and actions insofar as any agent, be they individual or corporate, can anticipate and predict the consequences of their actions. As such, corporations have agential capacities. Wolf accepts this point and uses it as the basis of her argument that corporations are causally and/or practically responsible for what they do. Wolf rejects the argument that the CID structure licenses attributions of corporate moral agency.

Wolf's argument misses something important about the CID structure. It not only provides corporations with their locus of agency; it is directly linked to their capacity for wrongdoing. In their current iteration business corporations have a structural incentive to show a short-term profit even if this requires committing fraud and/or

shifting their costs onto employees, the community, and the environment. The entire corporate CID and legal structures are geared towards this end. There is judicial recognition of this conception of corporations as profit-making machines whose sole purpose is to maximise returns to investors. The accumulation of case law means that this has become the *de facto* operating standard for business corporations.<sup>115</sup> The climate emergency illustrates the real-world consequences of this. Our planet is being denuded of its natural resources as many powerful business corporations ransack the environment.

We could interpret this relentless pursuit of profit regardless of the consequences as the kind of sickness that the clinical model could be used to cure. The therapeutic value of taking this approach would be to hopefully change business corporations' values, reorienting them away from maximising profit towards an alternative corporate value system. For example, they could be re-chartered with the explicit purpose of achieving a triple bottom line of social and environmental outcomes as well as sound financial management. This is sometimes known as the "triple Ps" of people, planet, and profit.<sup>116</sup>

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<sup>115</sup>For example, [Santa Clara County v. Southern Pacific R. Co., 118 U.S. 394 \(1886\)](#) Most recently accessed on 21.11.2020.

<sup>116</sup>'[Five ways to curb the power of corporations](#)' Jeremy Lent *Open Democracy* 22.07.2018. Most recently accessed on 26.06.21.

This CID structure and unified process supports the claim that corporations have a locus of deliberation, change, recognition, and judgement that gives them some kind of independent agential capacity. French and List and Pettit use mentalistic language of 'beliefs', 'desires', 'intentions', and group 'minds' to analyse and explain this process (French 1979, French 1984, List and Pettit 2011). We do not have to commit to this notion of a 'group mind' to accept that they correctly identify the corporate structures and decision-making processes that mean we can speak of the corporate entity as an autonomous agent.

We can explain and morally evaluate the actions of those entities without recourse to their mentalistic language and concepts. It is sufficient to analyse these corporations in terms of their goals/subgoals and plans/subplans for them to have agential capacities. Corporations have a locus of agency that are corporate practical reasons to make corporate decisions in the light of evidence and execute them by way of forming corporate goals that are distinct from and independent of the practical reasons, decisions, and goals of their members. These actions have a significant impact in the world.

Corporations have an integrated and formally structured locus of deliberation, change, recognition, and judgement that makes them responsible for those actions because of those structures' agential decision-making power. This is a notion of responsibility without affective blame as we would not expect to exhibit reactive



attitudes and moral emotions to structures and processes. When we are reacting to a corporation's CID structure, it makes sense to do so with a 'detached' notion of blame where our interactions are clinical and dispassionate.

### §3.8 *The Strawsonian conception of the good will*

Wolf's theorising about corporations as being analogous to sociopaths relates to a particular part of Peter Strawson's argument that views moral responsibility as a social phenomenon (Strawson 1962/2008). That is, his distinction between:

1. A "participant" attitude: we believe the entity we are dealing with is generally an appropriate target of our reactive attitudes.<sup>117</sup>
2. The "objective" stance: we believe that the entity we are dealing with is not an appropriate target of our reactive attitudes.<sup>118</sup> Reactive attitudes are inappropriate when directed at entities of this kind.

Strawson's argument reoriented theorists' focus away from metaphysical issues like free will, determinism or individual moral psychology as a way of understanding

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<sup>117</sup>Strawson, P. F., (1962/2008): 25 *passim*

<sup>118</sup>*Ibid.* 24 *passim*

the necessary and sufficient conditions for moral responsibility. In contrast, Strawson emphasised the significance of practices of moral responsibility in the context of our lived experience of the social world, especially in our interpersonal relationships. Analysed thusly, practices of moral responsibility are deeply social phenomena.

There is a tendency among theorists to connect our idea of responsibility with morality, by holding that its point or purpose is moral evaluation, i.e., the assessment of another and their behaviour as good or bad, right or wrong. Strawson articulates a strong version of this connection. He argues that our concept of responsibility is grounded in and constitutive of our practice of holding others responsible via our 'reactive attitudes' or 'moral emotions', such as forgiveness, gratitude, indignation, resentment, and blame (Strawson 1962/2008).

This connection can also be articulated in a weaker form such that holding another responsible is to believe that reactive attitudes are appropriate, fitting or deserved responses to their behaviour even if we do not feel, hold, or express those attitudes ourselves. There is also general agreement in the literature that certain forms of punishment are only justified if the offender is a responsible, and therefore blameworthy, moral agent. According to Strawson, for a concept like blame we should:

“... keep before our minds something it is easy to forget when we are engaged in philosophy . . . viz. what it is actually like to be involved in ordinary interpersonal relationships, ranging from the most intimate to the most casual.”<sup>119</sup>

These ordinary interpersonal relationships are grounded in non-detached social attitudes that form the basis of our status as morally responsible. We adopt a ‘participant attitude’ when we believe the entity we are dealing with is generally an appropriate target of our reactive attitudes. We adopt the ‘objective stance’ when we believe that the entity we are dealing with is not an appropriate target of our reactive attitudes. So, reactive attitudes are inappropriate when directed at entities of this kind.

Strawson argues that we should adopt the reactive stance in most of our interactions with other individuals. We should adopt the objective stance when we are dealing with individuals whose agency is disordered in some way or who are not fully morally developed. This relates to Wolf’s analogy between corporations and sociopaths, which implies that we should adopt a Strawsonian objective stance when dealing with corporations (and sociopaths).

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<sup>119</sup>*Ibid.* 23

When it comes to the participant attitude, there is no question of us choosing or needing to justify the fact that we are liable to reactive attitudes and feelings. Such practices are part and parcel of our social interactions. Even if we had some theoretical reason to abandon or suspend these reactive attitudes it would be extremely difficult to do so since they are such deeply embedded social practices. If we could choose to abandon those attitudes, we would not do so since that would entail choosing to live an emotionally impoverished, dehumanised life.

Our moral reactions to others is a given of our social practices, involving feelings and attitudes produced by our beliefs about conduct and character. Strawson then discredits the skeptical challenge by reference to the inescapable, psychological mechanisms that guide human thought and action:

“We are naturally social beings; and given with our natural commitment to social existence is a natural commitment to that whole web or structure of human personal and moral reactive attitudes, feelings, and judgments of which I spoke.”<sup>120</sup>

Strawson’s argument is sometimes interpreted as if there is a sharp distinction between participant attitudes and the reactive stance. The distinction between taking

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<sup>120</sup>*Ibid.* 39

up reactive attitudes and taking a purely objective stance is more complicated than Strawson makes out, not only in the case of individuals but also when we introduce the idea of corporations as members of the social world and the moral community.

Our expectations of others, and our corresponding reactive attitudes, are modified by excusing or exempting conditions. Excuses modify our reactive attitudes to those who are typically eligible for these responses. For example, we excuse and modify our responses to those who harm us accidentally. We do not blame them even if the behaviour is such that it would normally be blameworthy. We exempt from these practices those who we view as having learning difficulties or are morally undeveloped in some way. We do not take it personally when they fail to act with good will or treat us with due regard.

The ability to recognise and respond to moral considerations should be seen as on a continuum on which there seem to be three distinct parts for matters of culpability. First, there are those who fall below the requisite degree of sensitivity to moral considerations and are therefore not deemed culpable for their actions. Second, there are those who do cross this threshold and who are properly subject to the norms of blame and are thereby culpable for their wrongdoing in the considered context. Third, within this second category there is a further division between those whose wrongdoing is mitigated due to morally significant difficulties in exercising the relevant capacities and those who have no such mitigating elements.

According to Strawson, the key to whether we are moral agents is our social status as it relates to moral responsibility i.e., whether or not others in the moral community treat us as moral agents. We can identify the underpinnings of moral responsibility from paradigmatic examples of such interactions. We identify what it means for an agent to be responsible by examining the practices under which we hold agents responsible. At the heart of this process are the reactive attitudes and attendant social practices of praising and blaming. Similarly, our actual practices of excusing and exempting from moral responsibility illustrate when it is appropriate to modify our ascriptions of moral responsibility and which agents we should exempt from those ascriptions.

Strawson was writing about the interpersonal relationships between individuals. He is silent about corporations. Yet as our everyday language demonstrates, we routinely express reactive attitudes to corporations. What is it about corporations and what they are doing that we are reacting to and what is it that makes those reactive attitudes conceptually coherent? If Strawson is right that our moral attitudes start from our moral reactions, then that is interesting in its own right. There are normative concepts we deploy because we interact with one another and with these corporate institutions in normal life.

We have complex and profound relationships with these incredibly powerful institutions. A Strawsonian approach to our relations with corporations will articulate and give meaning to these relations by using the language of moral responsibility. The language of moral responsibility enriches the positive and reactive attitudes we hold towards not only each other. This 'we' includes corporations.

Strawson is presenting an argument against a purely instrumental view of moral responsibility. According to Strawson: if your attitude to people is that they are just there to be managed, handled, cured or trained then you are dehumanising them by denying them a certain kind of dignity; a certain kind of human interaction goes missing. We do not settle for indifference to responsibility when we are living with others in a social arrangement. They insist that when things go right or wrong there is invariably some cause and responsibility should be taken. They do not settle for attributing the consequences to mere luck or fate (unless it is obviously appropriate to do so such as in the case of winning the National Lottery.)

This is relevant to debates about corporations since some advocates of the social view argue that an advantage of such an account lies in its instrumental value, i.e. by holding corporations morally responsible for what they do we can manage their behaviour such that it is socially useful and praiseworthy. Strawson's argument demonstrates the limitation of this approach. We can achieve similar outcomes by

holding corporations practically or legally responsible for their actions. The threat of fining a corporation for polluting a river may have the effective of disincentivising such behaviour. In which case, we look for an account of corporate moral responsibility that gives us something deeper than a merely instrumental account can offer. Corporations are deeply rooted in the moral community Strawson is describing. They are also part of the complex web of social and moral relations his account of reactive attitudes describes. On this Strawsonian account, the assignment of responsibility involves relations with others, including corporations, and getting these relations right fundamentally matters.

The notion of good will is an integral part of this aspect of Strawson's argument (Strawson 1962/2008). In a Strawsonian account of moral responsibility, good will is a necessary condition for bringing someone in from the purely objective standpoint. When we see others as being well intended (by showing good will) we can reasonably adopt a participant attitude to them and view them as an appropriate target of our reactive attitudes.

Being morally responsible which, for Strawson, means being praiseworthy or blameworthy is about the quality of will with which an entity acts, whether it is from good or ill will (Strawson 1962/2008). Standards for a competent agent's acting from a reasonable quality of will are understood by reference to the expectations of the moral community holding them morally responsible. The community demands that



others show a sufficient degree of good will. Deviations from these expectations then render fitting reactive attitudes such as praise (gratitude in response to exceeding expectations) or blame (resentment in response to response to falling short of those expectations). The ability to show good will is, in Strawson's account, a necessary condition for reactive attitudes like blame, so it is relevant that sociopaths (or psychopaths) are unable to show good will.

This part of Strawson's argument is sometimes analysed as if an entity is either an object or something you take a reactive attitude towards. Lacey and Pickard's arguments take us away from the paradigm cases where Strawson thinks that it makes sense to have a reactive attitude as opposed to taking an objective stance. The distinction between an objective stance and taking up reactive attitudes is not as sharp as it seems from Strawson's perspective (given a certain way of reading of Strawson's arguments).

Applying Strawson's argument to corporate cases raises the intriguing question of whether corporations can show good will, where the CSR model is taken to be a corporate surrogate for the good intentions exhibited by individual human agents.

The Anglo-Saxon model of the business corporation that has been adopted (or imposed) globally is mandated to maximise shareholder value. This means that the business corporation can be viewed as an amoral calculator inducing its individual

members to make economically rational, arms' length unprincipled decisions, a form of capitalist *anomie*. As such they represent the reification of capital; what Karl Marx called 'Monsieur le Capital.'<sup>121</sup> If business corporations are merely amoral calculators this implies they are analogous to sociopaths.

Adopting the CSR model means that in their day-to-day operations business corporations can operate in ways that aim to enhance society and the environment rather than harming them. This warrants further consideration because if this is an accurate depiction of the CSR model, then (i) business corporations are not mere amoral calculators (ii) we can bring them into the moral realm, and (iii) they may be an appropriate target of our reactive attitudes and we should view them as appropriately blameworthy.

### *§3.8.1 The application of the CSR model*

According to Wolf, we adopt the Strawsonian participant stance when we are dealing with others who are 'one of us' in some way, which can be psychologically or by having an inner self they express.<sup>122</sup> In Wolf's argument, we form reactive moral attitudes in response to others' actions which are an expression of this inner

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<sup>121</sup>Marx, K., (1894/1981): 969

<sup>122</sup>Wolf, S., (2013) 10

self. This cuts to the chase so far as Wolf is concerned. She argues that corporations are not morally responsible for what they do because:

“Organisations do not have any emotional capacities.<sup>123</sup> They lack the unified consciousnesses necessary for feeling. To put it differently, organisations lack souls.”<sup>124</sup>

This is an extension of Wolf’s analogy between sociopaths and corporations since this lack of an inner self can be one of the attributes of being a sociopath:

“.... it is not just that [the sociopath] is lacking a strongly identified moral identity, he is likely lacking a strongly identified self-identity almost altogether... If a person has no strong sense of self in general, then of course he will have no strong sense of lost integrity when he violates life projects which for the rest of us would be central parts of our self-identities.”<sup>125</sup>

There are a number of ways of responding to this part of Wolf’s argument. We may grant her this objection but respond by developing an account of responsibility

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<sup>123</sup>Where the terms ‘organisation’ and ‘corporation’ are used interchangeably

<sup>124</sup>Wolf, S., (1985): 279

<sup>125</sup>Professor Howard Kamler quoted in Thomas, M. E., (2013): 134

without blame which applies to corporations as well as individuals. The preceding sections undertook this task.

Alternatively, we can point out that even if the corporate structure is sociopathic, most if not all of its individual members are not sociopaths. We can think of corporations as having an agency that can be morally improved. So, the moral competence of their individual members is relevant to the therapeutic value of blaming corporations. It may be that while the corporation qua corporation is unable to sympathetically identify with why certain actions are right while other actions are wrong, its individual members are morally competent. They feed their responses into the corporation's decision-making structure in order to produce certain outcomes. This is how the corporation is able to respond to what is happening on the outside, adjusting its behaviour in light of the demands which are being made on it. The CSR model is one very specific way in which corporations respond to the outside world by aiming to have a positive impact on it.

We can interpret CSR as an attempt to create a 'corporate soul.' That is, to present the corporation as a good and responsible citizen rather than an amoral calculator. We can see how this plays out when many business corporations like multinational technology e-commerce corporations responded to the global 'Black Lives Matter' uprisings by adopting the movement's slogans as part of their own marketing strategies. Or when an arms, security and aerospace corporation flies the Pride flag

during LGBT+ history month and participates in parades during Pride month. Their individual employees appear on floats which carry the corporation's branding, they hand out official leaflets and in some cases try to recruit others on the parade to join their corporation presumably with a view to making its workforce more diverse. As such, the individuals who take part in the parade are doing so on behalf of and as official representatives of the corporation.

The CSR model does not just apply to business corporations. Consider the example of members U.S. police departments 'taking the knee' before policing Black Lives Matter demonstrations. Here we see corporations of all types portraying themselves as being in the service of humankind responsive to external circumstances. Their corporate actions like taking the knee, carrying the branding of the Black Lives Matter movement and participating in Pride events can be interpreted as the corporation changing its behaviour so it adheres to societal norms and expectations with regard to anti-racism and pro-diversity measures.

If the CSR model is a suitable surrogate for Strawsonian good will then we can coherently bring corporations in from the objective stance since they are appropriate targets of our reactive attitudes. Their actions can be interpreted as expressing the kind of 'soul' or inner life required by Wolf for attributions of moral responsibility (Wolf 1985, Wolf 2013).

