

UNIVERSITA' VITA-SALUTE SAN RAFFAELE

**CORSO DI DOTTORATO DI RICERCA IN
FILOSOFIA**

Curriculum in Discipline Filosofiche

**WHO IS RESPONSIBLE FOR
CORPORATE WRONGDOING?**

Tutore: Prof. Roberto Mordacci

Tesi di DOTTORATO di RICERCA di Alessio Salviato

matr. 017698

Ciclo di dottorato XXXVI

SSD M-FIL/03

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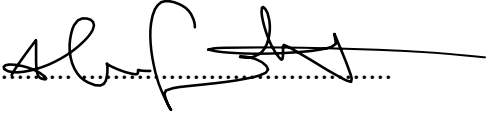
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Abstract

This doctoral dissertation examines moral responsibility for corporate wrongdoing, asserting two key theses. Firstly, it argues that corporations, while subject to blame for specific actions, lack inherent moral responsibility. Instead, a dual responsibility is proposed at the individual level, distinguishing between direct involvement in wrongdoing and structural responsibility tied to the corporate structure.

In the first chapter, the dissertation challenges the conventional attribution of moral responsibility solely to individuals, contending that corporations, as collective agents, bear direct responsibility in cases of unintended outcomes, policy-induced actions, and unethical corporate cultures.

The second chapter refutes corporate blameworthiness by highlighting the corporation's lack of autonomy as a moral agent, whether as a collective or institutional entity.

Addressing objections in the third chapter, the dissertation challenges the idea that moral blame necessitates demonstrating agency, proposing an instrumental view for treating corporations as morally responsible despite lacking genuine agency.

The fourth chapter introduces a novel model inspired by Iris Marion Young's concepts, attributing structural responsibility to individuals for designing and perpetuating corporate structures that lead to or encourage wrongdoing. This approach expands responsibility beyond corporate boundaries.

In conclusion, this innovative perspective enriches discussions on preventing corporate wrongdoing by offering a nuanced understanding of moral responsibility at both the organizational and individual levels.

Table of Contents

Introduction	5
1. Blaming the corporation.....	11
1.1 Introduction	11
1.2 First category: the problem of many hands.....	13
1.3 Second category: corporate procedures and policies	18
1.4 Third category: corporate culture	24
1.5 Conclusion	30
2. Corporate Agency.....	32
2.1 Introduction	32
2.2 The collectivist approach	34
2.2.1 Corporations and the restriction objection	36
2.2.2 Bratman: Shared Procedures.....	38
2.3 The institutional approach.....	41
2.3.1. List and Pettit: the “corporate mind”	44
2.3.2 Peter French and Kendy Hess: the corporate structure.....	48
2.3.3 The autonomy objection	56
2.4 Conclusion	58
3. Corporate Moral Responsibility	60
3.1 An alternative strategy?	60
3.2 Problems with the agency-based approach	61
3.3 The Strawsonian approach	68
3.3.1 Strawson and the reactive attitudes.....	68
3.3.2 The compatibilist view.....	70
3.3.3 Corporate Reactive Attitudes.....	72
3.3.4 Objections	75
3.4 Corporate social responsibility	81
3.5 Conclusion	85
4. Towards a theory of structural responsibility	86
4.1 From corporate responsibility to management’s responsibility.....	86
4.2 Young and the social connection model.....	89
4.3 Structural responsibility for corporate wrongdoing.....	95
4.4 Extending structural responsibility	98

Introduction

This doctoral dissertation endeavors to address the following question: who bears moral responsibility for corporate wrongdoing?

In this context, corporate wrongdoing refers to immoral actions committed by corporations, which can be directed toward individuals, groups, or the community at large. For instance, business firms may discriminate against or terminate employees based on factors such as religion, sexual orientation, or ethnicity. They can inflict physical or psychological harm on individuals, violate human rights within their supply chain, engage in fraudulent activities, steal from customers, breach environmental emission standards, cause environmental disasters, or instigate major financial scandals with global economic repercussions.

Before proceeding, two clarifications are necessary. First of all, the objects of my research question are large corporations, that is, publicly traded large companies whose ownership is organized via shares of stocks, which are intended to be freely traded on a stock exchange market. Second, I employ the umbrella term ‘immoral actions’ to include both illegal actions *and* those we judge as immoral, even though no law prohibits them.

Furthermore, I aim to articulate the motivations and justifications underpinning this project. The first reason for my interest in this research question lies in the inherent complexity of finding a comprehensive answer when we focus on large public companies, especially when they operate across multiple countries. Identifying the culprits when these companies generate scandals on a significant scale becomes intricate, making it challenging to distribute moral blame and retribution. Large enterprises possess characteristics that complicate connecting ultimate wrongdoing to a specific group of individuals capable of bearing full responsibility. These entities witness wrongdoing due to actions spread throughout the organization, involving different people contributing unwittingly to the final outcome. As elaborated in the first chapter, this scenario gives rise to a moral responsibility gap, where there appears to be no agent - either individual or collective - qualified to bear complete responsibility for the final wrong. Conversely, in small to medium-sized companies, start-ups, or family businesses, identifying those responsible for wrongdoing becomes more straightforward due to the ease of tracing the

causal connection between the intentionality of organizational members and the final result.

The second reason is that we have a collective interest in identifying those responsible for corporate wrongdoing. First, there is a retrospective desire to assign blame; we aim to fairly distribute moral responsibility to satisfy our yearning for condemnation and punishment for the wrong. Retribution “ensures that the guilty will be punished, the innocent protected, and societal balance restored after being disrupted by crime” (Bradley 2003, p. 31). But blame serves further functions beyond meting out justice by instilling guilt in those responsible and penalizing them for their actions. By distributing blame, we also seek to signal to others the importance of values at stake, reinforce social and moral norms, change behavior, and exclude individuals from the moral community. Third, there is a proactive, forward-looking desire to attribute responsibility to prevent future wrongdoing. When assigning blame, we want to hold individuals responsible for altering their behavior to avoid repeating the same mistakes. Similarly, in identifying those responsible for corporate wrongdoing, the goal is to compel the relevant agents connected to the scandal to assume responsibility, preventing a recurrence (Hamdani and Klement 2008).

At this point, the reader might question why I invoke moral responsibility rather than focusing solely on legal responsibility. Why not entrust the legal system with ascribing legal responsibility, imposing sanctions or other penalties, and regulating companies to prevent future wrongdoing? Why delve into the moral aspect as well? There are at least two reasons supporting this skepticism.

The first reason is that the law possesses greater power and effectiveness in regulating and penalizing behavior. An individual may be indifferent to moral norms, but nearly everyone fears financial loss or imprisonment. Similarly, companies are more likely to refrain from certain misconduct or engage in ethical reform when faced with the threat of legal sanctions and punishments (Laufer 2018). Moral norms may carry less weight for companies that prioritize other concerns.

The second reason is that the corporation is already recognized by law as a legal person endowed with rights and duties (Orts 2013). This is the so-called concept of ‘corporate personhood’ (Blair 2013; Sepinwall 2019). The law acknowledges

corporations as legal entities with the capacity to take legally effective actions and be accountable before the law. Companies can enter into contracts, hire and fire employees, own property, be taken to court, and legally defend themselves. Therefore, when companies commit wrongdoing, the law can blame and punish the company itself under corporate criminal liability (Laufer 2006). Legal instruments thus appear to be effective and appropriate in this context.

However, there are three counterarguments against the exclusively legalistic approach to corporate responsibility.

The first counterargument posits that, in practice, the law is not highly effective in achieving its redistributive and deterrent objectives (Laufer 2006). When assigning liability to a firm in its legal personhood, the law frequently limits itself to imposing fines or entering into non-prosecution agreements, merely mandating structural changes to forestall the occurrence of new wrongdoing. Moreover, in many instances, only specific members of the organization are indicted, failing to prevent the organization itself from perpetuating future wrongdoing (Diamantis 2017, 2018).

The second counterargument contends that jurisprudence is mainly applied at the national level and lacks universal validity. A wrongdoing condemned in one nation may be tolerated or even permitted in another. Conversely, a theory of moral responsibility enables us to address issues at the universal level, arriving at conclusions that concern the firm, irrespective of the operating context. Morality, indeed, has a stronger global aspiration than the law because its claims are rooted in principles and laws having universal claims. This approach is particularly useful for investigating multinational enterprises operating in diverse contexts, where conflicts between legal norms of different countries can be overcome by assuming moral rules and obligations grounded objectively and universally on the principles of respect or harm.

Thirdly, the legal approach is deemed ineffective when new and unregulated scenarios emerge, resulting in legislative gaps. In the absence of precise legal norms, legal accountability also falters. Conversely, moral norms are applicable in any context because their normative source is logically given, not derived from the normative acts of the state. They can be employed to regulate and investigate any wrongdoing, including those that are not yet regulated.

This final point also elucidates the third reason why investigating the topic of corporate moral responsibility is significant. To anticipate some arguments of the thesis, two approaches can be taken to answer my research question. The first approach is grounded in an atomistic view of business responsibility, asserting that individuals, and *only* individuals, bear responsibility for corporate wrongdoing. In short, there are no collective entities that can be held accountable beyond individual members (Ladd 1984; Ronnegard 2013, 2015; Velasquez 1983, 2003; Strudler 2023; Wolf 1985). The second approach adopts a collectivist or holistic perspective (French 1979; Hess 2013, 2014; Pettit 2007) on corporate moral responsibility, suggesting that the corporation itself qualifies as a collectively blameworthy entity, either alongside or in lieu of individual members of the organization. The question of moral responsibility – who is morally responsible for corporate wrongdoing? - thus extends to the query about corporate moral agency. Are corporations moral agents? Can we hold them accountable in a manner distinct from how we would hold their individual members accountable? In raising these questions, we are not only addressing whether the company is intrinsically morally responsible for its wrongs but also delving into the realm of corporate moral duties. In fact, when we claim that corporations have moral obligations to combat climate change, respect human rights, or promote peace processes in conflict zones, we implicitly assume that they are those kinds of agents bearing moral obligations and responsibility. However, we must scrutinize this assumption. Are corporate entities capable of possessing and fulfilling moral obligations? Or is it the case that when attributing moral responsibility to corporations, we are just asserting that the individual members hold this responsibility, as corporations lack moral agency? In essence, investigating the issue of responsibility for corporate wrongdoing helps clarify whether moral obligations can genuinely be imputed to companies or not.

The thesis I defend in this work is twofold. My first claim asserts that corporations are not morally responsible subjects for their actions, even though - as I will clarify in the first chapter - there are valid reasons to blame them. The second thesis posits that to close the moral gap, we should attribute a dual kind of responsibility at the individual level: a direct responsibility regarding the ultimate wrongdoing and a structural (indirect)

responsibility tied to the generation and perpetuation of the corporate structure that contributed to generating that wrongdoing. I will now elucidate how I structure the thesis.

In the first chapter, I will demonstrate that we have grounds for wanting to blame corporations themselves when they engage in three categories of wrongdoing. In each of these categories, the endeavor to distribute moral responsibility at the individual level falters because either individuals are not directly responsible for the wrongdoing or they are only partially responsible. Conversely, the company itself appears to be responsible for producing the wrongdoing, leading us to absolve - albeit partially - the members of the organization.

The first category encompasses cases in which the wrongdoing is an unintended outcome of a series of actions carried out by various members of the organization, often at different times in the company's lifespan, without any of them intending to produce the final outcome. This is commonly known as the 'many-hands problem'. In such a scenario, the company, as a collective agent, appears to be directly responsible for the wrongdoing. The second category includes cases where the company's policies compel one of the agents or a group of the company's agents to engage in wrongdoing. Even in this scenario, we find grounds to hold the company itself accountable due to the corporate policy. The third category involves cases where organizational wrongdoing stems from an unethical corporate culture. In all these categories, there is an inclination to bridge the moral gap - occurring to the extent that it is impossible to attribute all responsibility to individuals alone - by placing blame on the corporation itself. The corporation presents an organizational structure that is causally responsible for the wrongdoing.

In the second chapter, I will show that the corporation is not blameworthy because it lacks autonomy as an agent. It cannot be considered either a *collective* agent, where intentionality arises from the intentional states of its constituent members, or an *institutional* agent, where intentionality resides in the organizational structure capable of directing its members. Therefore, since the ability to act autonomously is a prerequisite for moral agency, the corporation cannot be morally responsible in itself for its actions.

Moving to the third chapter, I intend to address the objection raised by the Strawsonians who argue that demonstrating agency or possessing other characteristics necessary for moral blame is not essential for blaming someone or something. According to this perspective, the justifiability of blaming corporations is revealed by the responsive

attitudes we manifest toward them. Despite this, I raise several objections that challenge the validity of this claim. I argue that the ultimate objection consistently revolves around the autonomy issue: corporations cannot respond to our blame in the relational manner predicted by Strawsonian theory. When we blame companies, it is individuals who respond to our blame. Nevertheless, this conclusion does not negate the possibility of adopting an instrumental view of blame. While it may not qualify as moral blame, we can treat companies *as if* they were morally responsible for performing some socially desirable function while maintaining the theoretical assumption that they are not.

In the fourth chapter, I present a model aimed at bridging the moral gap at the individual level without necessitating the allocation of responsibility to the company itself. This proposal draws inspiration from the “social connection model” and the idea of political responsibility developed by Iris Marion Young (2003, 2006). She argues that members of society bear responsibility for social injustices based on their contribution to creating and perpetuating a social structure culpable for generating such injustices. Similarly, I posit that individuals are structurally responsible for designing and perpetuating a corporate structure that leads to wrongdoing or encourages its members to commit such acts.

My proposal's novelty lies in identifying a second type of moral responsibility that, unlike the traditional model of responsibility as accountability, does not require a direct link between intentionality and the final result but also extends this responsibility to individuals operating beyond the legal boundaries of corporations. This extended approach to moral responsibility for corporate wrongdoing can provide new insights into the power relationships exerted by stakeholders and shareholders towards the corporation.