We can respond to the analogy between corporations and sociopaths either by accepting it and applying the clinical model of responsibility without blame to corporations. Or we can reject the analogy citing the CSR model and put blame back in the picture. This is not an 'all-or-nothing' affair. There may be some cases where it is appropriate to hold corporations morally responsible without blaming them. These were considered in the preceding two sections of this chapter. There may be other scenarios where we may wish to go further and blame corporations. These are discussed in the following chapter.

### *§3.9 Coda: scepticism about CSR based on the phenomenon of 'window-dressing'*<sup>126</sup>

In response to corporations developing various forms of CSR, Gilles Deleuze observes that:

"Marketing has become the centre of the 'soul' of the corporation. We are taught that corporations have a soul, which is the most terrifying news in the world. The operation of markets is now the instrument of social control and forms the impudent breed of our masters."<sup>127</sup>

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<sup>126</sup>Window-dressing is a misleading disguise intended to present a favourable impression.

<sup>127</sup>Deleuze, G., (1992): 6

Deleuze is getting at the idea that responsible corporate moral agency goes beyond marketing and CSR (Deleuze 1992). Though it may be too quick to dismiss corporate responses to events like the Black Lives Matter uprisings as no more than cynical profiteering, charges of hypocrisy or ‘window-dressing’ may be more accurate.<sup>128</sup> We should be attentive to the practical danger that corporations may use talk of CSR in a purely instrumental way to serve their selfish ends. Corporations can use CSR as a way of presenting what they do as if they are being socially responsible, but it is really mere ‘window-dressing’, and we should be aware of that. This is analogous to individual cases where some morally defective individuals, like the moralising egoist, could do likewise.

Pink-washing is a term used to describe the action of using an LGBT+-related issue to distract from the negative aspects of a corporations’ activities. In the case of the arms, security and aerospace corporation we may say that its CSR model is a particularly chilling form of pink-washing to distract from the wickedness of its actions such as allegedly being party to war crimes.<sup>129</sup> This leaves us wondering how many people, including LGBT+ people, have been killed by weapons manufactured by arms manufacturers while their employees carry rainbow flags and attend Pride marches.

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<sup>128</sup> [Amazon says ‘Black Lives Matter’. But the company has deep ties to policing](#)’ Kari Paul *The Guardian* 09.06.20. Most recently accessed on 25.10.20.

<sup>129</sup> [BAE Systems accused of being party to alleged war crimes](#)’ Dan Sabbagh *The Guardian* 11.12.2019. Most recently accessed on 27.06.21.

We may say that the same kind of dynamic is in play when corporations responsible for repeated extra-judicial assaults on and killings of black people adopt the slogans and rituals of the Black Lives Matter uprisings. Likewise when it comes to business corporations that have profited from racialised capitalism. Nneka Logan and Manning Marable argue that the racialised roots of corporate personhood have profound implications for contemporary racial and ethnic politics in the U.S., and for contemporary corporate practices (Logan 2018, Marable 1983/2021). Corporations have oppressed, marginalised and exploited successive generations of minority ethnic groups by adopting discriminatory labour market policies and by fostering a managerial identity underpinned by white supremacy. It may be that contemporary diversity management practices are less concerned with righting the structural institutional wrongs of the past than they are with the contemporary social and economic requirements of the corporation.

We should be mindful of the possibility that through the CSR model, corporations appropriate and dilute the subversive energy of popular movements, co-opting fashionable causes with an eye on how this affects their profits. Selling clothing with the 'Black Lives Matter' or Pride branding can be a lucrative enterprise. CSR can also be a safe way of pre-empting any internal issues or past histories that may cause reputational damage, with a knock-on effect on profits and shareholder value. In many cases, scepticism about CSR and corporate activism based on its performative



nature and limited impact, is justified. Understandably, we may view some forms of CSR as being mere 'window-dressing' not seriously concerned with improving the extent to which corporations behave in morally responsible ways.

### *§3.10 Conclusion*

This chapter has argued that there are compelling reasons why we should hold corporations responsible for what they do. For example, without affectively blaming them in some cases. It enables us to take a step beyond the approach of theorists like Susan Wolf who argue that we can only hold corporations causally and/or practically responsible for their actions. Removing some of the strongly morally reactive attitudes to corporations, we can nevertheless have a meaningful moral relationship to them. We can bring them into the moral realm, holding them responsible albeit without blame.

There is a functional reason why this approach is appealing insofar as it enables us to correct acts of historic injustice. An irreducible notion of responsibility without blame enables us to interact with corporations who are responsible for past wrongs in a way that is dispassionate and transactional. There are also instrumental and therapeutic reasons why we should adopt this clinical model in corporate cases. It is a way of treating corporations with respect, recognising the seriousness of their

wrongdoing and can enable them to improve. It also maintains the dignity and self-respect of those who have been wronged who are seeking to hold the wrongdoer responsible and accountable.

Notwithstanding the advantages of Lacey and Pickard's clinical model, there are at least four reasons why we have not got as far away from blame as they suggest.

First, while they may argue that theirs is a model of 'responsibility without blame' what they really have in mind is a notion of responsibility with detached rather than affective blame. It is the latter they wish to set aside not the former, so blame is still very much in play. Second, even if the corporation qua corporation lacks the right kind of inside to sympathetically identify with moral reasons for action, most of their members are morally competent. Third, we can use the CID structure and corporate behaviour exemplified by CSR (albeit with certain caveats) as a corporate surrogate for the Strawsonian notion of the good will which brings corporations into the moral realm from the purely objective stance. Fourth, corporations' CID structures are the locus of corporate agency that persist through time. Those decisions can be good or bad and can have far-reaching consequences. The following chapter develops a model for blaming corporations before discussing the instrumental and non-instrumental value of doing so.

## Chapter Four: Responsibility With Blame

### *§4.1 Introduction*

The main argument of this thesis is that it sometimes makes sense to judge corporations blameworthy, and that there will be times when we should blame corporations. It also defends the very strong claim that sometimes it is morally necessary for us to blame corporations.

An objection to this argument is that even if we accept that corporations are moral agents, they are not the sort of entity we blame. Our practices of blaming are invariably based on interpersonal I-Thou relationships that require an emotional pick-up on the part of the blamee. Since our relationships with corporations tend to be impersonal and since it is a moot point whether groups qua groups have emotions, they are not appropriate objects of blame.

This chapter responds to this objection by arguing that it is appropriate to blame corporations for serious wrongdoing. It does so by revising and developing Miranda Fricker's paradigm-based explanation of second-personal Communicative Blame (Fricker 2016). It is sufficient for blaming X that one judge X blameworthy. So, we may properly blame X even if X is a corporation so long as it is indeed

blameworthy. The value of blaming corporations qua corporation does not require an emotional 'pick up' on their part.

The main conclusion of this chapter is that while blaming corporations has an instrumental value, the moral necessity of blaming them is derived from its non-instrumental value. By treating corporations as blameworthy we are taking ourselves and them seriously as moral beings. It is a way of maintaining our dignity, our self-respect and our humanity. It acknowledges the seriousness of their wrongdoing. It is also a way of resetting the relationship between powerful entities that abuse their power and the relatively powerless who are harmed by them. As such, the practice of blaming these vast entities can be part of the process by which those who are oppressed, marginalised and exploited express their inalienable right to resist and achieve liberation from their oppression.

The chapter begins by elucidating Miranda Fricker's argument for a paradigm-based explanation of second-personal Communicative Blame, which is revised and developed to demonstrate that we can coherently blame corporations (Fricker 2016) (§4.2). This is followed by a discussion of the role of illocutionary speech acts in an account of Communicative Blame. This is done by way of an analogy with Lorna Finlayson's critical analysis of the 'silencing argument' against pornography (Finlayson 2014) (§4.3). The preceding discussion of blaming practices are then analysed as a form of informal punishment (§4.4). The instrumental and non-

instrumental value of blaming corporations is examined with reference to who does/does not have the standing to blame (§4.5). The next section addresses an important objection to blaming corporations. According to this objection, doing so entails blaming (or punishing) the individual for what the group has done. The main response to this objection is to argue for a conception of moral responsibility that is irreducible and non-distributive (§4.6). The chapter concludes with the observation that insofar as the practices of blaming and forgiving are to do with asymmetries of power, they are political as well as ethical practices (§4.7).

#### *§4.2 Second-personal Communicative Blame*

Miranda Fricker's argument to do with Communicative Blame is concerned with the kind of blaming we engage in with people we have an intimate relationship with like our partner, our children, our family, our neighbours and so on (Fricker 2016). Fricker is primarily modelling her account of blame on an activity that takes place between individuals in a relatively intimate setting. For her, Communicative Blame is about X performing an act where there is some pick-up on Y's part.

Fricker argues that our social practice of blaming is so diverse there is little by way of emotional content that is present in all instances of blame (Fricker 2016).<sup>130</sup> There is the first-personal reflexive mode of blame: “I blame myself for the spoiling the holiday.” There are second-personal interactions where the wronged party might be oneself or someone else (near or distant): “You said you’d look after my cats while I was away.” Then there are third-personal cases which might relate to any number of individuals (distant or close) or corporations: “Blame the doctor for the misdiagnosis” or “Blame fossil fuel corporations for what’s happened to the environment.” Fricker’s argument relates to second-personal interactions. The argument of this thesis concerns third-personal cases involving corporations.

Further diversity is introduced when we note the range of emotional content in these scenarios. Moral anger can play a role in practices of communicative blame.

Sometimes blaming can be a dispassionate way of identifying who is at fault: “Blame the electrician for the damaged ceiling in the bathroom.” At other times, it is a judgment invested with the deepest moral emotion: “How could you betray me?”

Finally, blame can be conveyed in many different emotional registers including anger, indignation, resentment, disapproval, bewilderment, hurt and sorrow. Fricker is mainly concerned with what she terms Communicative Blame which underpins second-personal interactions:

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<sup>130</sup>This line of argument is contested. This thesis does not enter into that debate.

“... blame that is performed in the most simple and socially immediate sort of interpersonal exchange: I wrong you, and in response you let me know with feeling that I am at fault for it. It is an essentially second-personal, I-Thou interaction.”<sup>131</sup>

Note that this species of blame is characterised by the personal I-Thou aspect of this interaction. Fricker aims to develop a paradigm-based explanation of a particular kind of basic second-personal interaction where X blames Y for an action, motive, or attitude (or lack thereof) from which other variant practices can be seen as derivative. Her analysis focuses on the kind of scenarios where the blamer accuses the wrongdoer of fault, where this fault might concern an action or an omission, or it might concern the blamed party's motives, attitudes, dispositions or their beliefs.

As Fricker acknowledges, the communication of blame can be non-verbal, for example it may be gestural or behavioural where the wronged party falls silent or leaves the room. This practice of blaming finds fault with the other party and communicates this judgement to them, verbally or non-verbally, with the added force of some negative emotional charge.

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<sup>131</sup>Fricker, M., (2016): 171

Fricker categorises Communicative Blame as an illocutionary speech act.<sup>132</sup> Her main example is the scenario where you come home from a weekend away to discover that your neighbours have not fed your cat despite promising to do so. The blame is communicated to them explicitly or implied, expressed fulsomely or partly suppressed. You could say something to them angrily along the lines of, 'How could you treat him like that?' Or you could freeze your neighbours out, refusing to have anything more to do with them. The point is that regardless of the tone that is taken and the emotional register that is deployed, blame is communicated in the form of a second-personal interaction. Judging blameworthy does not imply communicating this judgement, at least to the object of the blame. The same arguably applies to some of the emotional/affective aspects of blaming. This indicates one limitation in the focus on illocutionary speech acts.

There is a further point in characterising this interaction of communicating blame as an illocutionary speech act, which is that it aims to make the wrongdoer feel sorry for what they have done. There is something more going on here than conveying a piece of moral information or making your neighbours feel bad. The sorrow they feel is not motivated by self-interested reasons, i.e., the neighbours are not supposed to be sorry because you will no longer water their plants when they go on holiday in return for them feeding your cat. The illocutionary point of Communicative Blame is

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<sup>132</sup>*Ibid.*



to inspire a pang of remorse, understood as a cognitively charged moral emotion. In this paradigm of the practice of blaming, the speech act is intended to bring the wrongdoer to the point where they have a pained understanding the moral significance of what they have done or have failed to do.

The distinctive aspect of blame is that it expresses something important about our stance towards the wrongdoer's actions. Fricker argues that Communicative Blame, which identifies and communicates faults, is the paradigmatic case of second-personal blame (Fricker 2016). This may or may not involve the blamer being angry or expressing other hostile attitudes. As Fricker acknowledges, it is possible to be dispassionate when blaming others. The social practice of blaming can be undertaken coolly and dispassionately. It may be the case that it is more effective when it is.

Different emotional theories of blame have their own views on the role played by hostile expressive attitudes. What matters is that they agree that to blame is to respond to the actions of others with a negative emotion, regardless of how that emotion is expressed and who the emotion is directed at: individuals or corporations. Fricker further argues that our blaming practices display too much internal diversity to be so neatly identified with the narrow set of attitudes that emotional theories of blame focus on. There are many varieties of blame which operate in different contexts, so there is very little that is present in all instances of

blame. Blaming oneself is different from direct second-personal Communicative Blame, and each of these forms of blame is importantly different than third-party blame.

This last variety of blame gives us a further insight into the non-instrumental value of blaming corporations. Fricker gives the example of two people who do not live in France discussing an industrial dispute there. One of them is blaming the leaders of the trade unions for their intransigence and the other is blaming the French government.<sup>133</sup> Neither is directly affected by the dispute, nor are they emotionally invested in the issue. They discuss the forthcoming strike dispassionately with each person apportioning blame to different parties. We cannot say that either person is trying to inspire remorse in the union leaders or the French government. The morally reactive attitudes on display here are essentially vicarious, i.e., they are essentially applicable to third parties and essentially capable of impersonal form.

This kind of third-person dispassionate blaming is not intended to influence the outcome of the dispute. But it might have some influence on the moral understanding on some other party, perhaps the person with whom the discussion is taking place or someone who is listening to the discussion. They may come to see the world differently; from some other perspective they had not previously considered.

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<sup>133</sup>*Ibid.*

So, we see another way in which blaming brings about a realignment of moral understanding. This does not affect the leaders of the French lorry drivers' union, or the members of the French government involved in the negotiations. They are not being blamed personally and they are not party to the discussion.

We can also use this example to illustrate how it is helpful to take Fricker's account and expand it to include corporate cases. In Fricker's account, a paradigm case of blaming is an I/Thou interaction where the 'I' and the 'Thou' are the blamer and the blamee. Fricker's is a functional and communicative theory of blaming practices. Paradigmatically, the blamer communicates blame to the blamee; hopefully they both learn from the interaction and move on from it. The communicative and functional aspects of blaming are not specific to an I/Thou relationship where there's only the blamer and the blamee. Consider again the example of the French lorry drivers' dispute where the two people discussing the issue are not blaming each other but third parties, which are corporations (trade unions and the French government).

Nor does Fricker's example of the trade dispute require any kind of emotional pick-up. The two people having the discussion are not blaming each other, they are blaming the third-parties involved in the dispute. In so doing they are not blaming them directly; in fact they are not interacting with them at all. This example shows that Fricker's model can be developed and extended to third-party blame and

corporate cases. Her argument about Communicative Blame has all the conceptual resources needed to deliver the goods so far as this thesis's argument for blaming corporations is concerned.

Blame is a very powerful reactive attitude. In Fricker's argument, the key point of cultivating (rather than suppressing) our natural practice of blaming wrongdoers is to bring them to see the moral significance of their actions. Blaming wrongdoers does not only affect how they view the moral significance of their actions; it also affects their inner emotional states (by making them feel a pang of remorse) and their outer actions (by encouraging them to mend their ways.) This points to a potentially serious problem with any account of blaming corporations to do with whether they have the right kind of inside in terms of the emotional capabilities to feel pangs of remorse. This has been partly addressed in the previous chapter with reference to the application of the clinicised model of responsibility without blame and the corporate CID structure.

In terms of the application of Fricker's model, a further issue is how we would make sense of this notion of 'remorse' in the corporate cases (and whether we need to). To blame in an interpersonal way is not to merely describe some state of affairs, it is to make an evaluative judgement of the blamee. To blame a corporation, for example, is to judge that the corporation has wronged us in some way. This explains the distinct pull that being blamed has, since we care about these sort of things. Individuals care

about the judgments other individuals make of them. It upsets me if my neighbours blame me for not feeding their cat as promised while they were away.