1. Blaming the corporation

1.1 Introduction

The thesis I intend to defend in this chapter is twofold. First, I seek to establish three categories of corporate wrongs where our blaming practices fail to address moral responsibility at the individual level adequately. This is because they fail to identify the wrongdoer or the group of wrongdoers capable of receiving all the moral indignation we hold. In fact, the conditions sustaining moral responsibility at the individual level are not entirely satisfied. In these instances, individuals are justifiably exonerated – either wholly or partially – since, even when they bear a share of the responsibility, they are not regarded as the *full* recipients of our blame. Consequently, a surplus of moral indignation remains unresolved and requires reexamination.

Secondly, this chapter contends that to bridge the “responsibility gap” (Gunkel 2020; Hakli and Makela 2019; Matthias 2004; Luban et al. 1992; Pettit 2007; Sepinwall 2012), we have *prima facie* reasons to assign blame to the corporation itself, as a distinct entity or, at the very least, not reducible to its individual constituents. Corporations emerge as fitting targets for our blame, either alongside or instead of individual members. Here, I am conceptualizing moral responsibility as if it were a sliced cake to be apportioned between individual agents and the corporation itself. The allocation of their respective shares may vary depending on the circumstances and the roles they play.

We may want to blame the corporation in three distinct categories of cases. The first category includes those cases where the corporate wrong emerges from a series of actions undertaken by numerous individuals within the corporation, none of whom intends to bring out the final action, and none possesses sufficient control over it.

The second category encompasses cases in which the wrongful act is carried out by a singular agent or a group of agents following a corporate order, procedure, or policy while acting *on behalf of* the corporation – thus falling within the scope of corporate authority.

The third category includes cases where the wrong is committed by an employee or a group of employees on behalf of the company, even in the absence of explicit instructions from the firm to engage in such actions. In these cases, corporate culpability

is assigned due to the profound impact of an unethical corporate culture on individual behavior.

Across these three categories, two conditions are met: (i) individual members fail to satisfy the requisite conditions required for being deemed fully morally responsible for the wrong, and (ii) there are *prima facie* grounds to hold the corporation itself morally responsible.

It is important to note that I intentionally exclude other types of corporate wrongs. First, I am ruling out cases wherein the corporate wrong can be *reduced* to an identifiable individual *mens rea*. Consider a recent example from November 2023, where FTX co-founder and former CEO Sam Bankman-Fried was convicted of fraud and money laundering. In this instance, he was held accountable for “stealing from customers of his now-bankrupts cryptocurrency exchange in one of the biggest financial frauds on record”.¹ While this qualifies as a corporate transgression – FTX’s collapse resulted from mismanagement of funds, lack of liquidity, and a substantial volume of withdrawals – it is evident that Bankman-Fried is *personally* responsible for the wrongdoing. He deliberately chose to commit fraud, possessed awareness of the moral wrongness, and was cognizant of the consequences of his actions. Secondly, I am excluding cases in which the company, as a collective agent, unequivocally bears responsibility for the wrong because *all* the members share a part of the entire responsibility for the same. In such scenarios, attributing the intentionality to the company as a group agent would be appropriate. For instance, consider a small business firm choosing to engage in human rights abuses through outsourcing labor. Suppose that in this scenario, all the employees collectively harbor the intention to violate the law, distribute tasks collaboratively, and unequivocally endorse these decisions. In such cases, responsibility gaps are nonexistent, as the group assumes moral responsibility for the wrong, with the primary concern being the distribution of blame among its members. Thirdly, I am excluding situations wherein a single employee or a group of employees engage in wrongdoing beyond the scope of their corporate roles. In this case, they are acting outside the scope of the principal’s authority (the firm).² By demonstrating that neither the corporation authorized the wrongdoing nor influenced the immoral conduct, we attribute full responsibility for the

¹ <https://www.reuters.com/legal/ftx-founder-sam-bankman-fried-thought-rules-did-not-apply-him-prosecutor-says-2023-11-02/>

² See the legal doctrine of “*respondeat superior*” (https://www.law.cornell.edu/wex/respondeat_superior).

wrong to the individual members. There is nothing *beyond* them deserving blame, and no responsibility gap necessitates rectification. Conversely, in the ensuing cases, I contend that our existing models of responsibility prove inadequate or insufficient.

1.2 First category: the problem of many hands

The first category of corporate wrongs encompasses situations where a harmful outcome arises as a cumulative effect of actions undertaken by individuals at various organizational levels and/or functions. Importantly, none of these individuals intended or foresaw the ultimate wrongdoing. Instead, the final wrong manifests as an unintentional consequence resulting from the interconnected individual agencies operating along a causal chain of incremental actions. This scenario is commonly known as the “problem of many hands”, which introduces challenges in attributing blame or general responsibility due to the absence of a clear line of causality and intent linking individual actions to the ultimate action (Chant 2007; Ginet 1990; Zimmerman 1985). The accountability problem arises because two essential conditions determining responsibility for harm are unmet: (i) the causal condition, and (ii) the mental condition (intentionality or *mens rea*). In these instances, no single individual possesses the right intentionality to cause harm, and none wields the full causal power to determine the outcome. Thus, no one can be held fully responsible. As noted by Pettit (2007, p. 196), “a group agent can act to bring about some harm [...] without any of its members being fully fit to be held responsible for his or her contribution to that result”.

Consider, for instance, the famous ‘BP Deepwater Horizon oil spill’ case,³ a significant environmental disaster in April 2010 in the Gulf of Mexico, where the Deepwater Horizon drilling rig, operated by BP (British Petroleum), experienced a massive explosion and fire. The consequences of the accident were disastrous: 11 workers were killed, and the rig sank into the Gulf of Mexico, breaking the well open and spilling oil. Between 2.5 and 4.2 million barrels of oil flowed into the ocean over 87 days, leading to devastating consequences for the environment. In this case, no member could be held accountable for the final wrong, resulting from a series of negligent actions and reckless

³ <https://www.epa.gov/enforcement/deepwater-horizon-bp-gulf-mexico-oil-spill>.

conduct by different actors. However, no one intended to cause the oil spill, and no one had complete control over the final action, i.e., no one possessed the causal power to bring it about. Who is to blame, then?

Notably, even by showing that numerous individual actions were negligent, hence morally wrong, this would not solve the puzzle. The employees' intention to engage in minor wrongdoing is insufficient to argue that they actively sought to contribute to causing the final harmful outcome or that they possessed the necessary awareness of the moral consequences of their negligence to make them fully blameworthy for the wrongdoing. Traditional accounts of moral responsibility, in fact, necessitate epistemic conditions beyond intentionality and causality, including awareness of the action (Sliwa 2017) and awareness of the consequences (Fischer and Tognazzini 2009; Nelkin and Rickless 2017). To be held responsible, an agent must be aware of her action and her consequences, framed in terms of 'reasonable foreseeability'. In our case, however, no individual can be identified as having complete control over the action (causality), intending the final outcome to occur (intentionality), or knowing that their individual actions would contribute to the final wrong (knowledge). They can be blamed for their negligent personal actions, but this would not be sufficient to blame them for the *final* harm.

These cases arise because corporations function as bureaucracies (Selznick 1957; Simon 1997), where employees can appeal to epistemological excuses regarding the overall actions of the corporation. Employees may assert statements like "I was just doing my job"; "I was simply executing a task"; or "I didn't know that my action would contribute to the final wrong" (Cohan 2002). They function as cogs in a machine. The difficulty, or perhaps impossibility, of being aware of individual roles within the corporate machinery is what Luban et al. (1992) term the "problem of fragmented knowledge". This concept asserts that large multinational corporations are characterized not only by a division of labor but also by a division of knowledge. Individuals lack awareness of the cumulative impact of their acts, complicating both the moral assessment and practical response to the wrongs they help commit (p. 2355). Even supervisors may be unable to control what happens along the hierarchical line, given that in large organizations, decision-making responsibility is delegated as far down the organizational line as

possible. In such cases, no one has complete control or possesses comprehensive knowledge of what is happening. As stated, (p. 2365):

“none of the subordinates may have more than the most general idea of what the entire project is about, while the supervisor may know nothing about the details of each subordinate’s subtasks. No members of the organization might recognize a moral problem, because the problem arises not from what any one member of the team is doing, but rather from all their actions put together”.

One might argue that individuals in these cases can still be considered responsible for their ignorance as ignorant wrongdoers. They could be culpable for failing to meet their epistemic obligations (FitzPatrick 2008, p. 606). Given the substantial risk of adverse consequences arising from task specialization and knowledge fragmentation within corporate organizations, it may be reasonable to anticipate that employees should shoulder responsibilities beyond the mere avoidance of unethical behavior. However, accusing individual members of epistemic vices or culpable ignorance presents two problems. Firstly, even if they desired to foresee the consequences of their actions, it would be reasonable to expect that no one within the organization completely understood all the information required to trace the causal connection between individual actions and corporate actions. Multinational corporations, with activities in numerous countries and large numbers of employees, make it unrealistic to think that employees could fully grasp the consequences of their actions.⁴ Secondly, even assuming they succeeded, epistemic obligations⁵ seem excessively demanding. Is it realistic to expect employees to expend energy and time to find out whether their actions might, at some point, contribute to some wrongdoing that none of them intend to produce or have the power to produce?

In consideration of all of this, the emergence of a responsibility gap is evident. We have a reserve of moral indignation that needs to be redirected, for individual

⁴ For instance, it would be unrealistic to expect that the over 25,000 employees of Lehman Brothers or the more than 10,000 employees of Merrill Lynch, involved in the 2007-2008 financial crisis, were aware that their actions were contributing to a financial collapse.

⁵ Luban et al. (1992) hold that employees may have obligations of investigations, communication, protection, and prevention.

members are either fully or partially acquitted. The central question becomes: who, then, is responsible for the wrong?

To address this gap, three potential approaches can be considered. Firstly, one might accept that there is no individual and no-thing to hold responsible for the final unintentionally produced wrong. However, this conclusion presents two problems. First, it implies unacceptable practical consequences, as relinquishing our practices of blaming and punishing collective wrongdoing whenever the “problem of many hands” arises compromises our pursuit of a just society. Without accountability, there is a diminished incentive to prevent these collective wrongs from happening again. Secondly, this conclusion is theoretically problematic because it assumes that the epistemic difficulty in ascribing blame would be sufficient to sustain the claim that no one *is* responsible. However, the difficulty does not equate to impossibility.

Alternatively, one could adopt the stance of strict liability,⁶ holding all the individuals affiliated with the organization morally responsible, even if the conditions required for blameworthiness are not fully met. This entails attributing individual moral responsibility to all the participants in the causal process, which leads to the wrong, potentially emphasizing higher degrees for those involved in negligent acts. Yet, this approach is excessively punitive and contradicts fundamental intuitions about morality. Despite its alignment with the retribution and deterrence functions of criminal law, it goes against our intuitions about excuses in cases of unintentional actions. In fact, we typically do not blame individuals who are merely causally responsible for an action. For example, we would not seek to blame a person who struck us simply because she was pushed by someone else, even though she could be more careful. Thus, both options are rejected.

A third approach involves attributing blame to the corporation itself for the collective outcome. Two *prima facie* reasons support this hypothesis.

The first reason is that, unlike individual members, the corporation, as a collective entity, wields the causal power to bring about the ultimate action, which results from various actions carried out by employees *within* the confines of corporate authority.

⁶ “In both tort and criminal law, strict liability exists when a defendant is liable for committing an action, regardless of what his/her intent or mental state was when committing the action. In criminal law, possession crimes and statutory rape are both examples of strict liability offenses”. (https://www.law.cornell.edu/wex/strict_liability#:~:text=Overview,examples%20of%20strict%20liability%20offense s.).

Consequently, the ultimate wrong appears attributable to the corporation as a collective. It was BP that instigated the oil spill: only BP possessed the causal influence to determine that specific action. This implies that since the wrongdoing would have occurred only through the contribution of different corporate agents, whose agencies are organized collectively under the entity ‘corporation’, the corporation indeed appears responsible for the action. In essence, without the collective, there would be no wrong. Thus, we should blame the collective itself.

The second reason is rooted in the consideration that, in the instances under examination, the corporation not only orchestrates and interconnects individual agencies in a manner that causally produces the wrong, but there also appears to be a morally problematic aspect inherent in that manner, that is, in the way individual agencies are structured and regulated to constitute a corporate agency, which seemingly heightens the likelihood of engaging in illegal or immoral actions. This internal configuration can induce, incentivize, or encourage the risk of some wrongs happening. Crawford (2007) posits that collectives can engage in morally objectionable actions – through their members – due to the specific nature of the group and its organizational structure, shaping distinct behavioral paths, incentive structures, and patterns of disciplines that can result in certain (unexpected) outcomes. This configuration seems to be a property of the corporation itself, as something *more* than just the mere aggregation of its individual constituents. In the BP case, in fact, the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling⁷ placed the blame on BP and its partners for a series of cost-cutting decisions and an insufficient safety system, citing "systemic" deficiencies, a pervasive culture of mediocrity, and “failures to appreciate risk”. BP committed several errors when attempting to seal the well, including a lack of proper monitoring, inadequate equipment maintenance that could have otherwise prevented the blast, insufficient training for the rig crew to handle such an event, and an inadequately thought-out response plan.⁸ In this case, BP itself seems to be blameworthy. To vindicate this intuition, let’s imagine a scenario where all the corporate members were different. Would the disaster still have happened? The answer is probably ‘yes’, as the employees act according to their corporate roles, and the authority of the corporation constrains their

⁷ <https://www.govinfo.gov/content/pkg/GPO-OILCOMMISSION/pdf/GPO-OILCOMMISSION.pdf>

⁸ See Sepinwall (2012, note 93).

agency. What is more, it is not unreasonable to expect this to still have happened even in a scenario where the top management wanted to be more circumspect and act on principles of prevention and precaution. This is because, as explained in the Commission report, the operation of the platforms, the control mechanisms, the technology, and the type of materials used were the result of decades of development of the corporation itself, involving decisions of past management. It would be unfair to attribute the shortcomings of the entire system solely to the management in charge of the company at the time of the explosion. Therefore, the structural problems related to the explosion are issues specific to BP itself, with a personal history that extends *beyond* its current management and its low-level employees.