This thesis does not concern itself with the debate about group emotions. It aims to develop an account of blaming corporations that does not require them to feel pangs of remorse or have any kind of internal emotional apparatus qua corporation. It is sufficient for this thesis's argument that corporations can be said to have emotional capacities in virtue of the emotional capacities of their individual members. It is also an argument that allows for the scenarios where there is a dispassionate response from the blamee, in this case the corporation.

Corporations also care about how they are being judged. Many of them have a heightened sense of the importance of their reputations. Being involved in shady or wrongful practices can cause serious and lasting reputational damage which may be fatal for the corporation. When fossil fuel corporations are being blamed for their actions which led to serious oil spills, this is a serious judgment on them. It is more than an explanatory description of what happened (although it is that as well.) This is an example of an account of blame where the blamee is judged to have acted wrongfully, and since the blamees, in this case fossil fuel corporations, care about how they are being judged, this kind of judgement can also carry the distinctive force of blame.

When it comes to interpersonal interactions between individuals, this distinctive force may be felt in terms of a pang of remorse, though this is not a necessary condition for an account of blame in cases involving corporations. They do not have to really feel anything internally. It is sufficient for this account that they have a reason to act in a different way from how they have previously acted. Concerns about possibly fatal reputational damage and perhaps a genuine concern for the consequences of their actions are the reasons why they respond as they do. The previous chapter discussed examples of corporations responding to their external environment following the Black Lives Matter uprisings for example.

We can coherently blame corporations while having a largely impersonal relationship with them, and without committing to a view of corporations *qua* corporations as having group or collective emotions.<sup>134</sup> We can blame corporations and express this in terms of reactive attitudes like being upset, angry and frustrated directed at the corporation in impersonal terms.

Assigning blame to some entity in this way entails identifying them as having caused some harmful outcome. It means recognising it as an entity that has an impact in and on the social world, and the more serious the outcome the more blame

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<sup>134</sup>Margaret Gilbert provides an influential argument for the existence of group-level collective emotions (Gilbert 2002). So far as this thesis is concerned, blaming corporations does not require an argument for the view that corporations *qua* corporations experience such collective emotions.

they deserve. Assigning blame also imputes responsibility to them; they did not perform the action unknowingly, unwittingly or out of pure impulse. The action was performed more or less deliberately with knowledge of the likely outcomes, and if they did not know what those outcomes would be then we still blame them because they should have known. They must also be competent and capable of deliberated action. In cases of corporate corruption, stockholders, courts, and the general public put plenty of energy into figuring out who knew enough to cheat and did it. The combination of competence and deliberate promotion of what turns out to be a corporate disaster brings serious blame. Consider cases where corporations intentionally caused harm such as when fossil fuel corporations suppressed and cast doubt on scientific evidence proving the link between their activities and the climate emergency. The upshot is that attributions of blame to corporations is part of the process by which they are formulated as being morally responsible. It is important to note how little needs to be said about what goes on 'inside' the corporation with respect to its emotional economy.

It could be argued that the corporation cannot understand the individual's reactive attitudes unless it can have them itself, i.e., ExxonMobil cannot understand the anger directed at it unless it is also capable of being angry. Yet even if it makes sense for *A* to have a reactive attitude towards *B*, it doesn't require *B* to have any reactive attitudes towards *A*. All that is required is for *B* to understand why *A* has those reactive attitudes and to be able to do something about it.

The process just needs to operate on a basic transactional level. The corporation can understand those reactive attitudes in virtue of its individual members that do have the capacity to understand them and sympathise with them. The significant emotional content comes from the members of the corporation and the blamers. The individuals who compose the corporations feed those responses into its deliberative processes. They make their own judgements, and they act accordingly. Within the corporation at any given time there will be individuals representing the corporation or composing it who do have these emotional capacities and/or the capacity for sympathetic understanding. As the previous chapter argued, we do not need to claim that the corporation qua corporation also has them. It just needs to have a reason to respond in a different way from how it normally responds.

Examples of corporations altering their behaviour in response to the external environment demonstrate that they are aware of what is going on in the outside world, that this awareness can feed into their deliberations qua corporation, and they then respond in an appropriate way. It is sufficient for the practice of blaming corporations to be conceptually coherent is that corporations respond to those reactive attitudes. It is not necessary that the corporations' responses are underpinned by a sympathetic or emotional alignment with those responses, at least not at the level of the corporate entity.



The practice of blaming is easily abused and misused, so a complete understanding of the phenomenon will require looking not just at what blame is but also when it's appropriate. Fricker provides a useful taxonomy of ways that blame can go awry, alert to the danger that blaming can be a serious abuse of power on the part of those doing the blaming. An ethics of blame will need to take into consideration facts about the blamer, facts about the blaming interaction itself, and facts about the person being blamed. This is done with reference to asymmetries of power and who does/does not have the standing to blame in §4.6 and §4.7 below.

In Fricker's account Communicative Blame and remorse are partner emotional cognitions, each bearing the same moral content but where the content is grasped from the opposite points of view of wronged and wrongdoer (Fricker 2016). Each party apprehends this moral content in way that is infused with a moral emotion that is appropriate to each perspective, i.e., wronged/blame, wrongdoer/remorse. This is not a necessary feature of corporate cases. In interpersonal I-Thou interactions, this calibration of moral responses works together to reveal an important aspect of the point of Communicative Blame, to align the moral understandings of the blamer and the wrongdoer. The act of communicating blame jump-starts this process which does not have to lead to a perfect convergence in order to be considered a success. Communicative Blame may be said to have at least partially achieved its point in cases where we see the beginnings of understanding, insight and a reassessment of one's conduct.

We may hope a corporate apology is a precursor to corporations improving their conduct. Blaming corporations is justified even if this is not the result. There remains a non-instrumental value to blaming corporations to do with the importance of noticing wrongdoing, acknowledging the seriousness of what has been done and the self-respect of the blamers who speak up. By condemning corporations, they are refusing to be cowed by them. This is why we have a duty to speak up regardless of the outcome.

As Fricker argues, we should be attentive to the dangers inherent in the socially constructive causal power inherent in the use of Communicative Blame as a form of control.<sup>135</sup> In Fricker's account of Communicative Blame, its instrumental value lies in the fact that it can be deployed to move the wrongdoer to be moved to remorse for what they have done so they come to be appropriately moved by shared reasons that incorporate the perspective of those who have been wronged. As such it is a powerful tool of control that needs to be in the right hands. In the wrong hands it can be used to promote a morally corrupt agenda by generating bogus moral reasons that cause people to act against their interests.

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<sup>135</sup>Fricker, M., (2016): 176/177

We should not disregard how toxic and counter-productive blaming can be, both for those who are finger-pointing and those who are being pointed at. Blame can also destroy relationships as well as restore them. It is therefore understandable that we sometimes decide not to communicate blame. We may still have the thought that this corporation is to blame for that state of affairs but choose to not express this in any way perhaps because we feel there really is no point. But this is not to endorse the withdrawal from blame on a societal scale, which would seem to be a very bad idea when faced with extremely powerful institutions like fossil fuel corporations. When we go in for blame it needs to be directed at the appropriate object in the right manner and register and to the right degree.

We should also be generally skeptical of forms of social control like Communicative Blame that can be used in a way that is censorious, pernicky, intrusive and which wrongs people who are already relatively powerless. A good rule of thumb for what counts as 'in the right hands' is to use Communicative Blame to reign in the already powerful individuals and corporations whose wrongful actions have lasting and wide-ranging effects. The value of blaming practices lies in their ability to exert control over the powerful, not to bully or harass or manipulate the relatively powerless. This is the political dimension to the ethics of blaming corporations; it should be emancipatory not oppressive. As Fricker says:

“It is good that the underdog can gain some control; it is good that people who are wronged may use the power of emotionally charged words to demand respect and change, and in some cases even to precipitate an advance in shared moral consciousness by urging innovative moral interpretations on others.”<sup>136</sup>

This cuts to the chase with regard to the point of blaming corporations. Individuals are relatively powerless compared with the seemingly overwhelming power of corporations. What do the relatively powerless have to fight with except their capacity to blame those who wrong them?

#### *§4.3 Illocutionary speech acts in the context of communicating blame*

An evaluation of the role of illocutionary speech acts in the practice of communicating blame illustrates why those who adhere to the paradigm model of Communicative Blame might reject the idea that there is a point to blaming entities other than individuals.<sup>137</sup> It also demonstrates why this would be the incorrect stance to adopt. In fact, the limitations of the illocutionary act in the practice of blaming

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<sup>136</sup>*Ibid.* 181

<sup>137</sup>This is not intended to be a characterisation of Professor Fricker’s view of the blameworthiness of corporations or systems.

illustrates why it is appropriate to blame corporations for wrongdoing using a different paradigm model from that used in cases of second-personal blame.

There are at least four limitations on the focus on illocutionary speech acts. First, judging an entity blameworthy does not imply communicating this judgement, at least not necessarily to the object of blame. One person could blame their best friend for ruining the birthday dinner but, to spare their feelings they do not communicate this to them. Instead, they confide in their partner. The same arguably applies to some of the emotional/affective aspects of blaming. Blaming emotions like anger, resentment and indignation are fitting to feel when, for example, someone intentionally harms you acting out of malice. This does not imply communicating these blaming emotions to the object of blame. It may be the case that X has no idea that Y blames them for maliciously harming them and also has no idea that Y deeply resents them for doing so. Y merely judges them to be blameworthy.

Second, illocutionary acts differ from locutionary acts in that they carry a certain urgency and appeal to the meaning and direction of the speaker. As Fricker argues, an illocutionary speech act cannot be successfully performed without the uptake of the hearer, i.e., the hearer has to recognise the speaker's intention to perform just that speech act. Fricker's example involves a cup of hot chocolate.<sup>138</sup> I cannot

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<sup>138</sup>Fricker, M., (2016): 172

successfully warn someone the hot chocolate they are about to drink may burn their tongue unless they recognise my intention to warn them. Many speech acts have this form, including the mechanism of Communicative Blame as an illocution. The wrongdoer's lack of uptake prevents the blamer from bringing off the illocutionary speech act with full success. If X blames Y for event E, but Y does not recognise X's intention to blame them then Communicative Blame as an illocutionary speech act has not been successfully performed. For it to be successfully performed there needs to be some kind of pick-up on the part of the blamed.

By hypothesis this seems not to be the case on some of the corporate cases discussed earlier e.g., that of the French industrial dispute in Fricker's argument. Blaming ExxonMobil for its deeply harmful impact on the environment is not based on the kind of intimate I-Thou relationship that is at the heart of Fricker's argument. When we blame the fossil fuel corporations for the climate emergency we often do so with no individuals in mind. Given that those corporations do not always ignore those expressions of negative reactive attitudes, their expression in general impersonal terms has an effect. This argument for the value of blaming corporations does not rest on them responding to expressions of negative reactive attitudes. Even if blaming corporations does not have an immediate or obvious effect, it is still a conceptually coherent response to corporations and the practice of doing so has a non-instrumental value which is no less important than the instrumental value of doing so.

Third, Fricker's paradigm model of Communicative Blame grows out of a certain application of the philosophy of language to do with speech acts where speech act theory is used as a way of negotiating the rights and wrongs of public communication. Modelling our understanding of the normative relationships we stand in to each other on the conversations between individuals who are talking to each other misses many things that are important in some situations especially when we are dealing with entities like multinational corporations. Blaming corporations is an impersonal process. The transaction is much less immediate. It can often be mediated, and it is not necessarily the case that the effects the blamer aims to achieve are direct ones. Interacting with corporations requires a notion of blaming that does not presuppose engaging in any speech act.

We might blame Amazon for being cynical when it comes to its tax obligations, but the blameworthiness we attribute to Amazon is not necessarily manifested in any speech act we perform towards them or even towards each other. Consider how rarely (if ever) we speak to Amazon employees. We merely judge corporations to be blameworthy or we feel the reactive attitudes towards them we deem appropriate in virtue of what that corporation has done. Given our impersonal relationship with corporations, there is no reason why they should know we hold certain reactive attitudes towards them in order for us to blame them.

Fourth, to think we can understand the whole domain of the morality of blame in terms of the dynamics of a set of speech acts between individuals is an impoverished view of blaming practices. Lorna Finlayson argues that what has been missing in discussions about pornography is an acknowledgement that there is a material dynamic to objectification and exploitation of women (Finlayson 2014). If the argument about the impact of pornography on women is only concerned with speech acts and freedom of speech, we gain an insight into something that is clearly important, but which fails to capture everything that is important or perhaps even what is most important about this debate.

In Fricker's account of Communicative Blame, take-up plays a very important role. There is a link between take-up and the nature of the speech act. For the blaming speech act to have meaning, the person being blamed has to know they are being blamed in the speech act in order for there to be uptake, remorse and so on.

Finlayson argues that when it comes to misogyny in the case of pornography, speech acts are not the main issue (Finlayson 2014). Her argument is an illustration of the dangers of over-emphasising the role of speech acts on a topic that is not to do with blame. We can use Finlayson's argument as an analogy to suggest that it is the same when it comes to blame. Just as we should not over-estimate the role of speech acts in various forms of injustice, we should not over-emphasise the role of speech acts when it comes to reactions to those injustices.



Finlayson argues that far from being a niche concern, pornography is one of the biggest industries in the world and a key feature of mainstream culture.<sup>139</sup> As such it monetises the objectification, marginalisation, exploitation, domination and abuse of women. When it comes to the sexual assault of women by men, there are many reasons why we should not just focus on the unsuccessful performance of illocutionary speech acts by the woman (i.e., the man fails to understand that ‘no’ means ‘no’) as an explanation of why those women were assaulted. As Finlayson argues this is:

“... implausible to the point of offensiveness: rape does not happen through simple misunderstanding.”<sup>140</sup>

Pornography contributes to and is part of the unequal distribution of power between men and women. The agency and worth of women are denied in such a way that their protest or refusal especially to sexual advances is nullified in ways that are not always easy to detect, let alone to articulate or to combat. This is to do with the social status and identity accorded to women in patriarchal systems and, relatedly, with the way in which their attempts at protest and refusal are interpreted. Rather than focussing on the dubious notion that the rapist is failing to understand that ‘no’ means ‘no’, we should instead focus on why it is that the protests and refusals of

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<sup>139</sup>Finlayson, L., (2014): 775

<sup>140</sup>*Ibid.* 781

women are virtually invisible rather than misinterpreted, and this is to do with the unequal distribution of power rather than the speech act per se. According to Finlayson, pornography should not be solely analysed in terms of speech acts but as:

“... an element that runs through the life and speech of patriarchal societies, their literature, their films, their music, then pornography, understood as the eroticisation of hierarchy and oppression, really is everywhere.”<sup>141</sup>

The wrongness of pornography is not found in what people say to each other, it is located in what people are doing to each other. Violence towards women, including sexual violence, is one of the structural features of patriarchal, racialised, heteronormative and capitalist societies (Walby 1990). As Finlayson argues, we only fully understand the impact of pornography on women’s safety and freedom by analysing pornography in the wider context of patriarchy and capitalism rather than by narrowly focussing on speech acts.

By analogy, this thesis argues that the essence of blaming is not the speech act of blaming some agent and them responding to it. To only focus on what is being said when individuals blame powerful corporations for their wrongdoing misses something very important about what is happening. Focussing on how the blamee

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<sup>141</sup>*Ibid.* 786

responds (or not) to a speech act also misses something about the significance of the dynamic that is in play.

In cases where relatively powerless individuals or groups of individuals are blaming relatively powerful corporations, there is a sense in which those blaming practices are an attempt to reset those imbalances of power. The value of those practices do not necessarily lie in their success. The essence of blaming is the wronged taking part in blaming practices that may or may not be picked up by the wrongdoer. Even if those blaming practices are ignored, they are still of significant value. The wronged are motivated to participate in those blaming practices because they respect themselves and they want to maintain their dignity. They are also taking seriously the wrongdoer and what they have done. This is why we should aim to bring corporations into the moral realm: doing so is a way of taking them, what they do and ourselves seriously as moral beings. We hope that this process leads to outcomes where the blame is registered by the blamee and there is some recognition of the wrongdoing, but the value of the process does not hinge on this being the case. There is an important non-instrumental value to such blaming practices to do with self-respect.