Thus far, I hope to have demonstrated that the problem of many hands exposes a responsibility gap, and we may have *prima facie* reasons to ascribe moral responsibility to the corporation. This stems from the company's causal responsibility in producing the harm and its potential role in facilitating or heightening the risk of harm – an inherent flaw within the company itself. In light of this, I conclude that in these cases, we might want to address the remainder of our moral indignation towards the corporation as a collective agent. According to Cooper (1972, p. 258), in these cases, we attribute blame to collectives, as blaming individuals would not yield the same effect; collectives embody aspects that we seek to reform and punish.

1.3 Second category: corporate procedures and policies

The second category includes those cases in which the wrong is committed by a corporate agent or a group of agents operating on behalf of the corporation, i.e., within the confines of corporate authority. In such scenarios, wrongdoers engage in an illegal or immoral act by adhering to a corporate policy or procedure. Typically, employees are instructed to conduct their duties according to the corporation's established rules, procedures, and policies. These guidelines are meant to be followed and applied when specific circumstances arise, and they can be seen as instructions provided by a company to its employees for the fulfillment of corporate goals and strategy. In this context, the actions of an employee are intricately *bound* by what the corporation mandates or

compels her to do. When individual members operate within the scope of their role, asserting that they are acting in the corporate name is accurate.

Consider the following case, known as the ‘2017 United Express Passenger Removal’⁹, an incident that took place on a United Airlines flight operated by a regional partner, United Express. The incident began when flight 3411, scheduled to depart from Chicago O’Hare International Airport to Louisville, Kentucky, was overbooked. When it became apparent that there were not enough empty seats for passengers with confirmed reservations, the airline sought volunteers to give up their seats in exchange for compensation. Passengers were initially offered \$400 and a hotel stay, which was later increased to \$800. When not enough volunteers came forward, one of the flight attendants randomly selected four passengers to be involuntarily removed from the flight. One of them, Dr. David Dao, a 69-year-old Vietnamese American physician refused to leave the plane, stating that he needed to see patients the next day. After the flight attendant called the police, video footage taken by other passengers on the plane showed the physical removal of Dr. Dao by security officers. The video went viral, and it depicted a distressed and injured Dr. Dao being dragged down the aisle of the plane. The incident was resolved through a settlement between the passenger and United Airlines, which allowed both parties to avoid a protracted legal battle.

From a legal standpoint, these types of cases are governed within the framework of the principal-agent relationship¹⁰, which refers to a situation in which one party, known as the ‘principal,’ delegates authority or decision-making responsibilities to another party, known as the ‘agent,’ to act on their behalf. In these instances, the corporation (principal) bestows authority upon the corporate agent (employee) to act on its behalf, typically through a contract or agreement. In American jurisprudence, the common law principle overseeing this attribution of liability is known as ‘traditional respondeat superior’.¹¹ This principle asserts that a corporation “may be held criminally liable for the acts of any of its agents [who] (1) commit a crime (2) within the scope of employment (3) with the intent to benefit the corporation” (Bucy 1991, p. 25). More precisely, corporate liability

⁹ <https://www.nytimes.com/2017/04/10/business/united-flight-passenger-dragged.html>;
<https://www.cnn.com/2017/04/10/travel/passenger-removed-united-flight-trnd/index.html>

¹⁰ <https://www.law.cornell.edu/wex/agency#:~:text=A%20principal%2Dagent%20relationship%20is,perceived%20by%20a%20third%20party.>

¹¹ https://www.law.cornell.edu/wex/respondeat_superior.

dictates that a court may hold a corporation accountable if the harm was “authorized, requested, commanded, performed or recklessly tolerated by the board of directors or by a high managerial agent acting on behalf of the corporation within the scope of his office or employment”.¹² This elucidates why legal liability rested with United Airlines rather than the flight attendant and why the agreement was settled between the passenger and the company rather than between the passenger and the flight attendant. The law acknowledges that the act of forcibly removing a passenger from the plane was executed, indeed, by United Airlines through one of its employees, and consequently, the legal repercussions should be borne solely by the company.

However, as much as the operations of jurisprudence may provide valuable insights into how we should guide our reactive attitudes, the question at hand diverges. We are concerned with how we should allocate our *moral* blame rather than examining legal responsibility, and the mere legal assignment of fault to the corporation is insufficient to claim that moral responsibility should adhere to identical criteria in light of the distinction between the *nature* of the two responsibilities.

In the case under consideration, indeed, the flight attendant is an autonomous agent: the wrongdoing is executed intentionally and autonomously. Why should we not assign blame to her?

To address this question, let’s endeavor to determine whether the officer fulfills all the conditions requisite for her to be the subject of our blame. According to Pettit (2007), there are three necessary and sufficient conditions for holding someone morally responsible:

- i) Value relevance: he or she is an autonomous agent and faces a value-relevant choice involving the possibility of doing something good or bad or right or wrong.
- ii) Value judgment: the agent has an understanding and access to the evidence required for being able to make judgments about the relative value of such options.
- iii) Value sensitivity: the person has the control necessary for being able to choose between options on the basis of judgments about their value.

¹² See 18 PA Cons Stat § 307 (2016) <https://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/18/00.003.007.000..HTM>

Concerning (i), the flight attendant can be regarded as an autonomous moral agent facing the dilemma of committing wrongdoing due to adherence to a specific corporate procedure. This procedure stipulates that in the event of overbooking, flight attendants are obligated to arrange for a designated number of passengers to disembark the plane.

Regarding (ii), we can hold that the flight attendant possesses the capacity for moral judgment, comprehending the normative implications of various options and reasonably foreseeing their consequences. For the sake of simplicity, we reduce these options to ‘adhere to the business procedure’ and ‘refuse to adopt the procedure’.

In relation to (iii), the flight attendant appears to have the requisite control to choose between the two options: she could defy orders, halt the involvement of the police, and generally refuse to participate in this unjust action. No external physical coercion compelled her to remove the passenger.

Given that the flight attendant intentionally decided to perpetrate the wrong – forming the belief that ‘removing the passenger’ was the morally justifiable course of action and fostering the desire to ‘remove the passenger at any cost’ – and given that she was aware of what she was doing, the question arises as to why we should not then attribute responsibility to her for the wrongdoing.

However, I argue that we encounter an issue with the third condition because there are grounds to question whether the flight attendant *truly* had control over her actions. Was she able to do otherwise? Indeed, we should acknowledge that her agency was circumscribed by her role within the company, for which a flight attendant is mandated to act in the company’s interest and adhere to her designated role. She bears a moral obligation to the corporation arising from the employment contract she signs and commits to uphold. This implies that when confronted with a decision, the flight attendant, in addition to her inherent moral responsibilities as a human being, is aware of her moral duty to the corporation. In this scenario, assuming she did not wish to carry out the action in question, she faced a conflict between her moral duty as a human not to inflict harm on others and her moral duty as a flight attendant to comply with corporate procedures. Thus, she faced a moral disjunction (Mota and Morrison 2023).

Note that had the flight attendant chosen to neglect her duty and reject adherence to procedures, she would undoubtedly have faced adverse personal consequences from the company, such as dismissal, financial repercussions, or other forms of potential

harassment. And if freedom demands such a high price, its nature becomes questionable. Furthermore, her refusal could have resulted in additional collateral consequences, such as complaints if the plane failed to depart or departed in violation of passenger regulations. The flight attendant might have considered that the harm inflicted on all other passengers would far exceed the harm caused to David Dao.

Given this, we can now see how the company placed the flight attendant in an undesirable position. It forced her to adhere to the procedure and thus to perform a wrong, not only by virtue of her corporate duty but also by creating the conditions to make the wrongful action the action with lesser impact than any available alternatives. Thus, the corporation seems to deserve blame for facilitating the wrongdoing, even though the action was executed by one of its employees.

In cases falling under this category, the corporation seems to wield its power over individual agencies through what Peter French has called “Corporate Internal Decision Structures” (CID Structures). In his influential paper "The Corporation as a Moral Person," Peter French (1979) conceptualized CID Structures as the organizational arrangement of personnel responsible for making decisions on behalf of a corporation and advancing its interest. French distinguishes between two types of rules within CID Structures: organizational rules, which delineate various levels of authority, and policy/procedure rules, which serve as guidelines for recognizing decisions or actions aligned with the corporations’ best interests. Importantly, he underlines that CID structures are not merely descriptive but also have *normative* implications, instructing corporate agents on how they *ought* to act (French 1995, p. 31). It ensures that all employees align with their roles and possess the requisite knowledge to fulfill the corporate agenda. As Pettit highlights (2007, p. 192), corporations organize things so that “some individual or individuals are identified as the agents to perform a required task, and other individuals are identified as agents to ensure that should the performers fail, there will be others to take their place as backups”. In this way, companies bind the agency of their employees to themselves, perpetuating this relationship over time.

In order to achieve this, some epistemic conditions must be met. Arnold (2006, p. 289) points out that:

“in order to know how to act employees must have knowledge of how they are expected to act. If employees demonstrate ignorance of corporate policies or corporate social norms, then the corporation can demonstrate a commitment to its policies by attempting to correct the intentions of the relevant employees. Employees should have the appropriate intention, and if they do not, they fail to properly represent the corporation”.

This implies that the company will take *every measure* to ensure that the actions that are expected to be performed are executed.

With all of this in mind, we may propose that the corporation should bear full moral responsibility for the wrongdoing, given that the intentional act of the flight attendant *is*, indeed, a corporate act. Larry May (1983) famously argued that corporations exert their own vicarious agency by relying on the agency of their employees, who should be considered only the *enactors* of corporate agency. A vicarious action is an action performed by Y but attributable to X, due to the fact that Y has been delegated to perform the action as a substitute for X. Thus, even though the act of removing the passenger is an action executed by the flight attendant, it should be imputed to the company itself. The flight attendant should be regarded merely as the executor of the corporate deed.

However, as far as fascinating this assertion may sound, it raises some concerns (that I will better explore in the next chapter). Holding that employees' actions are *fully* attributable to the company poses the risk of neglecting part of the autonomy of their workers. Despite acting within constrained boundaries, these workers are still autonomous and free individuals, capable of overcoming these constraints. It is one thing to acknowledge that the corporation wields influence over the intentional states and agency of its workers by constraining them; it is quite another to claim that when employees act, it is the corporation that is acting. That is, although we may treat employee action *as if* it were the action of the company for the purposes of the law, it still appears attributable to the employee herself. The action arises from *her* intentional states: it is *her* action. For instance, we need to distinguish between corporate intention and the employee's intention. The company's intention, as embedded in its policy, was to remove a certain number of passengers from the plane in the event of overbooking. However, the company did not intend to cause harm to David Dao. The policy did not explicitly state

to forcibly remove a passenger, leading to both physical and moral damages. The intention associated with the wrongful action rests solely with the flight attendant.

Let's temporarily set aside this debate because, for this chapter, our focus is solely on demonstrating the fundamental role played by the corporation in wrongdoing. As mentioned earlier, the origin of the wrongdoing can be traced back to specific corporate procedures or policies. In the absence of these or with the presence of a more moderate approach, the flight attendant might not have engaged in the wrongful act. Given that the procedure is an integral part of the company, not reducible to its individual members, we would be inclined to assign blame to the corporation.

Furthermore, it's essential to note that the question of whether, on a case-by-case basis, we choose to entirely exculpate the corporate agent(s) and place all blame on the company or whether we opt for holding both responsible with varying degrees is not relevant here. What is crucial is to highlight that the corporation itself, beyond individual members, appears to warrant *some* blame and punishment. In light of this, I hope to have shown that even in this category of cases, we are inclined to absolve – partly or fully – individual members from blame, and we have *prima facie* reasons to want to hold the corporation blameworthy.

1.4 Third category: corporate culture

The third category of cases includes those cases where one or more members of the organization engage in wrongdoing by acting within their corporate role under the influence of organizational culture. Under these circumstances, the corporation has no clear and specific instructions to perform the harmful action. Yet the company seems to be responsible for having led – albeit unwittingly – individuals to do bad things.

Consider the famous 2016 Wells Fargo account scandal¹³, which involved unethical and illegal practices carried out by employees at Wells Fargo, one of the largest and most prominent banks in the United States. The scandal revolved around a high-pressure sales culture within the bank that encouraged employees to open new accounts for customers, whether they were needed or requested, to meet aggressive sales targets and goals. Wells Fargo employees, in fact, opened millions of unauthorized accounts in

¹³ <https://www.justice.gov/opa/pr/wells-fargo-agrees-pay-3-billion-resolve-criminal-and-civil-investigations-sales-practices>; <https://corpgov.law.harvard.edu/2019/02/06/the-wells-fargo-cross-selling-scandal-2/>

the names of existing customers without their knowledge or consent. These accounts included checking accounts, savings accounts, credit cards, and other financial products. Customers were unaware that these accounts had been created. In some cases, bank employees also created fictitious accounts using fake email addresses and PINs, making it even more difficult for customers to identify these unauthorized accounts. Customers often incurred fees associated with them, leading to financial harm and damage to their credit scores. What this case seems to suggest is that the corporation itself played a role in the wrongdoing: even though there were no specific instructions (policies or procedures) holding that the employees should have opened bank accounts without the customer's consent, Wells Fargo's internal culture created the condition contributing to the wrongdoing. Wells Fargo employees faced considerable pressure, with sales targets reaching up to 20 products per day.¹⁴ Others mentioned experiencing regular bouts of crying, stress reaching the point of vomiting, and intense panic attacks.¹⁵ Some individuals noted that reports to the company's ethics hotline were either disregarded or resulted in the termination of the employee who lodged the complaint.¹⁶ What strikes about this case, however, is that after Wells Fargo fired about 5000 employees, and CEO John Stumpf was forced to retire, federal regulators fined the company \$1.7 billion on December 2022 for "widespread management" over multiple years that harmed over a million consumer accounts. The CFPB said Wells Fargo's illegal activity included: "repeatedly misapplying loan payments, wrongfully foreclosing on homes, illegally repossessing vehicles, incorrectly assessing fees and interest, and charging surprise overdraft fees". Rohit Chopra, the CFPB's director, described the company as a "repeat offender" and a "corporate recidivist", with "systemic failures".¹⁷ Wells Fargo's unethical culture resisted the replacement of its individual constituents.