This is further illustrated when we consider that relatively powerless individuals and groups of individuals may also take part in blaming practices as part of a liberatory and emancipatory project that aims to reset symmetries of power, right

past wrongs, making the world more just and more bearable. There are many examples in this thesis of corporations doing things which are seriously wrong, and which count as crimes against humanity. These can be found in cases of historic injustices or in the here and now. This is why people will not 'move on' without those powerful entities that have caused deep and lasting harm being held to account in some way. Blaming practices are one way in which those who have been oppressed and have had their lives destroyed by corporations can begin to do so.

We can see how this plays out when it comes to issues to do with intergenerational and global justice arising from the climate emergency. The climate emergency has for the most part been caused over centuries by powerful fossil fuel corporations mostly located in the wealthiest parts of the world. The long-term consequences of those actions are being felt now and will probably worsen into the future. Yet those who are most likely to bear the brunt of those consequences are people who have the least amount of power and live in the poorest parts of the world. There will not be an even distribution of harm; wealthy corporations and wealthy individuals are more likely to avoid the consequences of the harms they have caused than those without wealth and power. And those who are most likely to suffer the worst consequences of the climate emergency are also likely to be those people living in countries that are dealing with the long-term effects of other crimes against humanity like settler-colonialism, the trade in enslaved people and genocide.

There is a clear link between the shift to burning fossil fuels, industrialisation, and settler-colonialism (Malm 2016). The environmental crisis is in itself a consequence of settler-colonialism, as colonial expansion heavily relied on the widespread plunder of colonies' natural resources, thus marking the genesis of environmental devastation. This is related to the notion of racialised capitalism discussed in Chapters One and Three of this thesis. The climate emergency compounds the racialised inequalities between 'winners' of the rapacious capitalist system and those who are being impoverished by it. On the one hand we have those whose luxuries are being protected as they lay claim to 'global' resources and on the other hand those whose survival is being sacrificed as their claims to territory, livelihood and well-being are disregarded. The movement to mitigate the climate emergency must not be devoid of social thought given the extent to which climate injustices are inextricably linked to other forms of injustice. The destruction of the environment and systemic oppression are interrelated as the climate emergency is not something separate from structural inequalities rooted in anachronistic norms of corporate domination located for the most part in the global north.

Hence the importance of blaming practices as part of an emancipatory and liberatory project. The mainstream environmental movement in the global north has doggedly remained mostly white and middle class. In side-lining the experiences, insights and rights of those most affected by the climate emergency it has replicated the imbalance of power established through colonialism. As it currently stands, a key

weakness of the environmental movement is that it is seeking solutions from those who are most complicit with causing and benefitting from exploitation and the degradation of the environment. Those in the global south who are most adversely affected by global asymmetries of power must be at the heart of movements whose blaming practices call out the most powerful individuals and corporations who have caused these serious irreversible harms. It is a deeply meaningful act for Indigenous peoples in India and Australia, for example, to call out their states and business corporations like Adani that have wrecked their lives regardless of the words they use and whether there is pick-up by those being blamed.

#### *§4.4 Blame as an informal form of punishment*

A communicative theory of blame such as Fricker's shares some basic features with a communicative theory of punishment, where blame is taken to be an informal form of punishment. In recent years, theorists of punishment like Antony Duff have been attracted to accounts of punishment which stress the idea that punishment has an important expressive or communicative dimension (Duff 2003). Central to the communicative view is the idea that it is part of the function of punishment to communicate a message either to the offender, or perhaps to society at large. There is an important way in which these ends serve as a justification for punishment. As far as offenders are concerned, the central meaning and purpose of communicative

theories of punishment is to communicate censure or condemnation they deserve for their crimes.

Duff argues for an account of punishment as a mode of moral communication aimed at inducing repentance, reform, and reconciliation through reparation (Duff 2003).

According to Duff's communicative theory of punishment, the justification of the harsh treatment that punishment involves depends essentially on the idea that punishment has a communicative function, and more particularly on the details of the communicative function that it is supposed to have.

Duff takes punishment to involve harsh treatment directed at a member of a particular community, with the goal of communicating societal disapproval of their norm-infringing behaviour, to the end of inducing remorse or regret for that behaviour. Punishment serves an expressive or communicative purpose. It is a device for the expression of attitudes of resentment and indignation and the judgments of disapproval and reprobation. These attitudes and judgments can be expressed by the punishing authority of those in whose name the punishment is inflicted. The expression of censure can be a useful function of punishment since it can be an efficient means of modifying conduct, though this is not a necessary condition of doing so.

Punishment can also be a way in which we indicate that we mean what we say. If we declare that certain forms of conduct like racism are seriously wrong, then this has implications for how we conduct ourselves. To mean what we say when we condemn racism commits us to avoiding such conduct ourselves. It also commits us to certain judgements on the conduct of others and to expressing those judgments in certain situations. For example, if we find we are members of a racist institution then we must blame it for that. We must express our view that it has acted wrongly by criticising or censuring its actions even if there is little or no hope that our speaking up will have an effect. Remaining silent in the face of these practices casts doubt on the sincerity of previous declarations that such conduct is seriously wrong.

To remain silent is to act without self-respect or dignity and to be complicit with the wrongdoing. So, to declare an action as being seriously wrong commits us to avoiding such actions ourselves and to condemning such actions in others. This further illuminates the examples in the previous chapter of corporations responding to the Black Lives Matter uprisings. The point of blaming corporations is not just to engender an appropriate response from them. Blaming one corporation (Amazon) for its commercial ties to other corporations (racist police departments) is a way of communicating that we are serious when we condemn racism.

As we have already seen, speaking up does not necessarily mean that we perform a speech act (although we may). Examples in the rest of this chapter will refer to



speech acts but the performance of speech acts are not a necessary condition of blaming practices. We can communicate our condemnation in non-verbal ways. For example, we may condemn the racist practices of a university by pulling down the statues that surround it which honour those who made their wealth as a result of the trade in enslaved people. It may be that a particularly powerful way of communicating our condemnation is by pulling down the statue dispassionately and in silence to honour those who were enslaved. We may show our contempt for a state which is systematically carrying out acts of genocide and ethnic cleansing against a minority Indigenous population by boycotting its products and urging other corporations like businesses and states to divest in and impose sanctions on that state.

There is more to be gained from blaming corporations than the expectation they will respond accordingly. Even if they do not respond, the point of blaming corporations is to do with maintaining the self-respect and dignity of those who are doing the blaming. Self-respect is taken to be a moral relation of persons to themselves concerning their own intrinsic worth. It includes an engaged understanding of a person's worth, as well as a desire and disposition to protect and preserve it. Blaming corporations is a way of protecting and preserving a person's sense of their own worth, with some restrictions to do with *X*'s standing to blame *Y*. This is important given how powerful and unaccountable corporations are, and also given their tendency to disregard or minimise the value of individual human lives.

Having a view about retributive emotions being appropriate in relation to corporations is a way of making sense of the intuitive idea that sometimes when it comes to the behaviour of extremely powerful entities like corporations, we have not only a right but a duty to speak up. We articulate this in terms of retributive emotions like blame. One of the requirements of having self-respect is seeing yourself as sometimes being entitled to communicate your disapproval to somebody. Someone who has that ability taken away from them is not being respected, and someone who does not think they have that right does not have any self-respect as a moral person.

To call someone a 'doormat' is to criticise them for allowing others to treat them badly. We think of them as lacking self-respect and dignity. They do not speak up; they do not complain or defend themselves when they are being wronged. Consider an alternative scenario where someone is being wronged yet still speaks up even though they cannot possibly affect the outcome. Nonetheless they say, "I want you to know that what you just did was wrong." They do not say this because doing so will change anything; they are speaking up because they want to maintain their dignity and self-respect.

We can add moral weight to this conceptual point by saying that such censure of conduct declared to be wrong is owed to its victims as an expression of concern for

them and for their wronged condition. This is why the 'Black Lives Matter' movement condemns 'white silence.' White people have a duty to speak because they benefit from the system of racialised capitalism that exploits, marginalises and oppresses people of colour. Speaking up in the form of blaming is owed to the society whose values are embodied in the law as showing that those values are taken seriously. It is also owed to the wrongdoer as an honest response to the wrongdoing of another. To criticise, condemn or censure their wrongdoing is to respect them as a moral being with dignity deemed worthy of treated with respect. It is also to do with the self-respect of the blamer who notices what has been done, notices the seriousness of it and takes themselves seriously enough as a member of the moral community to speak up. To take wrongdoing seriously as the transgressions of responsible beings is to be committed to censuring those who commit them. Blaming corporations addresses them as rational by articulating reasons for compliance; and as autonomous by appealing to their own values. Blaming corporations addresses them as equal members of a moral community.

Speaking truth to power regardless of the consequences still has a purpose even if the damage is already done in substantive terms. People taking part in the Black Lives Matter uprisings ritualise the ethics of memory by shouting, chanting and singing. It is very important that the protestors said the names of those who had been killed by the police. This is a way in which people who have been deeply wronged maintain their self-respect and dignity, by publicly calling out the

institutions and corporations that have wronged them, and by specifically naming those that have been killed and those that killed them. They also ritualise the memory of their suffering by writing slogans on the statues of those who profited from the trade in enslaved people or by pulling down those statues and dumping them in the water of the harbour where the slave ships unloaded their human cargo. The actions of those taking part in those uprisings are justified when interpreted in light of a communicative theory of blame because of the intrinsic value of that communication.

Appropriate acts of blaming are communicative acts that are intrinsically appropriate given the moral significance of what has happened. Those who have been wronged and those who have witnessed the wrongdoing have a duty to communicate their disapproval, for example by blaming the wrongdoer. That is part of the communicative point of blame.

#### *§4.5 The standing to blame*

Blaming corporations is a way of protecting and preserving a person's sense of their own worth, with some restrictions to do with X's standing to blame Y where this may depend on the relationships involved, or wider contextual factors. Marilyn

Friedman argues that the standing to blame is the right to have one's blame acknowledged (Friedman 2013).

Analysed as such, the right to blame places a duty on others. In which case, the right to blame is a claim that others have a duty to acknowledge the hurt or injury they have caused. This relates backward- and forward-looking conceptions of moral responsibility and the instrumental and non-instrumental value of blaming practices. In straightforward cases, the corporation may be directly causally responsible for the harm done (the corporation polluted the river) or the corporation may have an indirect causal relationship to a historic wrong (Unilever's acquisition of the United African Company/Royal Niger Company and the theft of the Benin Bronzes.)

We can think of this in terms of who has the right to blame corporations (and equally, who has the duty to apologise in response to being blamed.) We can see how this may play out with further reference to examples of corporations apologising for their wrongdoing. If we understand apologies by corporations as symbolic acts and if we agree that corporations can take responsibility for past wrongs even if their current members did not commit any of those offences, then a legitimate representative has the standing to apologise. Similarly, legitimate representatives of communities harmed by corporate wrongdoing have the standing to blame them for their actions.

Much of the literature on blame and the standing to blame is concerned with I-Thou interpersonal cases (Friedman 2013, Fricker 2016). We have seen that one of the things that is distinctive about blaming corporations is that the interaction is mainly impersonal. Even when we interact with a corporation's representatives, we interact with them as individuals speaking on behalf of the corporation. This limits what they can and will say, which may have the effect of making the interaction no less impersonal. When dealing with the corporation's representatives we can leave such interactions with the impression that we have been interacting with someone who has been reading from a script (which may well be the case.)

We can treat standing to blame as an intuitive right or authority that disqualifies would-be blamers who lack sufficient standing. It seems to be an intuitive right for direct victims of corporate wrongdoing to blame those who have caused them harm. The victims also have the authority to blame the wrongdoer and have the right to be heard in virtue of their status as those who have been wronged. There is a sense in which this is directly proportional to the harm that has been done. Those who have been deeply and irreversibly harmed have the most standing to blame, where standing is taken to be the right and authority to blame. In such cases the wronged have special permission to engage with the wrongdoers in a very particular way that focusses attention on specific features of the wrongdoer. What this means is that the standing to blame is a special status that excludes those who lack standing, i.e., there

are those who are not entitled to blame the wrongdoer. Those who are being hypocritical (by blaming others for things they have done) or meddling (interfering in things which are of no concern to them) are examples of reasons why there may be a lack of standing to blame. The representatives of ExxonMobil lack the standing to blame other fossil fuel corporations for their polluting activities. If they blame them regardless, they are open to the charge of hypocrisy, and may be told to get their own house in order before they start pointing the finger at others.

When those who lack the standing to blame are engaged in blaming practices they may be rightfully ignored by the target of their blame. If the blamer has the standing to blame then an appropriate response (e.g., an apology) is fitting. Having the standing to blame means having the right to be heard in certain circumstances and to have their hurt or injury publicly acknowledged by other members of the moral community. Those being blamed have a corresponding duty to give due consideration to their moral complaint. In such cases we are rightly affronted if the wrongdoer ignores those who are blaming them if they have the standing to blame. We are angered by the corporation that ignores those it has harmed and who are blaming them.

On this account if the blamer lacks the standing to blame no uptake is required on the part of the blamed. We are not troubled by them ignoring the blamer. We may instead be affronted by the blamer's meddlesome activities if they lack the standing

to blame. What we must be mindful of here, however, is how questioning the blamer's standing can be an effective way of silencing critics, which is especially important given how powerful corporations already are. They have the power to silence those who have less power than them, which is most of us when we act individually. This is why it can be especially powerful and effective when groups come together to blame those in power who have caused harm. Considerations of who has the standing to blame is not an all-or-nothing affair. The standing to blame comes in degrees of entitlement and those who do have the standing to blame powerful corporate entities may not only be those who have been directly harmed by them.

An important contemporary example of who does (and does not) have the standing to blame is the thalidomide scandal, where the use of thalidomide was aggressively marketed as a cure for morning sickness in pregnant women by the German pharmaceutical corporation Chemie Grünenthal.<sup>142</sup> The victims of this corporate wrongdoing and their families have the standing to blame Chemie Grünenthal, while a legitimate senior representative of the corporation has the standing to respond.

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<sup>142</sup>[The Thalidomide Tragedy: Lessons for Drug Safety and Regulation](#) Bara Fintel, Athena T. Samaras & Edson Carias *Helix* 28.07.09. Most recently accessed on 21.11.2020.



This does not mean that those of us who are not the direct victims of this egregious corporate malpractice lack the standing to blame Chemie Grünenthal since we all have some standing. Here (and elsewhere) the distinction between blaming and judging blameworthy is relevant. Those of us who are not the direct victims have the standing to judge the corporation blameworthy, while those who were directly harmed not only judge the corporation blameworthy, they also blame them. The extent of one's standing to blame corporations should track the extent to which one has been affected by corporate wrongdoing.

Those who have the most standing to blame and demand an apology from Chemie Grünenthal are those who have been most directly harmed by their actions. But it is also appropriate for those not directly impacted by their wrongdoing to resent Chemie Grünenthal. It makes more sense for the victims of the thalidomide scandal to demand an apology, they have a greater right to be heard and it is to them that any corporate response should be directed in the first instance.

Yet scandals like the thalidomide scandal are not only the business of those directly affected by it. In virtue of our shared humanity, those of us who were not harmed by the actions of Chemie Grünenthal may rightfully demand that at the very least they apologise and pay reparations to those who were. It is not necessarily meddlesome, hypocritical or opportunistic for those not directly affected by the scandal to take an interest in it and morally evaluate those responsible. If we delineate a firm boundary

around those who have the standing to blame corporations then this is another way of saying to those not directly affected that this is none of their business. It is also a way of shutting down criticism of the already powerful. Such egregious abuses of power should be of deep concern to us all. It may be that those directly harmed should take the lead when it comes to holding their wrongdoers responsible, but the victims are not the only people with an interest in doing so.

In intergenerational cases where there have been historic acts of injustice, a similar approach can be adopted. Those with the most standing to blame corporations are the descendants of those who were wronged and the representatives of the groups which have suffered the ongoing inter-generational consequences of the wrongdoing. It is to these groups that legitimate representatives of the corporations should direct their apology on behalf of the corporation. But this does not mean it is of no concern to the rest of us.