Under these circumstances, Wells Fargo appears to harbor an immoral culture that fosters harmful conduct by corporate agents. That is, the company seems to manifest what we might call an "immoral disposition" (Silver 2005), prompting members to engage in

¹⁴ <https://www.npr.org/2016/10/04/496508361/former-wells-fargo-employees-describe-toxic-sales-culture-even-at-hq>

¹⁵ https://www.nytimes.com/2016/10/21/business/dealbook/voices-from-wells-fargo-i-thought-i-was-having-a-heart-attack.html?_r=0

¹⁶ <https://www.npr.org/2016/10/21/498804659/former-wells-fargo-employees-join-class-action-lawsuit>

¹⁷ <https://www.cnn.com/2022/12/20/investing/wells-fargo-cfpb-foreclosure-fine/index.html#:~:text=The%20Consumer%20Financial%20Protection%20Bureau,and%20charging%20surprise%20overdraft%20fees;> [https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-wells-fargo-to-pay-37-billion-for-widespread-mismanagement-of-auto-loans-mortgages-and-deposit-accounts/;](https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-wells-fargo-to-pay-37-billion-for-widespread-mismanagement-of-auto-loans-mortgages-and-deposit-accounts/)

wrongdoing. This disposition qualifies as an *organizational* property, not reducible to the properties possessed by its individual members. In other words, altering the leadership or personnel of the company alone would not be adequate to prevent the recurrence of wrongs. The organization itself is the problem, transcending its human base. As aptly noted by Pamela Bucy (1991, p. 1101), in this type of case:

“convicting individual agents and employees of a corporation does not stop other corporate employees from committing future criminal acts if sufficient corporate pressure to violate the law continues to exist. [...] These convicted are simply replaced by others whose original propensity to obey the law is similarly overcome by a corporate ethos that encourages illegal acts. Unless inside or outside forces change the lawless ethos, it will corrupt each generation of corporate agents”.

But what is meant by corporate culture, and when does it become unethical?

Corporate culture has been defined as the “taken-for-granted values, underlying assumptions, expectations, and definitions that characterize organizations and their members” (Cameron and Quinn 2011, p. 18). This definition intersects with others in the field. Davis (1984) defines it as the pattern of shared beliefs and values that give the members of an institution meaning and provide them with the rules for behavior in their organization. In “Corporate Cultures”, Deal and Kennedy (1982, pp. 13-15) delineate five elements of a company’s culture: business environment, values, heroes, rites and rituals, and cultural network. What is more, Barsade and Knight (2015, p. 24) argue that organizations can possess both cognitive and affect cultures, with affect culture defined as the set of “behavioral norms, artifacts, and underlying values and assumptions reflecting the actual expression or suppression of the discrete emotions comprising the culture and the degree of perceived appropriateness of these emotions, transmitted through feeling and normative mechanisms within a group”.

As previously outlined, corporations can develop their distinct cultures capable of enduring over time and ‘withstanding’ staff turnover. Metaphorically speaking, we can say that they come to possess their own *personality*. As noted by Olins (1978, p. 82), “It is not true that all big companies are the same – they aren’t [...] Companies develop their

own distinctive personality and *ethos* which is so ingrained, so much a part of them, that the corporate identity expresses itself in their every action". For instance, in "The Seven Sisters", Anthony Sampson (1975, p. 185) characterizes the personalities of the world's seven largest oil companies as follows. Texaco "with its selfishness and greed" cultivates a reputation for "meanness and secrecy"; Mobil is described as "the most sophisticated of America [...]", emphasizing communication and image concerns; Shell, "lordly and sedate", exhibits "obsessive introversion" and "self-containment". Importantly, these qualities are ascribed to the company itself, emerging as supervening qualities to its human base. Of course, we can expect that Texaco's selfishness and greed may influence individual members, causing them to adopt similar traits. But the crucial point here is that the relationship between the organization and individuals is reciprocal: corporate members frequently inherit traits or dispositions inherent to the organization they are part of, traits they did not possess before. Even those new employees who are initially committed to prosocial attitudes and ethical behavior may eventually be influenced by the daily work environment, causing their moral convictions and desires to either waver or strengthen. According to Jackall (1988, p. 599), "bureaucratic work causes people to bracket the moralities that they might hold outside the workplace or that they might adhere to privately and to follow instead the prevailing morality of their organizational milieu".¹⁸

Thus, as emphasized by Dempsey (2015), corporate cultures can be either ethical or unethical. Let's define an unethical culture as one that promotes, encourages, or facilitates member's engagement in wrongdoing. Various corporate features can contribute to the development of an unethical culture, including the type of hierarchy, organizational structure, corporate goals, internal regulations, whistleblowing practices, compliance monitoring, leadership, and more (Jackall 2010). For instance, the organizational structure can be arranged to protect individuals from criminal liability or incentivize them to commit crimes by virtue of the fact that there is no way to detect possible wrongdoing.

In "Controlling Unlawful Organizational Behavior", Diane Vaughan (1983, pp. 150-151), while examining cases of the relationship between organizational structure and criminal behavior, concludes that "organizational processes [...] create an internal moral

¹⁸ See also the extended version (Jackall 2010).

and intellectual world”. According to this view, individuals are prompted to violate the law and moral norms due to internal education, reward mechanisms, information processing, and more.

Corporate goals can also play a decisive role in fostering unethical behavior. In his independent review of Barclays’ Business Practices¹⁹, Anthony Salz (2013) criticizes the company’s profit-focused culture, which prioritizes profits and bonuses over consumer interests. He argues the profit-centered culture facilitated actions such as aggressive selling techniques, legal restrictions challenging policy claims, selling to ineligible individuals, targeting those without income protection, and including clauses allowing some customers to purchase insurance unintentionally. As acknowledged by the American Law Institute during the development of the model penal code’s criteria for corporate criminal liability, “the economic pressure within the corporate body [may be] sufficiently potent to tempt individuals to hazard personal liability for the sake of company gain”.²⁰ What is more, high-stakes contingent incentives can prompt individuals to think they risk losing their jobs if they miss targets, forcing them to do bad things in order to achieve them.

A corporate culture can permeate all levels and functions of organizations, even those not directly participating in the wrongdoing. By referring to Barclays’ involvement in the LIBOR scandal²¹, Dempsey (2015, p. 322) argues that “the operational practices that resulted in PPI mis-selling ran from the top to the bottom of the organization [...] Indeed, it was not only operational staff, but also staff in core support roles that were implicated in these practices – legal experts and others who designed the products [...]; HR professionals who oversaw the incentivization contracts; and those working in finance functions to who it was clear how profitable PPI was”.

With all of this in mind, we are now in the position to conclude that corporations may appear to play a role akin to what we discussed in the previous category: pushing

¹⁹ <https://www.wsj.com/public/resources/documents/SalzReview04032013.pdf>

²⁰ MODEL PENAL CODE § 2.07 commentary at 158-59 (Tent. Draft No. 4, 1956) 174.

²¹ The LIBOR scandal refers to a manipulation of the London Interbank Offered Rate (LIBOR), one of the most important benchmark interest rates in the world. LIBOR serves as the average interest rate at which major banks can borrow from one another and is used as a reference for a wide range of financial products, including loans and derivatives. The scandal came to light in 2012 when it was revealed that several banks, including Barclays, had been submitting false or manipulated estimates of their borrowing costs to the British Bankers’ Association (BBA), which calculated LIBOR. This false submission aimed to either make the banks appear more creditworthy than they were or to manipulate the rate for financial gain.

individuals to engage in wrongdoing. However, there are two substantial differences compared to the previous cases. The first pertains to the role of corporate influence on individual agencies. In the second category, the company exerted a direct influence on individual agencies by prompting employees to perform specific actions – the company *explicitly* outlined what must be done under certain circumstances. United Airlines communicated, for instance, that in the event of overbooking, some passengers must disembark. In this category, on the other hand, the company does not issue orders to commit what results to be a wrongful action; it does not exert direct, transparent influence on individual agencies. Instead, it creates conditions conducive to the development of the intention to commit the wrongdoing. Culture influences the likelihood of individuals developing a new set of intentional states – desires and beliefs – to commit wrongdoing by shaping their minds. While Wells Fargo does not explicitly demand employees to open accounts without customers’ consent, it activates a cultural system that encourages the emergence of the desire to open new bank accounts without the customers’ consent. But how Wells Fargo influences individual immoral behavior is not as transparent as observed in previous cases. The company can argue that it never asked its employees to open those checking accounts.

The second (related) reason concerns the identifiability of culture in comparison to the CID. While corporate CID is visible and traceable – often documented or formally and explicitly stated – organizational culture may be unmeasurable, with the company potentially unaware of its culture’s qualitative features and how they influence individual behavior. Corporate culture, in other words, can be challenging to discern and uncover. However, this skepticism may be unfounded. As demonstrated in the Barclays report, the unethical aspects of a culture can be clearly identified, allowing for measurement of the extent to which a company’s culture is unethical. Visible traces are often present. For instance, declarations by JP Morgan employees during the 2007-2008 financial crisis provide insights (Nelson 2017). Alayne Fleischmann, known as the whistleblower exposing white-collar crimes at JP Morgan, described that the pressure to approve fraudulent and low-quality loans was maintained through an intimidation process involving an “edict against e-mails, the sabotaging of the diligence process [...] bullying [...] and written warnings that were ignored” (Nelson 2016, note 91). Several studies confirm that unethical (or ethical) culture can indeed be measured, usually through the

use of questionnaires and employee interviews (Kaptein 2009; Trevino, den Nieuwenboer, Kish-Gephart 2014), and thus it can be identifiable, observable, and malleable.

These two distinctions justify the separation of the second category from the third category of cases but do not undermine our inclination to hold the corporation itself responsible. Even in this scenario, a power dynamic arises between the corporation and the intentional states of individuals, as the former influences or manipulates the latter, leading members to engage in actions they might not undertake outside the corporate environment. Also, the difficulty in tracing an unethical culture does not negate its influence or existence. In other words, we should not draw an ontological conclusion – there *is* no unethical culture – from an epistemic challenge, and therefore, we should not abandon the idea that an unethical culture exists (and belongs to the corporation) simply because we encounter difficulties in measuring it or unveiling its hidden mechanisms.

In conclusion, even in these cases, we see the corporation as blameworthy, *beyond* individual members, for we acknowledge the role it plays in fostering wrongdoing.

1.5 Conclusion

In this chapter, I have delineated three categories of cases of corporate wrongs wherein the implicated individuals do not appear morally responsible for the wrongdoing, or, if they are, they are not *fully* blameworthy. What persists is a reminder of moral indignation that we want to direct toward the corporation itself. I have opted to categorize these cases into three groups based on the distinction in their occurrences. In the first category, the wrongdoing results from numerous hands causally contributing to it without anyone being individually fully culpable. Here, the corporation as a collective seems to be the appropriate candidate for our entire reserve of moral indignation. In the second category, responsibility appears to rest on the company due to its policies, procedures, and rules, while in the third category, on its culture. However, they all share the same root: we have *prima facie* reasons to hold the corporation responsible.

All the blameworthy corporate features that emerged during this investigation, such as organizational configuration, the company's policies and procedures, decision-making processes, or the culture, can be regarded as part of the same ontological reality

inherent to the corporation itself. I will henceforth refer to this ontological reality as the ‘corporate structure’. Following Simon (1997), by corporate structure, I mean both the formal and informal elements of the organization. The formal elements include coordination mechanisms, hierarchy, and roles. The informal elements include patterns of communication, culture, and social norms. Thus, I will keep all these features together in the notion of ‘corporate structure’.

At this point, a fundamental question arises: are our intuitions to blame the corporations themselves grounded on merely *prima facie* reasons, or do we have valid reasons to defend corporate blame? In other words, is the corporation an entity capable of moral responsibility for its actions? Can we legitimately blame and punish it? Or do our reactive attitudes towards the corporation reveal fallacious?

In fact, even though the corporate structure may be the *locus* of events causally relevant to morally significant harm, none of this suggests that corporations *are* moral agents of some metaphysically unique type, nor that we can *blame* them. The hypothesis that corporations are morally responsible needs to be defended. To do so, I will start by examining the first condition outlined by Pettit, which is necessary for attributing blame to a subject. The value relevance condition requires that the subject must be an *autonomous agent*. However, is the corporation an autonomous agent? Can the corporation possess intentionality (a *mind*) and can act on it? These questions will be addressed in the next chapter.

2. Corporate Agency

2.1 Introduction

In this chapter, I aim to explore the question raised in the previous section: are corporations autonomous agents? Resolving this issue is crucial in asserting that corporations can bear moral responsibility for their actions or contributions. As previously stated, the first condition for assigning blame is that the subject must be an autonomous agent.

Let's define an agent as 'someone possessing the capacity to act', where this capacity involves *intentional*²² action. Agency necessitates a set of intentional states – desires and beliefs – that drive and justify actions. Acting without intentionality does not constitute true action; it merely involves 'causing an event'. For instance, when a volcano erupts and devastates a village, we wouldn't consider it an intentional action, as a volcano lacks beliefs or desires. It merely serves as the causal force behind an event.

Conversely, according to the causal theory of action (Davidson 1963; Mele 1992, 2000) an agent is considered to act when motivated by reasons – beliefs, desires, intentions – that explain her actions. Animals and human beings qualify as agents because they act based on their intentional mental states. However, it has also been argued that groups of individuals or things, such as computers or algorithms, can possess a form of intentionality. Functionalism, indeed, holds that fulfilling the role of a mental state is sufficient for instantiating that state (Putnam 1960, 1963; Shoemaker 1975). Thus, even a thermostat could be argued to possess desires and beliefs since it seemingly acts *as if* it believes the temperature is too low and subsequently desires to activate the heaters. While functionalism has faced criticism – mainly that the 'as if' argument is inadequate to prove intentionality, as intentional states demand a phenomenological mind or second-order desires and beliefs (Searle 1980) – I will assume its validity for the sake of this chapter, setting aside this objection. Thus, I recognize the possibility that even groups, institutions, or AI entities might possess a form of intentionality. This is because I want to be as charitable as possible with theories of corporate agency, aiming to avoid reducing the discussion solely to the validity of functionalism. I intend to reject the claim of corporate agency on the basis of additional arguments that I will present later in this chapter.

²² Let's define an intention as a mental representation that prompts behavior (Searle 1983, ch.3).

That being said, the fundamental question arises: can we consider corporations as autonomous agents? In other words, do corporations possess their own intentional states and have the capacity to act on them?

The debate on the corporate agency is vast and unresolved. Some proponents argue that corporations indeed qualify as autonomous agents (Arnold 2006; French 1979, 1984, 1995, 2017; Hess 2010, 2013, 2014a, 2014b; List and Pettit 2011; Pettit 2007), whereas others posit that they are merely secondary agents (Morrison et al. 2022; Werhane 2016). Concurrently, there are those who outright reject the possibility of corporate agency (Ronnegard 2013, 2015; Strudler 2023; Velasquez 1983, 2003).

The absence of a clear-cut definition regarding the nature of corporations compounds the intricacy of this debate. For some, corporations are viewed through the lens of traditional collective entities, akin to associations, sports teams, or unions. Thus, the concept of corporate agency is seen as a manifestation of *collective* agency. Conversely, a contrasting perspective suggests that corporations transcend mere collectives and possess their own mind, thereby framing corporate agency as a form of *institutional* agency. Adding to this complexity is the lack of consensus regarding the boundaries of a corporation: who constitutes a part of a company, and who does not? Why do we consider employees as integral components of the collective entity but not consultants, lawyers, or asset managers who exert substantial influence – often more than employees – on the existence and success of a company? In the case of a corporation, determining where its body or mind concludes is far from evident. This complication significantly hampers the endeavor to define the corporate agency.

Furthermore, it must be reiterated that the legal definition of corporations holds no relevance in this context. From a legal perspective, the boundaries of corporations are clearly defined: companies possess a legal personality and exert their agency through their employees. Their capacity to act via their members is then established within agency law and employment law, and so the actions of corporate members are recognized as actions of the corporation itself. However, it is essential to discern that the attribution of agency to the corporation by law does not necessarily imply that they are agents in the *ontological* sense. The law can decide to assign legal personality or agency to an entity for the purposes of the law itself without implying that said entity is genuinely an agent or a moral person.

Once these clarifications are established, we can delve into examining our inquiry. The corporate agency has been defended through two distinct perspectives. The first – the collective approach – holds that corporations are agents because they are *collective* agents. The second – the institutional approach – holds that corporations are agents because they have their *own* minds, which cannot be reduced to a function of the intentional states of their individual members.

Several objections have been raised against these stances. However, I believe the two most compelling objections, capable of potentially undermining the idea of corporate agency, are what I call the ‘restriction objection’ and the ‘autonomy objection’. The ‘restriction objection’ posits that what we call corporate intentionality can be ultimately reduced to the intentionality of a bunch of people within the organization, i.e., the management (Strudler 2023). Consequently, the reduction of corporate intentionality to that of the management implies that corporate agency equates to management agency. When a corporation acts, it is only the management acting. Thus, since corporations are constituted by all their employees, there is no actual *corporate* agency.

On the other hand, the ‘autonomy objection’ posits that although corporations may possess their own intentionality, their agency is still executed through their individual members' intentional actions. Therefore, since corporations cannot independently act but rather rely on their human constituents, they lack autonomy (Ronnegard 2013, 2015). At best, they function as secondary agents, which is insufficient for attributing moral responsibility to them.

In this chapter, I will present both perspectives and assess whether they can withstand scrutiny when confronted with both objections.

2.2 The collectivist approach

The first way to defend corporate agency is to show that members within a corporation unite to form a singular collective agent through shared intentions. When this occurs, the corporation turns into an agent in its own right. This claim is rooted in the belief that groups have the capacity to act as unified entities, capable of possessing intentions, making decisions, and undertaking actions that collectively aggregate the intentions, decisions, and actions of their individual members.

But what exactly is required to form a collective agent? Consider Searle's example of a group of people seeking shelter from a sudden storm (Searle 1990, p. 402). Since they all engage in the same action – seeking refuge from the rain – we may infer that they share the same mental states motivating and explaining their behavior. Presumably, they all hold the same belief that 'it is raining' and the same desire 'to avoid the rain'. However, despite this alignment, we cannot conclusively assert that they are acting collectively, as authentic collective action demands more than acting *accidentally* together. Or consider the case of a crowd singing at a concert where none of the individuals possesses exceptional singing skills, yet the collective voice produced is beautiful. Here, the quality of beauty cannot be dissected or elucidated by individual properties; the beauty lies within the collective voice itself, an attribute unattainable by isolating its constitutive elements. Nevertheless, we cannot infer that the participants are singing together in a robust sense, as they do not *intend* to produce a beautiful voice by acting together.

The intention to act as a collective seems necessary for collective action. The 'intention thesis' attributes to each individual member an intention associated with the shared activity, implying a commitment to engage as part of a cohesive group. For instance, in the case of a band performing at a concert, despite having distinct roles such as a guitarist, vocalist, or sound operator, all members share a common intention: a dedication to delivering an outstanding performance, knowing that unity is critical to achieving this goal. What unions, associations, sports teams, and project groups have in common is that their members intend to do something together, and they know that all the others intend the same, irrespective of their individual motivations. Consider a volleyball team whose members have diverse personal reasons for desiring victory – some driven by pride, others by contract renewals, or even interpersonal issues with the opposing team. However, their collective desire is to secure a win, recognizing that unity and coordinated effort are essential. In this way, they constitute a unified agent, coordinating tasks, responsibilities, and sub-goals in pursuit of their shared goal.

Gilbert, for instance, argues that group agents are characterized by a joint commitment and shared intentionality (Gilbert 1989, 1990, 2006). In her view, individuals within a group voluntarily enter into a joint commitment to do something as a body, acknowledging and embracing their respecting roles and responsibilities in collective actions. Once this joint commitment is established, a sense of shared

intentionality emerges among the members. They operate as a single agent, channeling their actions towards the collective goals or purposes they have unanimously embraced.

On the same line, Miller proposes that a group of individuals constitutes a single entity when they share a “collective end”, which is “an end possessed by each of the individuals involved in the joint action [...] that is not realized by the action of any one of the individuals” (Miller 2001, pp. 24, 58). Hence, when all the members share the same objective and commit themselves to fulfilling their roles towards its attainment, they form a collective agent.

Conversely, Bratman defines collective agency as “shared cooperative activity” (1992). According to this perspective, shared intentions are correctly understood as a state of affairs that consists of a web of attitudes of the individual participants. These shared intentions result from (i) the mutual intentions of members toward a joint activity, (ii) the harmonization of subplans of intentions among members performing the activity, and (iii) mutual awareness among members regarding (i) and (ii). According to Bratman, shared cooperative activity is characterized by:

- 1) Mutual responsiveness. Each participant in Shared Cooperative Activity (SCA) endeavors to be responsive to the intentions and actions of others, knowing that similar responsiveness to the intentions and actions of others is expected in return.

- 2) Commitment to the joint activity. In SCA, each participant holds an appropriate commitment to the joint activity and is responsive to others in pursuit of this commitment.

- 3) Commitment to mutual support. In SCA, each agent is committed to supporting the efforts of others to fulfill their roles in the joint activity. This commitment to mutual support places everyone in a position to contribute effectively to the joint activity.

2.2.1 Corporations and the Restriction Objection

With all of this in mind, let’s consider the case of corporations. In fact, instances exist where companies exhibit a collective commitment among all their members towards a joint activity. In the first chapter, I presented the example of a family business opting to outsource labor to underdeveloped countries to cut costs. In such cases, all the members

share a unified intention and engage in a shared cooperative activity, distributing tasks and providing mutual support to achieve a common goal. Thus, the corporate entity arises as a collective agent. Similarly, consider a startup where all members participate in a new business endeavor, sharing a unified mission and vision and distributing tasks and roles to realize a common goal. Whether aiming to create a new product or develop advanced AI to combat climate change, their actions collectively represent the startup's initiatives. When one of its members acts, it is the startup itself that is acting. In short, it is the collective group that is acting through one of its individual members.

However, I argue that these cases do not apply to large multinational corporations because they are characterized by work distribution and fragmented knowledge. These corporations often operate as authoritarian structures, where individuals do not stand on equal footing as in the family business or startup scenarios. Here, decision-making power and authority are typically confined to a select group, namely the management, which is in charge of setting the collective's intentionality without considering what other corporate members believe or desire. As highlighted by Strudler (2023), within these bureaucratic organizations, the majority of members are low-level employees excluded from strategic decisions regarding corporate plans, goals, and purposes. It would be unreasonable to assume that all members share the same intentions or aims or that they collectively commit themselves to 'act as a body.' In most cases, they are only committed to executing the specific tasks outlined by their job roles and employment contracts. Furthermore, they often lack awareness of their contributions with respect to the corporate strategy, are unfamiliar with other members of the organization, and fail to meet the conditions necessary for engaging in a shared cooperative activity. Their interactions may be limited to colleagues within their department or a few individuals from other departments, leaving them feeling disconnected from the core of the corporation. By analyzing the Volkswagen emissions scandal (Dieselgate), Strudler correctly suggests that "a worker who installs seats in a car under production, for example, need not have significant contact with people outside her position on the factory line. She need not talk with people in corporate finance, compliance, human resources, or facilities beyond, perhaps, making simple requests for assistance" (Strudler 2023, p. 552).

Roughly speaking, can we genuinely expect all thousand employees of a multinational entity like Volkswagen or Goldman Sachs, dispersed globally, to commit themselves to a shared activity or mutual support?²³ The answer is clearly negative.

It is worth noting that there might also exist paradoxical situations where an employee joins a corporation with the belief that her work will contribute to a collective morally good end, say, biodiversity protection, only to discover that the corporation engages in illegal activities or greenwashing. What I am suggesting is that even if members initially intended to share the intentions of the corporation, they might lack crucial information to uphold such alignment.

Given these circumstances, I conclude that this model fails to withstand the restriction objection. As decision-making authority is centralized within the management, the notion of corporate intentionality merely represents the intentions of the management. Therefore, what is perceived as a corporate agency ought to be reconsidered as an agency belonging to the management and not to the group. There is no *corporate* agency, only a *management* agency.

2.2.2 Bratman: Shared Procedures

In response to this concern, Bratman (2017, 2022) argued that the intention thesis is not strictly necessary to unify individual members into a corporate agent. Instead, what suffices is the existence of shared procedures and policies authorizing a subgroup of individuals to make decisions and speak on behalf of all other members. Bratman argues that such shared procedures are compatible with divergence in the evaluative judgments of the participants and with differences in the reasons for which each participates. According to him, “we should recognize the theoretical possibility of procedure-based group intentions that are neither shared intentions nor embedded in the kind of holistic web of attitudes of the group that we might plausibly suppose is a condition of being a mental state of that group” (Bratman 2017, p. 49).

²³ In response to Bratman, Hess holds that in large organizations such as Goldman Sachs and Countryside “each [member] goes to work for her own reasons, each does her job as she understands it, and none is especially prone to worry about how her actions mesh with those of other members she has never met, or about which of her firm’s many projects are being furthered by her efforts...[each employee] feels no particular sense of mutuality or reciprocal obligation towards the thousands of other members that make up the firm” (Hess 2018, p. 139).

However, I believe that while this might hold true for certain collectives, it does not translate to corporations. Consider the example of a philosophy department organized into sub-committees of professors handling specific tasks, such as admissions to the doctoral program. When a sub-committee decides to recruit a new graduate student, these actions may still be considered actions performed by the entire philosophy department due to prior authorization allowing them to act on behalf of the entire group. At the conclusion of the process, the department can still assert: “we hired a new student”. This statement holds true because, even if not all members held identical intentional states concerning the new candidate, they collectively agreed upon a set of shared procedures and policies authorizing the subcommittee. Roughly speaking, they all aligned on the notion that the subgroup had intentions on their behalf.

When it comes to corporations, however, this mentioned scenario represents an ideal circumstance. Norman Bowie, for instance, posits the concept of a Kantian firm, often referred to as “the firm as a moral community” (Bowie 2013, 2017). Within this framework, Bowie advocates for the involvement of all employees in the decision-making processes that establish the fundamental norms of the corporation. These norms define the methods and criteria for generating further decision-making norms. Bowie emphasizes that:

“when an organization is viewed as an instrument for the achievement of one’s own ends, then it appears that a person is simply using the organization, and thus using the people in the organization for their own ends. This would violate the second formulation of the categorical imperative. To avoid such a violation, the members of the organization would have to agree on the norms that are to govern the enterprise and their treatment of each other” (Bowie 2017, p. 96).