One example of this is to be found in relations between former colonial powers and their former colonies. In the first instance, it is those who live in the former colonies who have the standing to blame the former colonial power for their historic wrongs. But this is also of interest to those of us who are citizens of the former colonial power and whose government acts in their name. We also have an interest in how this historic wrong can be addressed and if we absent ourselves from the discussion, we are complicit in the ongoing injustice. Staying out of the debate fails to acknowledge

that we have benefitted greatly from the same system that has oppressed others, though it is those who have suffered the most who have the most standing to blame the former colonial power and who should lead the process.

Another example is found in cases where corporations operating in the contemporary world were complicit in the trade in enslaved people and the use of enslaved labour. When it comes to blaming those corporations, for example by pulling down statues of their founding members, we can expect a diverse group to have the standing to participate in such actions. This group may include people who are the direct descendants of those who were enslaved, or members of groups which suffer the ongoing long-term consequences of acts of historic injustice. It may also include members of groups who benefit from the long-term consequences of the original wrongdoing. Finally, it may include those of us who are ashamed of what was done in our name.

#### *§4.6 The liberalism objection*

One objection to the view of corporate moral responsibility discussed above is based on the fear that such an approach breeches the most fundamental principles of a liberal society, which prohibits the individual being blamed for what the group has

done, where blame is taken to be an informal form of punishment (Hasnas 2017, Maitland 2017).

To what extent is the argument for blaming corporations is committed to a problematic form of collective punishment is a good and necessary question. There is something counter-intuitive about blaming corporations insofar as this is thought to imply a form of collective punishment. Moving from individual moral agency to corporate moral agency looks like progress but there is a legitimate worry that we throw the baby out with the bathwater if we end up with a view that licenses something that is unjust.

A corporation is an entity that comprises individual members who experience vicariously the pain or harm associated with being blamed. So, to blame a corporation is to blame its members. For example, corporations cannot be jailed, only their individual members can be jailed. Financial penalties can be applied but these are only punitive to the extent that they impact on the corporation's profitability. In extreme cases a corporation may be liquidated, which is like a corporate death sentence, but such an 'execution' is only to be feared insofar as it impacts on the corporation's finances and its members livelihoods.

There seem to be three things that can go wrong in cases where we blame corporations. The first is whether the punishment fits the crime. The second is the

concern that the innocent are being made to suffer for wrongs they did not commit.

The third is that innocent people are being used as a means to an end by being used as an example to deter others.

When the leaders and members of a corporation engage in corporate wrongdoing, some of the other members of the corporation will genuinely not know what they are doing. Others may know but refuse to participate while others may know and will actively try to prevent the wrongdoing. These three latter groups are innocent of the corporate wrongdoing. Any blame imposed on the corporation qua corporation in addition to its guilty individual members must also be inflicted on its individual members who are in effect innocent by-standers. For example, if a corporation suffers severe reputational damage following a scandal and has to close entirely or make some staff redundant, it is unfair if the people losing their jobs either did not know of the wrongdoing or actively tried to prevent it. The corporate model is such that there is a division between ownership and control so the shareholders may have no knowledge or control over the employees who engage in the wrongdoing.

Blaming corporations can damage the reputations of the innocent by way of their association with or membership of the group is inherently unjust and potentially a human rights violation (Hasnas 2017, Rönnegard and Velasquez 2017). John Hasnas cites the example of the United States government's decision to indict Arthur

Andersen as a corporate entity in 2002 as part of the scandal involving Enron.<sup>143</sup>

According to Hasnas, only a minority of employees were involved in wrongdoing, but the result of the United States' government legally pursuing the corporation as a collective entity was the collapse of the entire company and the loss of thousands of jobs worldwide. As Hasnas states:

“It is difficult to see how assigning punishment to corporations can be ethically justified if the practical consequences of doing so is that secretaries in France get fired for the conduct of executives in Texas.”<sup>144</sup>

Even if it can be shown that holding corporations qua corporations morally and legally responsible for their actions can have a suitably deterrent effect on others, it is still deeply wrong and inherently unjust to blame or threaten to blame people simply because they are members of a particular group. If the deterrence argument is deployed in favour of holding corporations morally responsible for their actions, then the blaming of individuals who are innocent of wrongdoing becomes the point of the exercise rather than an unfortunate side-effect. The threat and/or actuality of blaming the corporation to achieve some desired end which entails that the innocent suffer is also a breach of the principle that people are ends in themselves and not means to an end. Imposing or threatening to blame a corporation because of the

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<sup>143</sup>Hasnas, J., (2017): 100

<sup>144</sup>*Ibid.*

wrongdoing of some of its members is antithetical to the respect for their individuality that lies at the heart of a liberal society.

One possible response to this objection is that holding corporations morally responsible for their actions authorises blaming corporate entities but it does not mandate doing so. It is a coherent position to hold that we can blame corporations without necessarily taking the next step of holding them legally liable for their actions. In which case, corporate moral responsibility would carry no practical significance. This response is of limited value for two reasons. First, it fails to acknowledge that even 'just' legitimately blaming and/or condemning corporations for their actions while stopping short of legal proceedings may cause reputational damage to the corporation, which in turn may lead to redundancies if the corporation is forced to close or if its business suffers causing its market share to shrink. It may also lead to reputational damage for the employees who continue to work there. Second, it is clearly the case that where there have been instances of criminality, we can reasonably expect the corporation to be held to account in both moral and practical terms. This may entail corporate fines, curtailment of business and in some cases even jail terms.

We must face up to the likelihood that there will be collateral damage of the kind outlined above. In which case, what is the best response to the serious concern that this is an illiberal measure?

This brings to light the important difference between holding an agent responsible for the harm they have done and them being responsible for that harm. Judging someone as being responsible for harm is a matter of clarifying and establishing what the agent has done, which reveals something about the agent. Our practice of holding the agent responsible for the harm done is a matter of what we then do with our knowledge of the agent's behaviour. This concerns the social, legal and ethical practices we undertake as a moral community when we decide to hold agents to account for their actions. We do not reveal the moral fact about the agent only to the agent. It is part and parcel of a social process that reveals something about them to the wider society. Publicising their wrongdoing is part of the process of holding them to account and what must be at the forefront of our minds is the purpose of doing so.

In some of these cases the question is partly whether, with respect to some of the individuals held to account, there is anything such as 'their' wrongdoing. Given what has been said entirely reasonably about punishing the innocent by blaming corporations, it is essential that we take fairness very seriously indeed. We must also take accuracy seriously. The bottom line is that it is only appropriate to hold an agent responsible for some action if they really are responsible for that action; to do otherwise would be deeply unfair. So, fairness and accuracy should be guiding principles when it comes to dealing with holding individuals and corporations to



account for their actions. This is why the notion of non-distributive moral responsibility is important. There will be cases where we blame the corporation without that blame distributing to all or any of its individual members.

We must be mindful of why we are holding a corporate agent responsible for its actions. Is it to bring about positive consequences in the world, for example by encouraging that corporation to improve its conduct and encourage other corporations to do likewise? Can we raise the consciousness of corporations about what they are doing and the effects they are having in the world? Can we prevent harm? Can we signal to the world that that which is being harmed such as human and non-human life, or the inanimate environment is worth taking seriously? Can we reinforce social norms that ensure the most vulnerable in our society must be protected? Would holding corporations morally responsible for their actions have negative consequences, such as by fostering resentment and recalcitrance? Would doing so be divisive and lead to deep divisions and conflict in society? When developing our practices of holding corporations responsible for the harm they have done, these are the kinds of concerns that should guide our considerations.

It should be constantly stressed that wherever possible culpable individuals must be held to account for their actions. Accounts of corporate moral responsibility should not be used as a shield to protect individuals, particularly powerful and influential individuals. What is noticeable from the examples of corporate legal punishment (or

lack thereof) discussed above is the absence of senior bankers and CEOs of banking and financial institutions responsible for the 2008 global financial crisis. In 2013 the CEO of JPMorgan Chase, which had paid \$13 billion in fines for its role in the financial crisis, received a 74% raise. This was notwithstanding the 7,500 employees who lost their jobs with the rest having their pay frozen.<sup>145</sup>

Attributions of moral responsibility should track power and degrees of culpability. Relatively powerless individuals who have done no wrong or who have committed relatively insignificant acts of wrongdoing should not be thrown to the wolves to appease public opinion or to protect more powerful individuals. Similarly, while many ground-level reporters who did not hack people's phone and did not know this practice was going on lost their jobs as a result of the closure of the News of the World, senior editors, board members and the Chairman/CEO of News International remain in post. The lesson is not that we should avoid holding powerful business corporations responsible, but that we should do so in the right way by ensuring that the right people are held responsible, i.e., by tracking the distribution of power in the corporation.

When we attribute moral and practical responsibility to corporations there will be some harm done to individuals who are personally innocent of any wrong-doing.

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<sup>145</sup> [Jamie Dimon's Raise Proves U.S. Regulatory Strategy is a Joke](#) Matt Taibibi 30/01/14 *Rolling Stone*. Most recently accessed on 18/02/20.

Clearly it ought not be the case that we should intend to harm or punish the innocent. But where it does happen that innocent individuals are affected by attributions of responsibility; we should reflect carefully on what has caused this to happen. If it is the case as Hasnas argues that secretaries in France lost their jobs because of the conduct of powerful executives in Texas, then it seems wrong-headed to claim that this is the fault of theorists in London who are developing a social view of moral responsibility. If the now unemployed secretaries in France are the collateral damage, they are the collateral damage of the actions of the corrupt executives in the Enron/Arthur Andersen scandals. Their misconduct is ultimately the reason why otherwise innocent people suffered. The key claim that needs to be retained here, though, is that over and beyond the 'big fish' individuals there is a distinctively corporate form of responsibility that applies as well. It is this additional form of corporate responsibility that this thesis defends.

Crucially, when we hold corporations irreducibly morally responsible for their actions, its irreducible nature means that moral responsibility does not distribute to their individual members. This addresses the liberal concern that blaming corporations entails blaming the individual for what the group has done. By adopting a model of irreducible moral responsibility in some cases, the social view has the advantage of blaming the corporation as an entity that is distinct from its individual members, none of whom are blamed for the corporation's wrongdoing.

Blaming corporation C for its role in genocide does not necessarily mean that C's current individual members are blameworthy.<sup>146</sup>

#### *§4.7 Conclusion*

This chapter has argued that the point of blaming corporations is found in its instrumental and non-instrumental value. Holding corporations morally responsible has an instrumental value if it leads to corporations acting in such a way that maximises social benefits while minimising or eradicating social risks and social costs. There is a point to blaming corporations if doing so leads to them putting right the harms they and other corporations have caused. These harms can be historic in nature, they can be harms caused now and, when it comes to the climate emergency, they can be harms which have yet to occur, but which are the very long-term consequences of corporate activity.

No less important is the non-instrumental value of blaming corporations. Even if blaming corporations does not lead to them acting in way of which we approve, and even if blaming corporations does not lead to them righting the wrongs they have

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<sup>146</sup>The collateral damage of holding corporations irreducibly morally responsible for their actions may well ask for some remedy. For example, that the behaviour of others towards the individual members does not get tainted by their innocent association with a harmful institution. There are all sorts of ways in which people do this in practice e.g., by way of how they treat those who are harmed when a corporation goes down.

done, we still have good reasons to continue doing so. The key point of such practices is found in the role blaming plays in maintaining the dignity and self-respect of the blamers who are often relatively powerless compared with these vast corporate entities.

Having established the value of the social practice of blaming corporations, we should consider the possibility that we may forgive corporations. The following chapter undertakes this task.

## Chapter Five: Forgiving Corporations

### §5.1 Introduction

This chapter is concerned with a seemingly straightforward question: when does blaming end? One way to end blaming practices is to forgive those who have wronged us. Hannah Arendt argues that forgiveness is one of the two capacities necessary for a political life (the other being promising):

“Without being forgiven, released from the consequences of what we have done, our capacity to act would, as it were, be confined to one single deed from which we could never recover; we would remain the victims of its consequences forever.”<sup>147</sup>

The remedies for the harmful effects of individual actions are found in our twin capacities to forgive and promise. Promising is a capacity to create a lasting foundation for relationships with others. Forgiveness enables us to repair the harms, often done thoughtlessly, that we do to each other and develop a rich communal life. For Arendt, forgiveness is essential to life in the *polis*. As we live together as free but mutually dependent individuals, we invariably come into conflict. Forgiveness

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<sup>147</sup>Arendt, H., (1958/1989): 237

enables us to put right the harms done to and by us. This chapter begins with a discussion of the role played by forgiveness in public life, particularly in post-conflict societies where transitional justice mechanisms are in place (§5.2).

Theorists like Arendt have mainly written about forgiveness as something that occurs between individuals (Arendt 1958/1989). This chapter aims to show that Arendt's arguments to do with forgiveness and the refusal to forgive in the face of extreme evil can be applied to corporations (§5.3, §5.4).<sup>148</sup> Extreme evil refers to culpable wrongs that are committed with the intention to cause harm on a mass scale. The two types of corporations discussed in this chapter are business corporations and states.

What follows is a discussion of the role of forgiveness in the face of contemporary and historic mass atrocities committed by corporations. Mass atrocities are examples of extremely evil acts.

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<sup>148</sup>Nicholas Tavuchis and Peter Digeser's taxonomy of structural configurations of gestures of apology and forgiveness is relevant to this discussion (Tavuchis 1988, Digeser 2001). They categorises apologies and gestures of forgiveness as follows: 'one to one' 'one to many' 'many to one' and 'many to many.' 'One to one' apologies and gestures of forgiveness occur between individuals. 'Many' refers to groups of individuals which are more or less structured. This chapter is mostly concerned with 'many to many' scenarios involving highly structured corporations. When mandated representatives apologise on behalf of corporations like states and business corporations they speak on behalf of the many. 'Many to many' scenarios are when the mandated representatives of corporations apologise to and may or may not be forgiven by the mandated representatives of those they have harmed.

The rhetoric of apology and forgiveness has become increasingly prominent in public life. Corporations have apologised for past misdeeds and asked for forgiveness in unprecedented ways. Truth and reconciliation commissions in Argentina, Uruguay, Chile and South Africa have investigated state-sanctioned disappearances, kidnappings, murder and the use of torture. Settler-colonial societies like Canada, Australia and the U.S. have been called to account for past injustices by Indigenous peoples, the descendants of former enslaved people, linguistic and ethnic minority groups and immigrant groups that have suffered from systematic discrimination, oppression and exploitation.

This chapter argues that it is appropriate to forgive corporations and there is an instrumental and non-instrumental value to doing so (§5.3). A key benefit of forgiveness in corporate cases is that it enables some degree of conflict resolution without eradicating the memory of the wrongdoing. Like blaming practices, acts of forgiveness and reconciliation are a way in which those who are relatively powerless can exert some degree of normative control over their relationship with powerful entities that have harmed them. Forgiveness is part of a political project which maintains the dignity and self-respect of the wronged. There are two key examples used in this discussion. The first is the post-imperial relationship between the Indian state and the British state. This example is especially interesting because the British state absorbed the East India Company which was responsible for conquering and governing India until it was nationalised in 1859. The second is Barclays Bank whose



institutional wealth and the personal wealth of its founders originated in the trade in enslaved people.

This chapter also examines the possibility that there are limits to forgiveness. It argues that there is a moral danger to an uncritical promotion of forgiveness which risks distorting and cheapening forgiveness as a moral ideal. Being too quick to forgive serious wrongdoing risks ignoring justice, accountability and the need to prevent the recurrence of harmful actions (§5.4). A refusal to forgive powerful entities that have harmed us can be a way in which the wronged maintain their dignity and self-respect. It is a way in which the powerful do not get off scot-free when they abuse their power. It is a way in which those who have been harmed communicate the severity of the wrongdoing to those who have harmed them.

This chapter advances the view that while forgiveness and reconciliation are admirable and to be encouraged, there will be occasions when it is no less fitting to be unforgiving. Its main conclusion is that refusing to forgive corporations that commit mass atrocities can be an appropriate act on the part of the victims and/or their descendants that is no less admirable or necessary than acts of forgiveness (§5.5).