In simpler terms, employees should be involved in setting the parameters for management’s agency, akin to how the American constitution limits the authority of Congress and the Government. By providing this *foundational* authorization, employees would empower the management to speak on their behalf, akin – one might argue – to how Americans grant authorization to the President to act on their behalf.

However, within large organizations, low-level workers typically do not engage in establishing any corporate procedures or governing rules that dictate the corporation's operations. They find themselves "alienated" from any decision-making processes, essentially lacking any meaningful voice (Strudler 2023).

Of course, this norm has a few exceptions, notably seen in the German dual-board system adopted by many German companies. This system comprises two distinct boards: the Management Board (Vorstand) and the Supervisory Board (Aufsichtsrat). The Management Board bears responsibility for the company's day-to-day operations and strategic management, usually comprising top executives like the CEO, CFO, COO, and other key officers. In contrast, the Supervisory Board oversees and supervises the Management Board's activities, featuring representatives from shareholders, employees, and occasionally other stakeholders. The Supervisory Board significantly influences the company's decision-making processes by appointing, monitoring, and advising the Management Board. That said, this governance structure is not mirrored in American and European capitalism, where the extent of employees' authority is typically channeled only through labor unions.

In light of all of this, I argue that the collective approach falls short in demonstrating that large multinational corporations function as collective agents. There is nothing proving that all employees bind themselves to what the group agent does.

Another crucial consideration warrants attention. One might be satisfied in concluding that when a corporation takes action, it is solely the management that is responsible. What suffices is that there *exists* a corporate agency as a collective agency, even though the collective includes only the leaders. Across the three categories of cases examined in the first chapter, one might conclude that accountability for the outcomes lies with the group of managers.

Yet, as plausible as this conclusion may seem, it overlooks the cases we examined in the previous chapter, where issues persisted within the corporation, surpassing mere management influence. To put it simply, is attributing blame solely to the management (beyond individual members) sufficient to reverse all our moral indignation? Moreover, is it adequate to prevent similar wrongdoing? The Wells Fargo case vividly illustrates the contrary. Blaming the management and replacing it is not sufficient. There is something wrong with the corporate entity itself, and this account, by reducing the corporation to

the management, cannot accommodate this surplus. Rather, as we will explore in the following section, the institutional approach more effectively captures this intuition, resulting in more explanatory power. It establishes that corporate agency cannot be simplified to a typical case of collective agency, whether by collective, we mean the management or all the members. When a corporation acts, there is more than just its human constituents to be considered.

2.3 The institutional approach

The institutional approach holds that corporate intentionality diverges from collective intentionality, as corporations possess their *own* distinct attitudes, which may differ or conflict with the intentional states of their individual members. In fact, due to their complexity, hierarchical structure, and differentiation of roles, corporations have been identified as a *unique* form of group capable of having its own independent mind (Ludwig 2017a).

Before considering whether the corporate mind is sufficient to ascribe autonomous agency, let's delineate the conceptualization of corporations underlying this perspective, that is, which features precisely characterize the "corporate agent" from an institutional view.

As Ludwig proposes, various descriptive insights strongly suggest that corporations may indeed possess their own agency:

(i) Corporations are designed for perpetual existence, and their existence is not determined by the existence of those individuals that realize them at any time. Even if all members of Wells Fargo, BP, or United Airlines were replaced, these corporations would persist, as their existence is not contingent on the presence of *those* specific members but on *any* group capable of fulfilling the same roles.²⁴

²⁴ "The fact that the roles are transferrable, that is, the fact that conditions for institutional membership and role occupancy are time-indexed, explains how the organization, in the sense of the relevant system of status role, can continue to exist (can continue to be realized) through changes in its realizers, and consequently can outlast [...] all of the individuals who realize it at a time (as a continuous pattern of interconnected status roles). The transferability of roles is what gives the institution the possibility of perpetual existence, which is just the possibility of continuous realization as a pattern of interlocking status roles, which originated in a particular historical event or process" (Ludwig 2017, pp. 12-13).

(ii) Thus, the same corporation could have had different managers, employees, and shareholders.

(iii) Corporations often undertake projects that last longer than the lives of any of those who play a role in its realization. These projects can involve different managements across their initiation, implementation, and conclusion. In such cases, it would be inaccurate to attribute the project to any specific management group; instead, it is the corporation itself that accomplishes it.

(iv) Corporations operate within a hierarchical structure, delegating responsibilities for research, decision-making, and executive functions. This decentralization implies that even management cannot oversee every action undertaken by work groups on behalf of the corporation.

(v) Discussions about what the corporation intends, says, or believes, or its interests, is evidently not a matter of saying what *all* its employees, managers, or shareholders desire and believe or what their interests are, individually or as a group. For instance, a corporation might express interest in sustainability projects despite not having any members personally supporting them. Members adopt the rational point of view of the corporation, deciding and acting based on that perspective.

All these features make the corporation more akin to an institution, where an institution is defined by the presence of (i) constitutive rules and (ii) status roles.

Constitutive rules establish the fundamental structure, principles, or norms governing institutions and practices. For instance, rules in games like chess or volleyball create the very possibility of playing such games. Additionally, they delineate roles, relationships, rights, and obligations within the institution itself, shaping how individuals interact and engage with one another. As Searle expressed, these rules “do not merely regulate, they create or define new forms of behavior” (Searle 1969, p. 33). Activities governed by constitutive rules are constituted by “acting in accordance with (at least a large subset of) the appropriate rules” (p. 34). What is more, these very rules are necessary to lead individuals to perform their roles within the institution. They tell members what they have to do to achieve the institution’s purposes; that is, they guide individual agencies in a way that produces the *institutional* action. In the context of corporations, for example, Ludwig highlights how each member contributes, through adherence to corporate rules, to producing an event ultimately attributable to the company itself

(Ludwig 2014, 2017b). When the United Airlines flight attendant chooses to apply the corporate procedure, she embraces the rules of engagement, establishing the conditions for the company to take action.

Secondly, constitutive rules also generate what is known as a status role, which refers to an individual's position within an institution based on her social function. As described by Ludwig, "a status role is a status function that an agent has which he accepts (at least tacitly) along with others and in which he is required to exercise his agency in relation to others [...] in specific ways in specific circumstances" (Ludwig 2017a, p. 275). Status roles, indeed, entail expectations and behavioral norms. For example, those individuals occupying higher-status roles, such as management, are often expected to display leadership, make decisions, or set examples for others. Conversely, individuals in lower-status roles, like flight attendants, may be expected to follow instructions, respect authority, or perform specific tasks.

As a result, institutions – and so corporations - can be defined as "systems of inter-defined status roles designed for coordinating joint action in pursuit of collective goals over time", where membership in an institution "is a matter of occupying one of the status roles in the system of roles that define the institution" (Ludwig 2017a, pp. 276-77). Under this account, it is not relevant whether members agree on the group agent's goal since what matters is that they play a role in the game, thus causing corporate action. As I will show in the following paragraphs, corporations can have their own intentional states, and rely on individual roles to act on the same very intentionality.

It is important to recognize that Bratman, by transitioning from shared intentionality to shared procedures, grasped the nature of these collective groups. The problem with the *collective* approach, however, is that it requires somehow aligning the psychological states of the members with those of the group. Yet, when it comes to large corporations, we cannot prove that members either accept or endorse corporate procedures, as these procedures are often imposed from above and frequently remain unknown.

This is why the institutionalist approach introduces a novel perspective: it aims to prove corporate agency without establishing this agency on a collective intention approach. It acknowledges the possibility that corporations possess agency *without* requiring a mental connection with their members. The minimal condition for the

corporate agency is for members to adhere to corporate instructions. These instructions stem from the company itself – from its own mind – suggesting that everyone, including the management, could ultimately be constrained by corporate attitudes. Simply put, everyone may be seen as mere “cogs in the machine”, where the machine is the corporation.

2.3.1. List and Pettit: the corporate mind.

A first account of corporate agency within the institutional approach is presented by List and Pettit (2011). Their proposal is grounded on the concept of a “corporate mind” supervening the intentions of individual members. List and Pettit argue that collectives can come to possess their own intentionality through voting mechanisms. This new intentionality is not reducible to an aggregative function of the intentional states of voting members, as evidenced by the “discursive dilemma” (List and Pettit 2011; Pettit 2003, 2006, 2007).²⁵

As we have mentioned, this approach diverges from the collective one: while under the collective approach, the attitudes of the groups were just considered a function of the corresponding attitudes held by the members, the “discursive dilemma” shows here that assuming group attitudes are a mere majority function of member attitudes is erroneous. It reveals that a decision procedure and rules can lead to a decision that none of the individuals endorse or believe to be correct.

For instance, consider board members X, Y, and Z forming a committee to evaluate whether to approve a new sustainability program or not. The rule is that the program is approved if it is low-risk, profitable, and synergistic, and each is judged independently by a majority vote. X votes for low risk and profitable but not synergistic, Y for profitable and synergistic but not low risk, and Z for low risk and synergistic but not profitable. In the end, each of the three features is supported by two members, i.e. by the majority. Thus, the committee recommends the program, and the corporation believes that it is a good idea, but none of the committee members who execute the procedure do, since no one is supporting all the features of the program. If there is a sense in which the

²⁵ For a specific example see Pettit (2007, p. 197).

board as such believes the program is best and wants to implement it, it is not the ordinary sense. Hence, the discursive dilemma proves that corporations can develop their own intentionality, which is not reducible to the psychological states of any of their members.

According to Pettit (2017), the corporate mind grants corporations the status of “conversable agents”. Like human beings, they can have certain purposes, form representations of the world, and act so as to satisfy those purposes according to those representations. In other words, they possess their own comprehension of the world and their own reasons.

But how do corporations convey their intentional states? According to Pettit, a corporation can offer its reasons through a spokesperson, who “will give an account of the corporation’s goals, long-term and short term; offer a narrative and usually a justification of its judgments about current market conditions and likely developments; and makes sense of what a corporation does in light of those imputed purposes and representations” (Pettit 2017, p. 19). This suggests that when we engage with the corporate spokesperson or hear public statements from her, we are effectively engaging with and hearing from the corporation itself. Consider, for instance, a recent case: multinational companies withdrawing from the Russian market in response to Putin’s invasion of Ukraine.²⁶

For instance, consider asking Walmart about its decision to withdraw from the Russian market in response to Putin’s invasion of Ukraine. When the management publicly declares that Walmart’s action aimed to penalize the Russian government for human rights violations, it is Walmart itself responding, not the management. In essence, management represents the voice of the corporation, acting as its conduit.

Now, even acknowledging that the company can possess its own intentionality – and thus agency – List and Pettit’s perspective raises questions about whether their account might align too closely with the collective approach. There are two reasons supporting this argument. The first is that, even though the company’s attitudes are not simply reducible to those of the management, they do stem from a decision-making process in which only the management participates and seemingly exercises control over them. Thus, the mind of the corporation unavoidably relies on the intentional states of a subset of people, which remains in control over what a corporation will do and how it

²⁶ <https://som.yale.edu/story/2022/over-1000-companies-have-curtailed-operations-russia-some-remain>

will do it. Conversely, an entirely institutional account acknowledges that the management itself is subject to the influence of corporate intentionality in a significant manner, thereby lacking complete control over the company's potential actions.

The second reason is that List and Pettit's account still aims to connect individual members' intentions to the corporate mind. He holds that members can unify themselves into a single agent when each intends to fulfill her role within a "pattern of coordination" aimed at ensuring corporate agency. This occurs when they act in a coordinated way in order to achieve corporate goals and purposes, even if "some, or even many, group members may not participate in any joint intention at all" (List and Pettit 2011, p. 34). To qualify as part of the group agent, individuals simply need to "authorize" a sub-group to "speak on their behalf". This authorization can be direct or implicit via adherence to corporate procedures that empower the sub-group to make decisions. According to Pettit (2007, p. 179) "when a group forms a belief or desire or intention on such a pattern, it will do so by appropriately endorsing a corresponding proposition. The group will believe that P, for example, when it or an authorized subgroup or official has considered the proposition and given its assent, according to the accepted constitutional formula" (p. 179-80). In another passage, he contends that to be part of the group, one merely needs only to commit herself to the deeds of the leaders:

"the other members of the corporation ascribe that authority to them, implicitly or explicitly committing themselves as individuals to rally behind the words of their spokespersons on any relevant issue; they treat those words as expressions of attitude that they have to live up to, on pain of corporate failure, in their actions as corporate members" (Pettit 2017, p. 22).

All of this echoes Bratman's proposal to ground the group agency in shared procedures. However, again, in large multinational corporations, there is no way to prove that workers authorize the management to represent them or commit themselves to the deeds of the leaders. When a low-level employee signs an employment contract, she only commits to specific tasks within her role and the limited authority of her superiors. But none of this proves that she is committing herself to corporate goals. As noted adequately by Strudler (2023, p. 544):

“a commitment [...] is typically something resembling a promise, if not simply a promise. Pettit offers no evidence that employees generally make such a promise, and I can conceive of nothing that employees generally do that can be reasonably construed as making such a promise. More importantly, there is no reason to expect employees to make such a promise. An employee gains nothing material by promising to do anything beyond her job narrowly defined, and there is no moral reason for an employee to make such a promise. The best reason for supposing that the vast majority of corporate employees do not commit themselves to the firm is that they have no reason to do so”.

Furthermore, even if such commitments occur, it would not be sufficient to assume that employees endorse *every* corporate action. Consider a scenario where corporate leaders decide to engage in wrongdoing. Previous commitments to a general strategy or corporate agency displaying alignment with management do not imply authorization of criminal actions - “employees would be foolish to commit themselves to clearly criminal activity” (Strudler 2023, p. 544).

In any case, I believe that List and Pettit’s account leans more towards an institutionalist approach due to its distinct separation of corporate intentions from those of its members. This represents the pivotal innovation of this perspective: attributing to the company an independent mind with respect to individual members, emphasizing that it transcends its human base.

The same intuition has been fully recognized by Peter French (1979, 2005, 2017) and further expanded by Kendy Hess (2010, 2013, 2014a, 2014b, 2018), who posits that corporate intentions reside in an ontological reality external to its members: the social structure of the corporation. Hess’ perspective contends that large multinational corporations are shaped by a dual ontology: a corporate body – the human base (the collective) – and a corporate mind – embedded within the corporate structure (Hess 2020). This structure is complex, pervasive, powerful, and influential. It serves as the unifying element, transforming a disparate group of individuals into a unified agent. Thus, under this view, corporations function as autonomous agents akin to human beings despite lacking a phenomenological mind and an emotional life.

Given that Hess' approach has the potential to explain and possibly justify our initial inclination to hold the corporation accountable beyond the contingent individuals operating under its name, I proceed to investigate if it can effectively address both the restriction and the autonomy objection. If it does not, neither French's nor List and Pettit's account can.

2.3.2 Peter French and Kendy Hess: the corporate structure

The view that corporations possess their own agency traces back to one of the initial formulations of corporate moral agency, when Peter French famously argued that corporations are moral persons (French 1979) and later, after some criticism, argued that they qualify as moral agents (French 2005). According to French, corporations are agents because they possess their own intentional states integrated within the corporate internal decision-making structures.

The Corporate Internal Decision-making (CID) structure establishes the guidelines on how corporate members should make decisions to ensure that specific corporate ends are fulfilled. It includes the set of policies and procedures designed to guide individual actions within the corporate entity. According to French, an action becomes a corporate action when it is performed in compliance with the corporate CID. Thus, when an individual or a group adheres to corporate procedures or policies influenced by the CID structure, her actions should be considered as actions of the corporation. This is because such actions can be explained and validated based on what the corporation believes and desires.

Conversely, as French asserts, "if employees act in ways that violated [the adopted] corporate policy, their acts are no longer corporate" (French 1995, p. 32). This indicates a departure from the corporate instructions and renders those actions detached from the corporate entity.

Along this line, Kendy Hess has developed a more explanatory powerful account of corporate agency, offering clarification on the nature of a corporate agent and specifying where its intentionality is located.

According to Hess, in order to qualify as agents, corporations must meet three necessary and (jointly) sufficient conditions: i) intentionality, that is, they need to have their own intentions and be able to act on them; ii) a rational point of view (RPV), that is, they are required to have a logically integrated complex of beliefs and desires that drives corporate actions; iii) ownership, that means they need to have *their own* desires and beliefs – desires and beliefs that can differ or even conflict with those of their individual constituents (Hess 2013, 2014a, 2014b).

Consider the case of a fictional Food & Beverage company called ‘Elvish’. Elvish has a well-defined business plan, proper goals, and a clear strategy to achieve them. At the time T_0 the corporation is committed to two goals: (G1) satisfy the consumers’ preferences and (G2) maximize profits. Furthermore, Elvish is not particularly concerned about biodiversity and does not have any sustainable program. However, a market analysis has recently shown that Elvish’s consumers are increasingly sensitive to responsible consumption, so they would prefer to find more vegetarian products in Elvish’s stores, accepting a reduction in the offer of meat products. The marketing department passes on this information to the management team, which takes a series of actions to green Elvish’s image, displaying more vegan products on the shelves of its stores and launching new marketing campaigns. At time T_1 , Elvish develops a new commitment (G3), including a new desire and a new belief: Elvish wants to be sustainable by introducing more vegetarian products because it believes that this will satisfy the consumers’ preferences. Thus, we can say that at T_1 :

i) Elvish acts *as if* it wants to be sustainable and acts *as if* it believes that being sustainable will satisfy the consumers’ preferences.

ii) Elvish acts *as if* it has a commitment driving its actions (G3): it wants to be sustainable because it is committed to (G1) and (G2).

iii) The members of Elvish act *as if* their actions support this set of corporate commitments.

But what Hess claims is that Elvish really meets the three conditions for the agency, and not only acts *as if* they meet the conditions.

According to her, indeed, corporate commitments are, literally, *beliefs and desires* on standard interpretationist²⁷, dispositionalist²⁸ and representationalist²⁹ account (see Hess 2014a for an extensive discussion). Thus, we would say that: i) on the interpretationist view, the best way to account for Elvish's behavior is to ascribe the desire to be sustainable to the corporate entity; ii) on the dispositionalist view, Elvish is disposed to be sustainable because it is committed to satisfying the consumers' preferences: it performs this action *in reason of* this commitment; iii) on the representationalist view, Elvish shows the capacity to gather information from the world (through a market analysis) and to make a conclusion about the state of the world (interpretation of the results by the management department), namely that the raising consumer awareness about responsible consumption needs to be met given Elvish' commitment.

Second, Hess holds that corporations really possess a rational point of view – “the point of view from which [practical] deliberation proceeds” (Rovane 1998, p. 23) – that guides their actions and allows us to judge those actions as instrumentally rational or irrational to the extent that they are in accordance with the corporate commitments about fact and value (Hess 2014a, p. 246). Let me consider the case of Elvish once again. Once Elvish has developed the new intention to be sustainable by diversifying its offering, it takes a few steps. The management board sets a series of meetings to revise the business strategy; the purchasing department signs new contracts with suppliers, plans communication campaigns, and allocates more resources to the CSR department. The company will perform all the necessary actions to achieve its goals, and every action carried out by virtue of the new commitment will be judged as a *rational* action (i.e., an action guided by reasons) in virtue of corporate commitments. In this case, what we are ascribing to the corporation is a logically integrated set of commitments to facts and values so that every action will be judged rational or irrational precisely with respect to this set of commitments. Thus, what we are ascribing to the corporate entity is rational point of view.

Finally, Hess holds that corporations really possess *their own* beliefs and desires – that can differ or even conflict with those of their members – and corporate actions cannot be reduced to members' actions (Hess 2013, p. 322). The fact that Elvish's

²⁷ See Dennett (1987, 1991).

²⁸ See Pettit (1993) or Baker (1995).

²⁹ See Dretske (1993).

members act in support of the new corporate commitment does not entail any claim about what the members themselves believe or desire. In fact, Elvish may want to be sustainable even with all members being completely indifferent to the ecological issue. In doing their job – performing their role and everything is requested by it – they are just taking the first-person perspective of the corporation and asking themselves: what should *Elvish* do after the market research? What is desirable from the point of view of the corporation? What kind of new commitments should the corporation develop? It is only from the awareness of corporate intentionality that the individual members develop the desire to green Elvish's image. In other words, the corporate entity makes use of its employees for *its own* purpose.

There are three ways in which corporations can develop their own new desires and beliefs: i) through explicit decision-making, ii) through distributed decision-making, and iii) through cultural change (Hess 2014b). In Elvish's case, the decision-making process is explicit and intentional. After the marketing department has passed on the information to management, the majority board decides in favor of the new strategy: the board votes, the majority wins, and the corporation adopts a new position. To vote, every member just needs to know and consider each and every corporate commitment (leaving out their own preferences).

In the second mode the decision-making process is distributed along the decisions of many people in the organization, all of them just performing their role, utterly unaware of how their decisions will impact the final outcome. Thus, the process is unintentional and not explicit. In the case of Elvish, the process would follow these steps:

- At T_1 , the marketing department passes the last report on to the sales department.
- At T_2 , the sales department makes a specific request to the purchasing department: to examine whether a review of contracts with meat suppliers would increase costs excessively.
- At T_3 , after an investigation, the purchasing department replies that the meat suppliers, aware of market changes, agreed to revise the contracts without raising purchase prices.
- At T_4 the sales department informs store managers of the latest shelf arrangement.

During the decision-making process, each department performs its role, that is, it follows the set of procedures, guidelines, policies, and mechanisms in accordance with corporate commitments. Every department – through its employees – is doing all that is required from the corporate perspective. The marketing department is responsible for reporting market changes and passing on the information; the sales department is responsible for increasing sales and profit margins; the purchasing department is responsible for ensuring the best contracts are within budget. None of them makes decisions necessarily with the intention of greening Elvish’s image.

Finally, through a cultural change, new commitments emerge as the result of an even more distributed and longer process in which both old and new members are involved. Cultural change needs time but, having an impact on the structure of the corporation ensures the incorporation of the new commitments into the policies, processes, strategies, and individual roles. Hess puts it like this:

“In either case [...] the corporate entity has come to believe that x [...] and to desire that y [...] in a manner that has no necessary connection to the beliefs or desires of its members regarding x and y. When its members act, they will tend to act in ways that (collectively) express these corporate beliefs and desires rather than their own, possibly contrary opinions. This can be done knowingly and deliberately, as in the case of the board vote, or it can be done unknowingly, by masses of people going through the motions of doing their jobs without ever being in a position to see the corporate commitments – the corporate beliefs and desires – that they create and then conform to by doing so” (Hess 2014b, p. 248).

Once the corporate attitudes are produced, they become integrated into the structure of the corporation. For Hess, the structure includes both the formalized procedures described by List and Pettit (2011) and French’s internal decision structures (CID) – i.e., the corporations’ system of policies, procedures, roles, and lines of authority³⁰ (French 1979, 1995). But it also includes “the tacit incentive schemes bound up in culture and peer expectation, the tacit demands embodied in office politics and

³⁰ CID structure has two kinds of rules: organizational and policy rules.

unpublished actual practices, and (often) familiar biases and prejudices that will privilege the contributions of some members over those of others” (Hess 2020, pp. 15-16).

The corporate structure has the following features. First, it is internal to the corporation but external to the members. Elvish can be sustainable, although its members are not, because its attitudes about sustainability are embedded into the structure. Secondly, it is not neutral as it is committed to achieving specific goals and commitments. Elvish is committed to being sustainable, and it performs this commitment, for instance, by developing a CSR strategy or by fostering collaboration with NGOs to fight climate change. Third, the structure is complex because it can affect individual behavior by virtue of both explicit and tacit elements, which can be interpreted differently depending on the role of the employees. These elements, indeed, include both transparent policies – described or recorded in written documents – but also hidden mechanisms. For Hess, however, “the kind of transparency or official status is irrelevant to their causal efficacy and thus to their standing” (Hess 2020, p. 120). Fourth, the structure evolves over time: elements may change intentionally (officially) or unintentionally³¹ because of coordinated actions and individual decisions.

It is essential to recognize that this approach is very close to Pettit’s and French’s approaches. According to them, the corporation comes to possess its distinct intentionality and rational point of view, which sets it apart from the perspective of its members. They further argue that once the corporate mind is produced, it becomes embedded within formalized procedures that guide individual members. However, there are three different fundamental distinctions between the two approaches.

Firstly, Hess argues that corporations can develop their own attitudes through various means beyond mere voting mechanisms. The corporate mind approach implies that only a subset of individuals, namely the corporate leaders, bears responsibility for corporate intentionality. Similarly, French’s CID arises from managerial agency, as only the management holds the authority to establish, reform, or modify a corporation’s transparent and explicit policies and procedures. Thus, as corporate intentionality is embedded within the CID and enacted by the management, responsibility should be attributed to the management. In contrast, Hess’s view allows for the involvement of other individuals in shaping specific corporate attitudes, acknowledging that corporate

³¹ As we will see later, cultural change is one of the possibilities to affect the structure in an unforeseen way.

intentionality can stem from cultural shifts or extensive decision-making processes involving various people. This original insight addresses the restriction objection, offering a new perspective on the boundaries of the human base enacting corporate intentionality. Indeed, at this point, participation in this process is no longer solely the prerogative of management and not solely of other employees; it can extend beyond corporate boundaries, involving external actors operating outside the corporate contours. For instance, when corporations enter non-prosecution agreements (NPAs) or deferred prosecution agreements (DPAs), they agree to be supervised by competent figures (monitors) who can alter the organizational structure to prevent future misconduct (Laufer 2008). In these circumstances, independent figures appointed by the government or regulatory bodies actively *shape* the corporate structure, aiming to instill attitudes less conducive to wrongdoing. Roughly speaking, monitors become part of the human base enacting corporate intentionality.

Secondly, Hess's conceptualization of corporate structure appears significantly more intricate and nuanced than the formalized procedures outlined by List and Pettit (2011) and French's CID. Expressly, Hess acknowledges the potential existence of additional, less transparent elements influencing individual behavior in alignment with corporate attitudes. These elements encompass hidden cultural facets, biases, unofficial policies, social norms, and peer expectations. The advantage of this conceptual framework lies in its ability to encompass cases involving corporate wrongdoing even in the absence of explicit evidence pointing to any corporate directing prompting such misconduct (see the third category).

Conversely, neither the corporate mind nor the CID structures approach accounts for these scenarios. They dismiss the possibility that the corporate mind might exert influence through informal mechanisms, thereby limiting their capacity to accommodate cases where blame is directed at the corporation despite the absence of formalized instructions.

Thirdly, and more importantly, Hess' approach appears to imply the establishment of a reciprocal relationship between individual members and corporate intentionality once the latter is established. Corporate attitudes become the guiding force for the actions of all individual members, who consistently ponder questions such as "What am I required to do?" or "What actions serve the company's best interests?". They always take the

corporation's point of view into account. This suggests, and I believe the distinction is evident here, that even the management itself becomes influenced by the company's attitudes. While List and Pettit and French's argument implies that the management can maintain control over a corporation's thoughts because its mind always supersedes management's intentional states, Hess's structuralist perspective seems to overcome this idea. According to Hess, it is plausible that even the agency of management could be restricted by the corporate mind. In other words, management might not have *complete* control over the corporation's actions. Metaphorically speaking, the corporate structure seems to be capable of mobilizing all its members to reinforce a system of beliefs and desires aligned with *its* objectives.