## §5.2 *Forgiveness in public life*

Forgiveness is a dynamic social relation which encompasses a collection of practices which vary within and across of cultures. Forgiveness is typically characterised as an act or performance delimited through comparison with other speech acts or changes in behaviour and/or attitude (Brudholm 2010). Those acts characteristically include forgetting, excusing, justifying, understanding, condoning, being merciful and reconciling. Forgiveness may be divested of any personal feelings and be a performative social ritual. Forgiveness may include a speech act, though it may be expressed in other ways, for example by waiving a debt of some kind.

We are required to ask who has the standing to forgive the wrongdoer in individual and in corporate cases. The answer to this question mirrors the answers to the question: who has the standing to blame? In brief, we can proceed from the thought that those who have the standing to blame have the standing to forgive. In interpersonal cases nobody but the wronged or a very close proxy who is significantly affected by the wrongdoing has the standing to forgive according to the prevailing view. In corporate cases forgiveness is often given on behalf of others. But the question of standing still applies to such cases. Where harms are done to entire groups of people, we can say that the representatives of those groups have the standing to forgive their oppressors on behalf of their members. These may be the direct victims and/or their descendants in historic cases.

Debates about forgiveness are located on the continuum between 'forgiveness minimalism' and 'forgiveness maximalism' (Brudholm 2010). 'Forgiveness minimalism' confines the power of forgiveness to the direct victims of wrongdoing, accepts that it makes sense to speak of the unforgivable as a limit to the powers of forgiveness and requires some repentance on the part of the wrongdoers. Advocates of 'forgiveness minimalism' generally view forgiveness as being a private matter.<sup>149</sup>

'Forgiveness maximalism' allows various kinds of forgiveness 'by proxy,' rules out the idea of the unforgivable and praises unilateral, unconditional forgiveness as especially admirable. Advocates of 'forgiveness maximalism' argue that forgiveness has a legitimate and powerful role to play in the public realm.<sup>150</sup> Thomas Brudholm argues that in cases of 'forgiveness maximalism' the public advocacy of forgiveness can take forms that are harmful and/or disrespectful towards victims who are resentful and/or refuse to forgive (Brudholm 2010). This chapter is written from a perspective that is conducive to 'forgiveness minimalism' insofar as it views some acts of extreme evil as being unforgivable regardless of the acts of atonement and reparation undertaken by the wrongdoers in individual and corporate cases.

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<sup>149</sup>Brudholm, T., (2010): 52

<sup>150</sup>*Ibid.*

We think of acts of forgiveness as having a therapeutic value for the individuals concerned who can 'let go' of past traumas. They are a prerequisite for 'moving on' with our lives by reconciling with those we wish to forgive. There are many powerful cases of survivors of atrocities or their relatives publicly and unilaterally forgiving those responsible. Forgiveness can have a key instrumental value of personal, social and political reconciliation in a post-conflict society like Na Sé Chontae.<sup>151</sup> There can also be a non-instrumental value to acts of forgiveness in recognising the dignity and self-respect of the forgivers and of those being forgiven.

Arendt views forgiveness as an opportunity to undo the misdeeds of the past (Arendt 1958/1989). She does not mean that those who forgive have a mysterious power to alter the past, nor that they are motivated by a desire to do so. For Arendt, forgiveness represents a desire to release people from the effects and/or implications of some past event. What happened remains an irreversible feature of the past, but its meaning has changed as a result of being forgiven and being prepared to forgive. Forgiveness as conceptualised by Arendt puts an end to the cycle of violent reaction and counter-reaction where the past wholly determines the present.

Acts of forgiveness release not only those who have been harmed in some way, but those who are responsible for those harms. That an act of forgiveness can in some

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<sup>151</sup>'[I forgive the IRA men who killed my father' - Jayne Olorunda speaks of confronting her father's killers for the first time.](#)' Eoghan McNeill *Independent.ie* 04.09.2014. Most recently accessed on 01.09.21.

way bring a release from the burden of the past for people who commit these atrocious acts makes it even more creditable that their victims' relatives are prepared to be forgiving. Forgiveness is a generous gift they magnanimously give to those who have wronged them. Forgiveness can also be part of the process by which a new social context is created which overcomes vindictive attitudes and the desire for revenge. Acts of forgiveness can also be viewed as a dignified and self-respecting act on the part of the forgiver. Wiping the slate clean does not mean erasing a painful wrong but rather closing a painful chapter and moving forward. The wronged can give up certain negative reactive attitudes to the wrongdoer or the forbearance of those attitudes.

We can understand why we should aim to forgive serious wrongdoing when we consider the possible alternatives which are ongoing feuds and the desire for vengeance. Feuds occur when the rituals of forgiveness which are supposed to lead to reconciliation have been transcended in some way. In extreme cases these feuds can become blood feuds leading to violent conflict and deep social divisions. Forgiveness releases us to the extent that we can move forward together based on a political culture of greater trust and mutual respect.

Seen in this light, forgiveness can be a political act enabling us to live with each other. In Arendt's argument, forgiveness enables us to view the wrongful action as a thing of the past rather than being continually present. We view the wrongdoer in a

different light, as someone whose future actions are not wholly determined by their past misdeeds. This in turn raises the possibility of a new shared future where the wronged and the wrongdoer peacefully coexist. By engaging in acts of forgiveness the wronged are promising to not act on their vengeful and vindictive desires. In asking for forgiveness, the wrongdoers are promising to not repeat their misdeeds (Arendt 1958/1989).

Theorists who argue for the merits of forgiveness often cite the role played by the Truth and Reconciliation Commission hearings in post-apartheid South Africa, chaired by Archbishop Desmond Tutu, as a model of good practice.<sup>152</sup> The TRC exemplifies the 'one to one' category in Tavuchis and Digeser's taxonomy of forgiveness (Tavuchis 1988, Digeser 2001). It was structured around apologies by individual wrongdoers and gestures of forgiveness by their victims or their proxies. The TRC typifies one mechanism of transitional justice often found in societies that want to address past grievances and internal conflict.

The TRC toured South Africa and during its hearings victims of wrongdoing or their relatives would speak about their experiences. Officials of apartheid South Africa such as members of the police or security services would admit to their crimes, sometimes publicly re-enacting them. In some cases in return for confessing to their

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<sup>152</sup>Hereafter TRC. See Allais, L., (2008) for a discussion of forgiveness in the context of post-apartheid South Africa and the activities of the TRC.

crimes, explaining what had happened to the victim and apologising individual wrongdoers would not be prosecuted for their actions.

In such scenarios, forgiveness can be broadly synonymous with reconciliation as envisioned by Arendt. This is especially important in post-atrocity societies like South Africa where the fear was that the dismantling of the system of apartheid would be followed by acts of revenge. In a worst-case scenario the desire for revenge would lead to widespread civil unrest if not all-out civil war. The TRC hearings are lauded as being one of the means by which South Africa was able to peacefully transition away to a multi-ethnic democratic state. The TRC advanced a view of forgiveness and reconciliation as being the only viable alternatives to revenge, retribution and reprisal (Tutu 1999, Tutu 2002). The TRC hearings in South Africa were meant to help individual victims and their relatives, but they were also structured to promote national unity and reconciliation. As President Nelson Mandela said:

“Personal bitterness is irrelevant. It is a luxury that we, as individuals and as a country, simply cannot afford.”<sup>153</sup>

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<sup>153</sup>Cited in Lyn S. Graybill (2002) *Truth and Reconciliation in South Africa: Miracle or Model?* Boulder: Lynne Rienner Publishers: 21 quoted in Brudholm, T., (2010): 37

Forgiveness is a political-ethical project that occurs in the public realm and requires individuals to act as citizens by taking responsibility for their own lives and the future direction of the *polis*. While we may sympathise with feelings of anger and resentment, they must be overcome for the good of society. Forgiveness is in the interests of the common good insofar as it is part of the process by which a deeply divided society like post-apartheid South Africa is reconciled. Victims who nurture feelings of anger and resentment not only harm themselves, they are detrimental to society by jeopardising the process of reconciliation.<sup>154</sup>

### *§5.3 Forgiving corporations*

Arendt was writing about cases involving individuals, but her arguments to do with forgiveness are applicable to corporations. Like individuals, corporations can fail to meet their moral obligations. They can also fail to try to meet their moral obligations. There are numerous contemporary and historic cases where corporations have deprived innocent others of respect, property, social standing, and life. Powerful corporations can systematically exploit, marginalise and oppress entire groups of people. Some corporations have committed ecocide. Many are responsible for

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<sup>154</sup>See Thomas Brudholm for a full discussion of the pros and cons of the approach taken by the TRC to the issue of apology, amnesty and forgiveness in post-apartheid South Africa (Brudholm 2010).



atrocities of world historic proportions serious enough to warrant blame, punishment, atonement, and forgiveness.

Acts of forgiveness have a political and corporate nature when they occur in one or more of the following four scenarios. In each one, since the relationships between individuals and corporations and between corporate entities themselves are to do with the operation of unequal distributions of power we can say those are political relationships.

First, when forgiveness involves corporate entities like states that are recognisable as being politically constituted or organised. In such circumstances states can atone for their wrongdoing which may take the form of their mandated representatives apologising for the state's actions. These apologies by political corporate entities like states can be 'many to one' or 'many to many.' In 'many to one' scenarios states apologise to individuals for miscarriages of justice or abuses of state power like torture. For example, British Prime Minister Gordon Brown apologised as a mandated representative of the British state for the inhumane treatment of Alan Turing.<sup>155</sup> In 'many to many' scenarios a state's representative apologises to specific groups, including cases where a state's representative apologises to its own populace for prior abusive behaviour. For example, the Taoiseach's apology on

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<sup>155</sup>[Gordon Brown issues apology for treatment of Alan Turing](#) *The University of Manchester* 11.09.2009. Most recently accessed on 25.09.21.

behalf of the Irish state to the survivors of ‘mother-and-baby homes’ for the profound and generational wrong that was done to them.<sup>156</sup>

Second, we sometimes have to consider the possibility of forgiveness for politically motivated mass atrocities. They are deemed politically motivated because they may result from the implementation of official state policy by state bureaucracies and business corporations. Examples include states and businesses that have engaged in joint projects of ecocide and genocide. President Jacques Chirac’s formal apology for France’s role in the Holocaust, and subsequent apologies by the CEOs of various French business corporations for their participation in these crimes against humanity exemplify this kind of ‘many to many’ political apology (Fette 2008). An example of politically motivated ecocide is Nicaragua’s dredging on the San Juan River. A subsequent ruling by the International Court of Justice (ICJ or ‘the Court’) found that Nicaragua had violated the sovereignty of Costa Rica and had to pay substantial damages to compensate for the impairment and loss of environmental goods and services.<sup>157</sup> The ICJ’s ruling is noteworthy since it is the first time the Court has determined a damages claim for environmental harm. Nicaragua transferred the total amount of compensation owed to Costa Rica in March 2018. Consider the

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<sup>156</sup>‘[It’s Never Too Late to Say “I’m Sorry”: Sovereign Apologies Over the Years](#)’ Daniella Stoltz and Beth Van Shaack *Just Security* 16.03.2021. Most recently accessed on 10.10.2021. It was Ireland’s official state policy to send unwed women and girls to ‘mother-and-baby homes’ to give birth. They were also experimented on in unethical vaccine trials, physically and psychologically mistreated, and then pressured to give up their new-born children for adoption.

<sup>157</sup>‘[Certain Activities Carried Out by Nicaragua in the Border Area \(Costa Rica v. Nicaragua\)](#)’ *International Court of Justice* 17.04.2013. Most recently accessed on 10.10.2021.

scenario where the payment of compensation is accompanied by an official apology by the mandated representatives of the Nicaraguan state. The mandated representatives of Costa Rica may or may not accept the apology and may or may not forgive Nicaragua for its ecocidal actions. This is a political process since it relates to a politically motivated act of ecocide and involves a number of politically constituted entities like the Nicaraguan and Costa Rican states and IGOs like the ICJ.

Third, insofar as the instrumental value of forgiveness between individuals and between individuals and corporations has the instrumental value of reconciliation, we can say that it is a political project. This can also include broader political efforts to build democratic institutions, establish lasting peace and take responsibility for past political wrongdoing. The TRC hearings are the canonical example of this kind of 'one to one' political forgiveness. There are at least two examples of a 'many to many' scenario where the mandated representatives of corporate entities apologise for past wrongdoing with a view to achieving some kind of reconciliation in the here and now. The first is when representatives of various U.K. business corporations apologised for their role in the trade in enslaved people.<sup>158</sup> The second is when British Prime Minister David Cameron apologised for the 'Bloody Sunday' killings in Na Sé Chontae.<sup>159</sup>

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<sup>158</sup>'[U.K. firms apologise for slavery links](#)' Andrew Davis & Benjamin Robertson *Bloomberg* 18.06.20. Most recently accessed on 25.09.21.

<sup>159</sup>'[Bloody Sunday: PM David Cameron's full statement](#)' *BBC News* 15.06.2010. Most recently accessed on 26.09.2021.

Fourth, we should include corporations in this discussion about what can and cannot be forgiven since mass atrocities can only be committed on a massive scale when individuals act through and on behalf of corporations. This makes forgiveness (or the lack thereof) a political issue since it concerns the harms that result from asymmetries of power between extremely powerful corporate wrongdoers and the relatively powerless who are harmed by their actions. The actions which comprise corporate mass atrocities cannot be reduced to the mere actions of individuals (though they are also the actions of individuals). Harm on that scale can only be achieved when individuals act through highly structured entities which are often created for that very purpose. Some harms result from the actions of individuals caught up in morally compromised corporations. The individual who takes up a post in a fossil fuel corporation because it allows them to support their family may contribute to the growth of an industry that commits ecocide. Other harms result from individual wrongdoing whose effects have been magnified by the systemic features of the corporate entity they are members of. This category includes the harms discussed in Chapter One and elsewhere by Arendt that resulted from the actions of individuals which facilitated the efficient operation of genocidal regimes (Arendt 1963/2006).

Applying Arendt's individualistic arguments about forgiveness to corporate cases enables us to acknowledge structural as well as individual wrongdoing. The TRC is

an example of acts of individual forgiveness in a post-atrocity society. Yet those who were wronged by the brutal system of apartheid were not only wronged by individuals. Corporate entities like states and business corporations were also complicit in very serious wrongdoing. One example is IBM, which designed and regularly maintained the database classifying people according to their ethnicity and which underpinned the racist legal system in apartheid-era South Africa.<sup>160</sup>

It is therefore unsurprising that victims of apartheid have also pursued compensation claims against corporations, including transnational business corporations like Deutsche Bank, BP, IBM and Fujitsu IGL.<sup>161</sup> Global opponents of apartheid outside of South Africa directed their protests towards states and businesses which profited from that system. The U.K. government under Margaret Thatcher approved BP supplying crude oil to a subsidiary in South Africa.<sup>162</sup> This arrangement was made at a time when the UN had urged countries to halt all political, financial and transportation links with South Africa in response to its state-sponsored crimes against humanity.

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<sup>160</sup>Crawford, K., (2021): 145. This is not the only time IBM has aided and abetted genocidal systems of racial classification. The company was deeply involved in the Holocaust by dint of its design, lease and maintenance of the Hollerith punch cards in the concentration camp system in Nazi Germany (Black 2002).

<sup>161</sup>'[Apartheid victims sue global corporations](#)' Alison Raphael *Global Policy Forum* 13.11.2002 Most recently accessed on 28.08.21 and '[Multinationals face damages claim from victims of apartheid](#)' Ian Evans *The Guardian* 18.05.2008. Most recently accessed on 28.08.21.

<sup>162</sup>'[North Sea oil deal under Margaret Thatcher fuelled apartheid](#)' Marc Horne *The Times* 28.08.21. Most recently accessed on 28.08.21.

Structured entities like states and business corporations can engage in symbolic acts of recognition and a range of expressive acts of atonement as part of the process of forgiveness and reconciliation. For example, by apologising for their involvement in acts of historic injustice or by apologising for contemporary wrongdoing. Apologies are important because they signal the extent to which the wrongdoer deserves to be forgiven. Expressive acts of atonement and the payment of reparations normally precede gestures of forgiveness although as the following section aims to show, even if corporations apologise and/or pay reparations their victims may refuse to forgive those who have harmed them.

The rest of this section aims to show that expressive acts of atonement are legitimate things to expect of a corporation which can be an important part of a process leading to reconciliation and possibly forgiveness. They demonstrate a corporation's willingness to express concern and regret. It is important that these acts are carried out in public, bringing atrocities that lurk in history's shadows into the open. They are acts of critical enquiry by which corporations can fully disclose their past actions and recognise the suffering they caused. In so doing, they also recognise their victims' status as moral beings with equal standing and dignity, worthy of respect. They also recognise the status of those who are blaming them for their past actions, deeming them worthy of a response.

This process of engaging with past wrongs is not just about apologies. Corporations can and do apologise, but there are other things they can do like putting up and/or taking down statues and permanently erecting plaques in prominent public places. These are permanent reminders of the things in which the corporation was complicit. Public acts of this kind are a powerful force in societies coming to terms with historic injustices. They cannot change the past, but they can change how the past resonates in the present for those aggrieved by it or complicit with it. They can satisfy demands for recognition and regret by past victims. They are a way of perceiving history from the perspective of those who have previously been dominated, terrorised, excluded and ignored. They are also ways in which those who have been mistreated by powerful entities like corporations can express their power by demanding a response.

A minimum requirement for righting a wrong could be an apology that expresses the repentant recognition of the wrong and a commitment to avoid its repetition. There is a way in which an apology is conducive to both backward- and forward-looking conceptions of moral responsibility. An apology may be backward-looking insofar as it is connected to something that happened in the past. It may be forward-looking as it aims to bring about a desired change in the world, for example as a precursor to an act of forgiveness. According to Mihaela Mihai, to apologise is to declare one's regret, remorse, or sorrow for having insulted, failed, injured, harmed,

or wronged another.<sup>163</sup> An apology can be an expression of remorse in response to being blamed. This is an important part of the process by which an act of atonement serves as a precursor to an act of forgiveness by those who have been wronged. CEOs often make public apologies when their corporation's products cause harm. Chapter Two discussed the example of Tony Hayward, the CEO of BP, apologising for the Deepwater Horizon oil spill.<sup>164</sup> Public apologies can be a powerful way to restore trust and reduce punitive costs in cases such as environmental disasters and other serious wrongs. Highly visible apologies from CEOs can take many forms, and they play an important role in dealing with the risk of adverse outcomes.

In the BP example, alongside the corporation's apology is a promise to correct the corporation's behaviour to make certain that an incident like this cannot happen again. In corporate cases, the emotional economy of the corporate apology is less important than the recognition of the harm done, the recognition of those who have spoken up and the promise of improved future conduct. It is helpful to conceive of corporate apologies and forgiveness in performative and social terms. This does not require corporation to have the kind of 'inside' that enables it to respond emotionally at the corporate level. This relates to the discussion of the emotional economy in cases where we blame corporations discussed in Chapters Three and

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<sup>163</sup>Mihai M., '[Apology](#)' Most recently accessed on 22.10.21.

<sup>164</sup>[U.S. House Testimony](#), June 17, 2010. Most recently accessed on 05.07.20.



Four. Consequently, apologies and forgiveness can be more readily adapted and applied to cases where corporations have committed mass atrocities.

Apologies can be backward- and forward-looking and of instrumental and non-instrumental value. Apologies do not always presuppose wrongdoing. We may apologise for harms we inadvertently or non-culpably, or intentionally but justifiably do to others. A failure to apologise is a failure to show the respect and concern due to those who have been harmed. There is an important difference between an apology between intimates and an apology between those who have an impersonal relationship. For example, an apology between two close friends is normally worthwhile if it is sincere. In this context apologies express regretful recognition of the harms that others have suffered at our hands and also the claims those who have been harmed have on our concern and our respect. Apologies express not just regret but also remorse for the harm that has been done, a repudiation of that wrong and a commitment to strive to avoid repeating that wrong in the future. Thus, they seek forgiveness from and reconciliation with those who have been wronged and those to whom an apology is owed.

In less intimate or personal relationships, such as those involving corporations, an apology can still have value even if it is not infused with remorse. This does not mean the apology is insincere. All that is required is that the apology recognises the victims of the wrongdoing as moral interlocutors and communicates the fact that the

corporation understands and regrets the violation of their legitimate moral expectations, thus making a first step towards a desired reconciliation. Corporate apologies also seek to satisfy a publicity requirement by setting the record straight and reaffirming the principles the moral community abides by. This can be a purely transactional process undertaken between the corporation and those who have been wronged. Being purely transactional does not mean the apology is insincere.

We do not have to take a wholly cynical stance towards corporations and assume that actions like public apologies are undertaken only because they are 'good for business.' They may well be, but this does not mean the apology has no ethical value. An apology can also have value even if its sincerity is doubtful or unknown. Apologies have a ritualised and formal character. An apology that is not meant can still have value if it is performed as part of a social ritual. Between intimates an apology normally has value if it is sincerely meant, but between strangers it may be sufficient that the ritual is undertaken. The point here is not that we are accepting an apology that is insincere, but that we respect the limits on the relationship by acting as if it is sincere and without further investigating if it really is, or if it even makes sense to say that it is.

The sincerity and value of corporate apologies should be measured at least partly in terms of what follows from the act. In some cases, a mere apology cannot put right the wrong that has been committed and some further reparation is required (though

arguably this may cut both ways). In such cases, an apology alone cannot heal the very deep moral wound done by the wrong. The victim is owed more than an apology and there is an expectation that the wrongdoer should suffer more than merely having to apologise.

Changes in the norms and practices of the corporation, the payment of reparations or compensation and/or memorialisation projects give concreteness and weight to the symbolic act of apologising.<sup>165</sup> These are all ways of adding force or weight to the apology by which the wronged and the wrongdoer are reconciled as members of a moral and political community. The reparation must be burdensome if it is to give real weight and force to the apology. It is interesting to compare the relative value of apologies and reparations. An apology constitutes a public recognition that victims did not deserve to be wronged. The goal of reparations is to restore victims to their status and condition prior to the offense by making up for the losses they bore.

Interesting historic cases are those where corporations responsible for past atrocities no longer exist, like the East India Company and the Royal Niger Corporation. Though they no longer exist, the harmful effects of their past actions continue to be felt. These corporations were absorbed by other corporations like the British state and Unilever respectively. In which case, calls for apology, recompense and

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<sup>165</sup>Reparations and compensation may include the payment of reparations, either in monetary terms or in terms of payments in kind.

forgiveness are directed to their 'parent' corporations. The following example illustrates how an expressive act of atonement, and the payment of symbolic reparations may precede forgiveness in 'many to many' cases. We can imagine a scenario where the mandated representative(s) of the British state, which absorbed the East India Company, apologise to the mandated representative(s) of the Indian state for the crimes committed during British Imperial rule.<sup>166</sup>

In a speech to the Oxford Union in 2015, Sashi Tharoor called on the U.K. government to pay reparations to India to atone for centuries of colonial rule.<sup>167</sup> It is important to note that at the time of writing Tharoor is a member of the Indian parliament and an Indian diplomat. He can therefore be viewed as a mandated representative of the Indian state.<sup>168</sup> Tharoor argued that the British government should apologise and pay symbolic reparations to India. The point of blaming the British government (and indirectly the East India Company) is to get it to atone for historic wrongdoing. For Tharoor, the amount of reparations paid is less important than their symbolic value as an act of atonement. He suggested a nominal amount of one pound a year for two-hundred years or, "a simple 'sorry' would do as well."<sup>169</sup>

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<sup>166</sup>See Sashi Tharoor for a discussion of the various crimes against humanity committed by the representatives of the East India Company and the British state while India was part of the British Empire (Tharoor 2017). These crimes include ecocide, the destruction of the Indian economy, ethnic cleansing, genocide, entrenched institutionalised racism, torture and the mass murder of unarmed civilians.

<sup>167</sup>Full transcript available at [News18 India](#) Most recently accessed on 25.10.20.

<sup>168</sup>This should not be taken to mean that Tharoor's suggestion is the official policy of the Indian government.

<sup>169</sup>[News18 India](#) Most recently accessed on 25.10.20.

To date the U.K. government has neither apologised to India nor paid any reparations. This does not render the act of blaming it for its past actions pointless. It serves two other important functions. First, it is a way in which formerly subjugated peoples can speak up about the wrongdoing of the former colonial power. They can publicly draw attention to how their recent ancestors were deeply wronged by the imperial British government. Second, it is part of a process that hopefully forces the British state and its citizens to interrogate the problematic aspects of their past and gain a more complete picture of their history. This is an important way in which the people of both countries can maintain their dignity and self-respect, for example by, in some sense, being allowed to 'own' or 'control' the normative relationship to the cause of harm, as when an apology is accepted (or not).

One function of an official expression of apology and regret, offered in a formal political context, is to communicate a moral point publicly and impersonally. The mandated representative of the corporate entity can utter the requisite phrases sincerely but not necessarily in a way that reports their sentiments (though it may). In this context, 'We' functions as an appropriate metaphor given that the mandated individual formally represents the corporate entity. When the apology has the character of proxy or substitution as it would in this case, its speaker or author represents others, speaks or writes in their name or in the name of the corporate entity of which they form or formed part. The spokesperson for the corporation in

question may experience no relevant personal feelings at all; so too “the British state” as an abstract entity; and perhaps none of its official representatives.

So far as the normativity of the exchange is concerned, the presence of resentment in the person(s) or political entity to whom the formal apology is addressed is also a contingent matter. The victims may no longer be alive and the wrongs in question inflicted generations ago. The causal connection between the original injury and the welfare of the descendants of the victims may be nigh on impossible to document. In which case, offering political atonement may not be a request for forgiveness. In this scenario the proper response may be acceptance rather than forgiveness. The representatives of the Indian state may report that the apology is formally noted.

This indicates a further problem with a corporate apology, especially those that are to do with being blamed for an act of historic injustice. The potential apologisers and/or addressees of the apology often owe their very existence to the fact that the injustices had been committed in the past. Barclays Bank’s apology for its involvement in the trade in enslaved people is an interesting example. As Jamaica Kincaid observes, the Barclay brothers made their original fortune from the trade in enslaved people. When the British government outlawed the trade in enslaved people the Barclay brothers went into banking, which made them even richer (Kincaid 1988). It therefore seems strange for Barclays Bank to sincerely apologise for

their involvement in the trade in enslaved people since they would be apologising for the very event that brought the corporation into existence.<sup>170</sup>

The problem is compounded by Barclays Bank's subsequent activities, specifically its business dealings in apartheid-era South Africa which led to calls for a global boycott of the bank. We can imagine a scenario where the bank acknowledges that there is an aspect of its founding that is morally heinous, which it regrets. We can also imagine a scenario where the bank expresses the sincere desire that it had been created under more morally admirable circumstances. In problematic cases like this, a mere apology does not cut it. This is not only due to the circumstances of the bank's founding, or its subsequent operations but the extent to which it has actively sought to put right the harm it caused. This may entail the payment of reparations to African and Caribbean states in the form of direct payments to those states and/or the funding of infrastructure and educational projects.

One way of dealing with this problem is to give up the interpersonal model and think of corporate apologies as a distinct category of impersonal apologies, whose purposes and functions differ from those of interpersonal apologies. It is appropriate to ascribe moral responsibility in the form of blame to corporations as an entity that is continuous in time. Also, the corporation qua corporation transcends the

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<sup>170</sup>It may also be the very event that brought the people being apologised to into existence i.e., the victims and their descendants.

particular individuals constituting them at a certain moment. What is required is that the corporations' representatives acknowledge the fact that an injustice has been committed, mark discontinuity with the discriminatory practices of the past and commit themselves to non-repetition and redress.

#### *§5.4 Refusing to forgive*

There can be occasions when the wrong is so serious it is unforgivable notwithstanding the wrongdoer's atonement and reparation. In such cases there may be too much forgiveness too easily granted. When it comes to the terrible things corporations have done to human beings and to the environment, this is not a cause for reconciliation. We should aim to stamp out such corporate wrongdoing. Refusing to forgive corporations is one way of doing so.

Let us say that extreme evil is a kind of intentional and inexcusable wrongdoing that is unforgivable. Individuals and corporations can carry out acts of extreme evil knowing what the harmful intentions of their actions will be and undertake them anyway. While individuals are capable of doing wicked and evil things, the extreme evil that corporations can do lead to harms on a scale that individuals cannot achieve unless they act through corporate entities. Theorists like Arendt regard the kind of harm that individuals can do to each other as being forgivable in some cases (Arendt



1958/1989). If there is any case where forgiveness can be withheld then it will at least be in corporate cases of extreme evil and massive harm. Examples of extreme evil done by corporations include settler colonialism, ethnic cleansing, genocide and ecocide. When it comes to ecocide, we do not need to hypothesise about the future consequences of corporations' actions. We only need to survey the contemporary consequences of their actions and omissions with regard to the environment to view them as being so serious they are unforgivable.<sup>171</sup> In such cases, states and business corporations have intentionally caused the mass damage to and destruction of the environment knowing what the consequences of their actions would be.

We should view forgiveness as a supererogatory gift. The giving of that gift may or may not lead to reconciliation and the transformation of the wrongdoers, but it should not be a gift whose giving is conditional on those outcomes. Making it so diminishes its generosity. Advocates of forgiveness may appear to argue that the perpetrators of mass atrocities should be unconditionally forgiven. This places the onus on the victims of these serious harms to forgive, rather than on the wrongdoers to atone. Given that forgiveness is a gift, we cannot demand that victims of wrongdoing give the gift of forgiveness to their oppressors since no one has a duty to give a gift in such circumstances.

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<sup>171</sup>'[Perpetrators of environmental destruction should be prosecuted just like war criminals are](#)' *Civicus* 22.02.2021. Most recently accessed on 26.09.21.

Forgiveness goes beyond the call of duty, particularly if we are forgiving acts of extreme evil. If someone does forgive their oppressors they are supererogating by lessening the wrong. They do not counter-wrong those they refuse to forgive. In corporate cases forgiveness is a radical act that involves asymmetrical relationships of power. It is a way of resetting the relationship between the wronged and the wrongdoers by putting the former in potentially powerful relationship to the latter. A refusal to forgive is also an expression of power, no less radical than forgiveness. We refuse to set aside the wrong that has been done; we refuse to allow the wrongdoer to distance themselves from their actions.

It is the prerogative of the victims of mass atrocities to decide whether to forgive their oppressors.<sup>172</sup> This is especially the case where we are dealing with victims of corporate oppression, the structural nature of which can deprive individuals of reasons to forgive. To be part of a group that has been routinely marginalised, exploited, and oppressed is to inherit strong social reasons to approach wrongdoing in a certain way. Consider the example discussed in Chapter One of Indigenous populations whose lives have been wrecked by the activities of powerful business corporations like Adani. To experience structural oppression may give the oppressed reasons to refuse to forgive at all or to readily forgive. Withholding forgiveness may be one of the few forms of power not eroded by oppression.

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<sup>172</sup>Eva Kor's [Forgiveness Project](#) is one example of such an act of forgiveness. When the direct victims of heinous crimes respond in this way, those of us who were not the direct victims, or their relatives, should remain silent.

Forgiveness can be difficult even in ideal circumstances; its burden can be magnified in non-ideal environments where the victims of oppression are being urged to forgive. In such circumstances it may be that forgiveness exacerbates rather than alleviates oppression by placing undue pressure on victims to forgive those responsible for heinous crimes.

Arendt argues that we cannot forgive the extreme evil of mass atrocities (Arendt 1958/1989). This is an apt response to the kinds of cases where corporations are responsible for harms on scale impossible in individual cases.<sup>173</sup> We should be cautious about who we forgive for their wrongdoing. There are some crimes like ecocide and genocide that are beyond redemption, and we may reasonably withhold forgiveness even if those responsible sincerely apologise and offer substantial reparations.<sup>174</sup>

Angela Merkel was the first German Chancellor invited to address the Israeli Knesset in 2008. As a mandated representative of the German state she said:

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<sup>173</sup>Individuals are capable of extremely evil acts, but they cannot commit such acts on the same scale as corporations can and do.

<sup>174</sup>This is to be contrasted with the view of Jacques Derrida whose theorising about forgiveness is an interesting example of 'forgiveness maximalism' (Derrida 2001). Derrida argues that true forgiveness is when we forgive the unforgivable, and this is especially the case when we offer such forgiveness unilaterally and unconditionally. Derrida argues that only those things which are truly atrocious and heinous activate the need to do something about them in terms of forgiveness. Derrida acknowledges that this is highly demanding of the victims of mass atrocities, but his view is that acts of forgiveness should be exceptional and extraordinary (Derrida 2001): 32.

“The Shoah fills us Germans with shame. I bow my head before the victims. I bow before the survivors and before all those who helped them so they could survive.”<sup>175</sup>

Some members of the Knesset refused to attend the ceremony because in their view a German should not be allowed to speak in the Israeli parliament. As the mandated representative of one corporation (the German state), Chancellor Merkel is offering the elected representatives of another corporation (the Israeli state) the opportunity to give the gift of forgiveness knowing perfectly well that some will give it while others will not. In this example we can see a clear dynamic where an activity invites people to reconcile and ‘move on’ in a certain way following an act of extreme evil. There are some who are willing to do so, while there are others who are not. Each are within their rights to do so.

There will be some cases where resentment can be cancelled out by forgiveness, but there will be other cases where it is as appropriate to refuse to forgive regardless of the extent to which the wrongdoers atone for their actions. We should view too much forgiveness as a moral danger. If extreme evil is forgivable then there is less of a deterrent to future wrongdoing. We should not let those who have harmed us off the hook too easily. A culture of forgiveness can have a subversive effect and can be

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<sup>175</sup>[Speech by Federal Chancellor Angela Merkel to the Knesset in Jerusalem](#) 18/03/2008 Most recently accessed on 19/09/21.

weaponised by the forces of evil. It can become a social practice that is nothing more than a smoke screen hiding the true nature of the problem. If it becomes too easy to forgive then we are forgetting that forgiveness is something that the wronged have in their gift. This is convenient for corporations since this is how they can continue to act wrongfully. This is exemplified by the reaction to the apology by BP's CEO following the Deepwater Horizon oil spill. A series of highly public gaffes by BP's CEO led many to question the sincerity of the apology. Even if the apology was sincerely meant, it was not considered to be sufficient given the seriousness of the incident. It was felt by some, including the sitting U.S. president, that it was more important that BP paid to clean up the mess they created and compensate those whose lives had been disrupted than pay for an advertising campaign publicising the corporation's formal apology.<sup>176</sup> Many also thought that BP's CEO should have resigned or been fired by the corporation.<sup>177</sup>

When corporations atone for their past wrongs and appropriate the slogans of the social movements that have emerged to protest those wrongs, they can be accused of weaponising a convenient issue in order to increase their profits. They are subverting the ownership of that wrong from the victim. These corporations are taking it for granted that when they participate in these ritualised acts of atonement

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<sup>176</sup>'[Obama blasts BP apology advert](#)' *Marketing Week* 07.06.2010. Most recently accessed on 10.10.21.

<sup>177</sup>'[If he was working for me I'd sack him' – Obama turns up heat on BP boss](#)' Suzanne Goldenberg *The Guardian* 08.10.2010. Most recently accessed on 10.10.2021.

and reconciliation they are affecting a two-party transaction in the absence of the second party. Corporations thereby create a culture where it is just assumed they can cause chaos, apologise, be forgiven and then rebrand their products with the slogans those protesting their actions. This is a very important reason why we should not fetishise forgiveness. Corporations should be reminded that forgiveness is something that should be asked for and that even if it is asked for and even if it has been earned, it is still in the power of those who have been wronged to legitimately withhold their forgiveness.

We need to rehabilitate the notion of being unforgiving as a response to acts of extreme evil like mass atrocities that can be as permissible, humane and admirable as the willingness to forgive. It may be that the act of forgiving is morally dubious, and resentment is an admirable and appropriate response to scenarios where societies too easily forgive the perpetrators of large-scale harms like the Deepwater Horizon oil spill while abandoning their victims.<sup>178</sup> There may be occasions where refusing to forgive is a more appropriate response than forgiveness and compassion.

It is not only in cases of extreme evil and mass atrocities that we should be unforgiving. There are other cases which fall short of this categorisation where there are compelling reasons why we should refuse to forgive wrongdoers. One example

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<sup>178</sup>This is discussed by Jean Améry in the essay 'Resentments' in his *At The Mind's Limits: Contemplations by a Survivor on Auschwitz and Its Realities* (Améry 1966/1980): 62-81.

discussed in the previous chapter is the thalidomide scandal. The victims and their relatives are those who have the standing to blame Chemie Grünenthal for its egregious wrongdoing. They are also those who have the standing to forgive (or not) the corporation. Given the permanent and irreversible harm caused by Chemie Grünenthal it is entirely reasonable for the victims and their relatives to be unforgiving.

Being unforgiving can highlight really-existing conflict where intentional serious wrongdoing is deeply embedded in our social world. To the extent that a refusal to forgive demands a response from the wrongdoers it represents a desire for reassurance that those moral standards are still in place and their breach will be publicly acknowledged. Being unforgiving represents an admirable and steadfast refusal to accept what happened.

Holding responsible is partly directed at guilty individuals, but also necessitates a focus on the responsibility of institutions like states and business corporations. The victims of apartheid are understandably reluctant to forgive the corporations that profited from and propped up the system of apartheid in South Africa. At least until they publicly acknowledge the role they played and make amends in some way, for example by apologising and/or paying reparations. Corporations should revise their official histories to ensure that their role in mass atrocities is recognised. This process should include the perspectives of those who were harmed by their actions. Even

those measures may not be enough for some people, especially when the apologies seem to come too readily, and the compensation paid is a tiny fraction of the corporations' wealth. In such cases of extreme evil, the most reasonable and admirable response may be the refusal to forgive.

### *§5.5 Conclusion*

We can see that there are instrumental and non-instrumental reasons why both forgiveness and refusing to forgive are to be valued. The non-instrumental reasons they share are to do with the dignity and self-respect of the victims and respect for the seriousness of the wrong-doing. The instrumental value they also share is to be found in their role in promoting some degree of social reconciliation albeit in significantly different ways. Forgiveness is a powerful way in which we can 'let go' of the past and 'move on' with our lives by reconciling with those who have needlessly harmed us and/or those we care about. Cultivating the generosity that is required for forgiveness in such cases is an important way in which post-atrocity societies can reconcile avoiding the harm that results from the pursuit of vengeance.

Being unforgiving is also a way of acknowledging the seriousness of what has been done. By refusing to forgive the corporations that have harmed them, victims of atrocities indicate that they take themselves seriously as moral beings. The



instrumental value of being unforgiving is found in its potential for acting as a spur to revealing the truth of what happened, the public acknowledgement of the wrongdoing and the punishment of the perpetrators. It is part of our dignity to not forgive wrongful harms. We should avoid the temptation to universally condemn those who refuse to forgive even when the wrongdoer atones for their actions. The unforgiving rightly baulk at the speed with which we can sometimes 'move on' from mass atrocities. It can seem too quick to forgive corporations responsible for irreversible crimes like genocide and ecocide. We should resist attempts by corporations to evade scrutiny for the terrible things many of them have done by too readily asking for and receiving forgiveness. We should also be attentive to the possibility that expressive acts of atonement distract attention from ongoing corporate wrongdoing.

It is not commendable to be unmoved by the needless harm done to humanity and to the environment. When we refuse to forgive powerful entities that have harmed us, we are standing up for and respecting ourselves and each other. It is also a way in which we can strengthen social bonds by recognising others as those whose rights and interests matter to us all. A refusal to forgive corporations is one way in which we communicate that we take the social world seriously.

## Conclusion

This thesis has argued that there is an instrumental and non-instrumental value to blaming corporations. The instrumental value is that it may incentivise corporations to improve their conduct. It may be an additional way in which we hold these extremely powerful entities to account for their contemporary and historic wrongdoing. The non-instrumental value of blaming corporations is to do with maintaining the dignity and self-respect of those who have been wronged by them. Blaming corporations is one way in which we refuse to be doormats. It is a way in which those of us who are relatively powerless can stand up for ourselves when faced with the actions of these corporate behemoths.

Chapter One argued for the view that we should view corporations as morally responsible for their actions because of their deeply entrenched structural power. This diverges from the traditional approach which places great store on corporations' agential capacities. Corporations make decisions and act in the world. Their power is such that those actions can have devastating and irreversible consequences. This is especially noteworthy given the long horizon of corporations. They are often at the heart of the worst atrocities that have been committed both historically and in the contemporary world. Corporations have driven settler-colonialism, the trade in enslaved people, crimes against the environment like ecocide and crimes against humanity like torture, ethnic cleansing and genocide.

One of the key ways in which corporations use their structural power is to insulate themselves from the consequences of their actions and further enhance their already considerable power. One of the aims of this thesis has been to present a more complete view of our social reality which includes corporate agents. Their structural power is such that we should be examining ways of holding them to account for their actions and a social view of moral responsibility is one way of doing so. Given that in worst-case scenarios the manifestation of corporate structural power may lead to planetary extinction, we have an urgent need to develop conceptual frameworks for corporate moral responsibility.

Chapter Two argued for the view that corporations are moral agents. It surveyed traditional conceptions of moral agency as they apply to corporations and individuals. These traditional accounts of moral agency are based on a standard view of agency to which this thesis is sympathetic. Corporations qua corporations exist independently of and logically prior to their individual members. The CID structure and the discursive dilemma explain how this is possible. The CID is a deep corporate structure that is a locus of decision making, and therefore agency, that persists through time as corporations' members come and go. The discursive dilemma illustrates how it can be the case that corporations can make decisions which few if any of their individual members endorse. This chapter also discussed some key objections to the standard views of corporate agency. The responses to these objections were taken to suggest an alternative non-standard view of agency,

according to which corporate agents are more unified, autonomous and rational than opponents of the social view are prepared to acknowledge. It was also suggested that in opposing theories of corporate agency, methodological individualists overstate the extent to which individual agents are unified, autonomous and rational.

Chapter Three focused on a key argument against corporate moral responsibility based on an analogy between corporations and sociopaths. This analogy is usually presented as a way of refuting corporate moral responsibility. Since sociopathy is a way in which individuals are disordered in some way, traditionally we only hold them causally and/or practically responsible for their actions. Since sociopaths lack the capacities to sympathetically identify with reactive moral emotions like blame, we should not hold them morally responsible for what they do. By analogy, we can hold corporations to account by viewing them as causally and/or legally responsible for their actions but not morally responsible. This chapter argued that even if corporations are analogous to sociopaths we can still bring them into the moral realm by applying a clinicised model of responsibility without affective blame. The gist of this approach is that we treat corporations as we do individuals who are disordered in some way. That is, out of concern, respect and compassion without exhibiting the range of reactive moral emotions that go with affective blame like disgust and anger. There are two main benefits to this approach. The first benefit is functional and helps us deal with cases of historic injustice. Corporations can be held

morally responsible for their actions in the past in a way that is irreducible and clinicised. We interact with the corporation qua corporation in a dispassionate and transactional way in order to right past wrongs. We do not blame current individual members of corporations for things which happened before they were alive. The second benefit is therapeutic and focuses on helping corporations improve their conduct in the here and now. One of the aims of the clinicised model of responsibility without blame is to enable individuals whose agency is disordered in some way to improve. We can deploy a similar approach in corporate cases. This goes beyond the advantages of holding corporations practically responsible for their actions by bringing them into the moral realm. It provides a layer of responsibility in addition to practical and/or legal responsibility.

Chapter Four argued for the view that corporations are blameworthy moral agents. It developed and applied an interpersonal conception of Communicative Blame to corporate entities. It aimed to show that it is appropriate to blame corporations for their actions. Doing so is one way in which corporations can be held to account and punished, where blame is viewed as a way of punishing wrongdoing. Blaming corporations is an appropriate response to the exercise of their vast power and is a way of resetting asymmetries of power. The instrumental value of blaming corporations is mainly found in how it may enable them to improve. The climate emergency requires us to develop such measures as soon as possible. We do not have to speculate about the likely future consequences of the ecocidal actions of

fossil fuel corporations in order to be motivated to do so. We can survey the consequences of their actions in the here and now to find many reasons why we should blame them for their actions and give them an incentive to change their ways. Even more important is the non-instrumental value of blaming practices. This is also to do with the operation of power. Corporations can wreck the lives of some of the most vulnerable people on the planet. They can also destroy the natural world rendering entire species extinct. The very least those whose lives have been wrecked by corporate power can do is speak up. Pointing the finger at corporations and demanding a response is one way of doing so. Hopefully this will motivate corporations to respond appropriately, but its value does not rest on them doing so.

Chapter Five discussed the appropriateness of forgiveness in corporate cases. We typically desire an end to blaming practices since the alternative is feuds and a desire for vengeance. We sometimes find that individuals can forgive those who have deeply wronged them. It is often the case that forgiveness follows expressive acts of atonement like apologies and the payment of reparations of some kind. This is not a necessary condition of forgiveness which can sometimes be offered unconditionally. Like individuals, corporations can also atone for serious wrongdoing. This may take the form of a corporate apology though they can do other things like erect or remove plaques, memorials and statues. They can also pay reparations of some kind to help put right serious wrongs. In which case, it may be appropriate in some cases that we forgive corporations. It is also the case that

corporations, like individuals, can do things which are so deeply wicked that their actions are unforgivable. This applies in cases where corporations are responsible for mass atrocities which can be classified as extremely evil actions. Those who have the standing to forgive corporations are invariably those who have the standing to blame corporations. In both cases we should be attentive to asymmetries of power. In general terms, those who have the least power and who are most affected by the actions of corporations are those who have the most standing to blame and to forgive them. As is also the case with blame, forgiving corporations has an instrumental and non-instrumental value. The instrumental value of forgiveness is primarily found in its role in promoting reconciliation enabling us to live with each other. A key non-instrumental value of forgiving (or not) is, like blaming practices, to do with maintaining the dignity and self-respect of the victims of corporate power.

There are at least two further areas which warrant further analysis than can be given in this thesis. The first is to do with the rights and duties of corporations. If rights and responsibilities are logical shadows of each other, then it follows that since corporations are blameworthy moral agents and moral agents are fit to be right and duties holders, then corporations are holders of rights and duties. A key objection to this argument is that it seems counter-intuitive to give corporations rights (taken to mean areas where they can act with impunity and backing) given how powerful and dangerous they are. Blameworthy moral agents must enjoy rights if they are to be

able to exercise their agency in mutual interaction. Yet they must also be strictly held to their duties. The rights corporations should enjoy must meet the constraint of not undermining the status of individual, natural persons as equals. That means corporate agents may be granted rights which are not the same as the rights granted to individuals. Indeed, they may not be the same rights across types of group agent. The asymmetry of rights between individuals and corporations reflects the asymmetry of power between these different types of agents. We should theorise corporate rights and duties in such a way that goes heavy on the duties and responsibilities of corporations, while going light on their rights.

The second area of possible further research is to do with systemic blame. A key part of the argument of this thesis is that business corporations in particular may be compelled to do very bad things because they operate in a racialised capitalist corporatocracy. For example, like other business corporations the fossil fuel companies are compelled to maximise the returns to their shareholders' investments, which they do by maximising profits. It is this relentless pursuit of profit which had led them to commit acts of ecocide and genocide. We are in the midst of a climate emergency which is potentially catastrophic if there is not radical change. Even if the climate emergency does not pan out in line with worst-case scenarios, the actions of business corporations in general and fossil fuel companies in particular have been disastrous for those whose lives have been wrecked by their actions. As the many examples in this thesis have shown, capitalism is not the only system that leads



corporations do things which have very bad consequences. We have seen how corporations have been at the forefront of genocidal and ecocidal settler-colonialism, for example.

An important objection to this line of argument would be that systems like capitalism do not have a loci of agency akin to that of individuals and groups like corporations. Systems act through entities like individuals and corporations that have agential capacities. One of the things the analogy between corporations and AI shows is that the latter have been modelled on the systemic features of the former.

We have also seen how systems like corporations exist over and above their individual members and are seemingly beyond our control. This compels us to consider the possibility that systems like capitalism exist over and above individual and corporate agents, supervening on them in a way that is analogous to the way in which corporate agents can supervene on their individual members. If it is sufficient for blaming X that we judge X blameworthy then we may properly blame X even if X is a system, so long as it is indeed blameworthy. This can be extended to systems like capitalism, colonialism and patriarchy. We often find in political protest that blame can be communicated towards a system quite effectively, as it has been very recently all over the world in the Black Lives Matter uprisings. In which case it would seem that there is much that systems theory has to offer when it comes to an analysis of the extent to which it is appropriate to blame systems like capitalism, colonialism and patriarchy which have caused so much harm.

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