Consider this scenario: a multinational company hires a new CEO tasked with shifting the corporate strategy toward sustainability. However, the company has historically disregarded environmental concerns, while the CEO is ethically committed to genuine sustainability. Upon joining the company, the CEO does not question, "What do I want to do here?" but rather, "What am I obligated to do?" and "What aligns with the company's interests?". He weighs the perspectives of influential stakeholders who hold sway over the company's existence and success: "What's the most prudent strategy, considering all aspects?". Eventually, he might find himself compelled to engage in 'greenwashing' or face substantial resistance from powerful groups when attempting a sustainable approach. If you ask the CEO why he couldn't make the company sustainable despite his intentions, he might explain that the expectations imposed by others limited his actions.

At the same time, however, individuals maintain a transformative agency towards the structure. By this, I mean that individuals preserve the ability to alter the corporate mindset based on their personal intentions. Individual members still wield the power to shape the corporation's actions. Given that, we might conclude that both components of the corporate entity – the corporate mind and the corporate body - exert direct influence over each other in a two-way process of influence from structure to individuals and then from individuals to structure.

Considering these points, Hess's explanation appears to validate corporate agency. Corporations possess their own intentional states that might even contradict those of any subset of their members. Moreover, they execute actions by relying on their human

base, thereby warranting considerations as autonomous agents. Their autonomy stems from undertaking actions that cannot be attributed to their human constituents because they are explained and justified based on the rational point of view of the corporation itself. Consequently, corporations should be regarded as unified agents constituted by a corporate structure and a collective body, akin to how human beings are constituted by an inseparable mind and body.

However, despite its explanatory power, this perspective fails to conclusively establish a corporate agency in light of the objection to autonomy. This objection posits that a corporate agency still demands the enactment by individual members, thereby undermining its standing as an autonomous agent.

2.3.3 The Autonomy Objection

The objection to autonomy has been formulated in various ways, leading different scholars to claim that corporations cannot be considered moral agents (Velasquez 1983, 2003) or, in the most charitable version, that corporations are *secondary* or *vicarious* moral agents (May 1983; Werhane 2016;). The objection holds that since corporations cannot exist and act without (independently of) their members, they fail to be autonomous agents. More precisely, the objection is made of two claims. First, corporations are eliminable agents because they cannot exist without the physical presence of their members. Members, in fact, may decide to end the corporate entity at any time potentially. Secondly, they cannot desire, believe, intend, and act without the contribution of their members. Corporate actions are not autonomous because they can only be carried out through employees. What is more, the beliefs and desires of the corporate entity will always be beyond its control. Corporations can only deliberate or reflect from the deliberation or reflection of their members, even if they might be influenced mainly by corporate attitudes.

Hess's argument in response to this objection is an argument for analogy: she holds that the corporate entity's reliance on member activity is not different from the human agent's reliance on her physical capacities to perform activities. Hess recognizes that a corporate entity is profoundly dependent on its physical base for its existence, development, or RPV effectiveness, so its intentional states and acts depend on the

capabilities of the physical base. This, however, also applies to human beings since they depend on their biological functioning: individuals can act only through their body constituents (neurons and organs), and *despite this*, when we deliberate, we would not claim that “our neurons deliberate”; our deliberating consists in our neurons performing their distinctive activities (Hess 2014b, p. 257). Hence, the biological human body provides human beings with its processing capacity in the same way the corporate body (members) provides corporations with its processing capacity. So, as Seabright and Kurke (1997) emphasize, if we say that individuals operate independently, why corporations cannot act on their own? In Hess’ words:

“The corporate entity is not wholly distinct from its members. [...] The corporate entity is constituted (in part) by its members in much the same way that a human agent is constituted (in part) by the parts of her body. As a contributing source of action, they are just as internal to the corporate entity as the human agent’s body, reflexes, senses, and brain are to her. Thus, to the extent that the members are part of “the cause”, the cause is “internal to the agent”” (Hess 2014b, p. 251).

Hess is saying that, since members constitute the corporate entity, the fact that corporate actions depend on them and that its intentional states can originate in them does not compromise its agency – precisely because the members are part of the corporation. The corporation *is* also its members. When the members act, the corporation acts.

However, the analogy overlooks a significant disparity between corporate entities and human beings: the constituents of human beings - neurons and organs - are not inherently autonomous and independent agents, whereas the constituents of corporate entities – employees - are. The critical distinction lies in the ability of the corporation’s constituents, despite being influenced by the organizational structure, to make independent choices and deviate from prescribed instructions. Consider the case of the United Airlines flight attendant. Despite constraints on her agency and the high individual cost of defying corporate norms, the flight attendant retains her autonomy as a free agent, capable of diverging from the company’s intentions. In contrast, the constituents of a human being are bound by her mental state and lack the freedom to disobey instructions.

This distinction underscores our autonomy as agents despite relying on our constituents' abilities to act.

This conclusion does not imply that corporations can *never* become autonomous agents. Let's contemplate a potential future, perhaps not too distant, wherein humanoid entities governed by algorithms substitute all corporate employees. These humanoids are engineered to execute any task demanded by the company. At this stage, we might acknowledge the company as an autonomous agency, as its members would operate akin to our organs and neurons. However, this is not a present scenario, and thus, the fact that corporate agencies rely on *free* agents' actions negates the possibility of autonomous agency.

Considering this, the institutional account is rejected. The conclusion drawn is that there is no way to prove that corporations are autonomous agents, and thus, they cannot be accountable for their actions. This is because corporations cannot act. When a corporation "acts," only individuals are acting.

2.4 Conclusion

The conclusion drawn is that neither account effectively demonstrates that companies function as autonomous agents, thereby falling short in establishing their potential moral responsibility. An alternative thesis might be that corporations can operate on a secondary or joint agency. One could argue that they function as *secondary* agents, wherein their agency is enacted by primary agents – specifically, corporate members. For instance, when a subset within the company defines a purpose, mobilizes the network and resources, and pursues it with the collective contribution of various members, this action might be considered a secondary corporate action (Morrison et al. 2022).

In the alternative, one might argue that when the United Airlines flight attendant applies company procedures, this action should be attributed to both the individual and the company. Since the company relies on the attendant, conversely, the attendant's action relies on its intentional states, it could be deemed a joint action. Nonetheless, the existence of such a joint agency requires further demonstration.³²

³² See Hanson (2009).

Nevertheless, none of these perspectives conclusively establishes them as autonomous agents. At this point, one last strategy to prove corporate moral responsibility remains: arguing that corporations can be held responsible without being agents. I will investigate this possibility in the next chapter.

3. Corporate Moral Responsibility

3.1 An alternative strategy?

In the preceding chapter, we established that corporations cannot be deemed autonomous agents – a prerequisite for attributing moral responsibility to them. It is undoubtedly true that the corporation can seem to act on the basis of its own intentional states, but its actions can only manifest through individuals executing them. And since these individuals, despite being influenced by corporate intentionality, retain their autonomy as free agents, it logically follows that only they can be considered autonomous and, therefore, held accountable. Thus, since companies fail to satisfy Pettit's initial condition for moral responsibility, they cannot be the target of our blame.

Nevertheless, let's entertain the scenario where I might be mistaken, and Hess's argument successfully validates corporate agency. Would this alone suffice to prove that corporations are morally responsible? The answer is problematic because demonstrating their moral responsibility would still require proving their compliance with Pettit's other conditions: 'value judgment' and 'value sensitivity'. Hence, the question arises: would corporations meet these two conditions after meeting the first one?

In the first section of this chapter, I will raise significant concerns regarding the fulfillment of these two conditions, as moral responsibility requires capacities that companies do not appear to possess. Therefore, when applied to corporations, the challenges posed by the second and third conditions further undermine the argument for corporate moral responsibility.

The fundamental issue with attempting to establish corporations as moral agents lies in the requirement to demonstrate a specific set of moral *capacities* akin to those found in human beings to prove their moral responsibility. Moral agency appears to demand not just autonomous action but also cognitive and emotional capacities to make moral judgments and act on moral reasons - those typically associated with traditional moral agents, namely human beings. Yet, demonstrating these capacities within corporations presents considerable difficulty.

This predicament has led some proponents of corporate moral responsibility to adopt an alternative approach, applying Strawsonian theory concerning blame to

corporations. They argue that to hold corporations accountable, it is not necessary to establish that they possess the capacities required for moral agency. Strawson's theory illustrates that even if determinism were true — meaning if we were not moral agents due to the absence of free will — it would still be justifiable to blame individuals.

The legitimacy of our attributions of blame relies not on the truth that we *are* moral agents but rather on the fact that we hold “folk” reactive attitudes—such as blame, praise, and resentment—towards one another when ethical transgressions occur and that we are expected to behave morally from others. These reactive attitudes reveal the conditions justifying blame, independent of whether we are the ultimate source of our actions (Strawson 1962).

Similarly, the fact that we feel blame or praise towards corporations *per se and the fact that we expect corporations to behave morally* would suffice to hold them morally responsible. This is regardless of their inherent capabilities or ontological nature.

The chapter is structured into two main sections. In the first section, I will examine additional objections against the agency-based approach to moral responsibility. In the second section, I will delve into the assessment of the validity of the Strawsonian strategy, which appears promising precisely because it does not require any moral capacity on the part of corporations. However, I will present three objections to this perspective, ultimately concluding that corporations cannot be held culpable. When we assign blame to corporations, we are indeed blaming individuals. Nevertheless, corporations' lack of strict blameworthiness does not preclude us from treating them *as if* they bear blame. We might have pragmatic reasons to blame them instrumentally. These reasons may be rooted in legal purposes, social justice concerns, or the expressive function of blame.

3.2 Problems with the agency-based approach

As previously discussed, let us assume that corporations can be indeed viewed as autonomous agents, thereby meeting the first condition for blameworthiness. However, even if this premise holds true, they must still satisfy the other two conditions: value judgment and value sensitivity.

The ‘value judgment’ requirement dictates that for an entity to be blameworthy, it must have an understanding and access to the necessary evidence to evaluate the relative

moral value of available choices. That is, the corporation must possess the capacity to make moral judgments and to grasp the force of the moral claims – the reason *why* something is morally right or good. Meanwhile, according to the ‘value sensitivity’ requirement, an entity must have the control essential for making decisions based on assessments of their value. That is, the corporation must be able to act for moral reasons freely.

In other words, moral responsibility entails not just agency but *moral* agency – a capability to make moral judgments and act upon them. To be clear, being an agent does not necessarily imply being a moral agent; moral agency requires additional capacities beyond mere agency. But what exactly does it entail to be a moral agent? What capacities are necessary to fulfill the value judgment and the value sensitivity requirements?

To begin with, we have defined an agent as a being or an entity capable of acting and making choices based on its own intentional states. This capacity applies to both human and non-human entities, such as animals, artificial agents, or collective agents. A moral agent encompasses an entity not only capable of acting but also possessing the capacity for *moral reasoning* and *self-reflection*. This includes the ability to make moral judgments concerning what is right or wrong, good or bad, desirable or not desirable; understanding the normative weight of moral assertions; evaluating the moral values associated with various courses of action; and, crucially, engaging in self-reflection and adaptation concerning its moral principles and objectives. The possession of these attributes designates moral agents as responsible for their actions in a moral context. For instance, individuals are typically considered moral agents due to their inherent capacity for moral reasoning and decision-making. However, there are scenarios where even humans may not be regarded as moral agents, such as when they lack the cognitive ability or moral development necessary to make well-informed moral choices. Examples include infants or individuals with severe cognitive impairments, like psychopaths, who might not be fully accountable for their actions in a moral sense.

Similarly, animals and algorithms are not considered moral agents. While animals may exhibit some level of moral behavior, they lack the same level of moral reasoning as human beings. Conversely, algorithms operate based on predefined rules and lack the capacity for moral judgment; their actions are determined by the input provided to their neural networks (Hakli and Makela 2019).

Given these distinctions, the question arises: can corporations be regarded as moral agents? Can corporations engage in moral judgment, compare the moral value of different options, and thus demonstrate capacities for moral reasoning and self-reflection?

The debate about corporate moral agency is vast and remains unsolved (Sepinwall 2016). Specific arguments suggest that corporations qualify as *full-fledged* moral agents: they can comprehend moral reasons and act upon them, along with the capacity for self-examination and the adaptation of priorities. As articulated by Arnold (2006, p. 291),

“corporations that are capable of evaluating past decisions and existing plans, of determining whether those intentions ought to remain in place, or whether they should be modified or eliminated in favor of alternative intentions, are capable of the requisite reflective endorsement and are properly understood as moral agents”.

Hess and Donaldson (1984) contend that corporations possess both these capacities – moral reasoning and self-reflection. They exhibit the ability to (i) take morally relevant information into account when they act, (ii) hold and act upon beliefs and desires about morally relevant factors, and (iii) pursue moral objectives (Hess 2014a).

Let’s consider the case of Elvish. After implementing the new strategy, Elvish finds that consumers and other stakeholders – suppliers, shareholders, and civil society - are positively inclined towards Elvish’s initiative, appreciating the moral value of its recent actions. Feedback from questionnaires indicates that reducing meat consumption is seen as a crucial step toward mitigating climate change’s impact on future generations. Elvish itself undergoes a cultural shift toward sustainability, now identifying as an active contributor to environmental protection. It is motivated by moral reasoning rather than solely aiming to satisfy consumer preferences or maximize profits. Elvish has recently established a new Corporate Social Responsibility (CSR) department and no longer prioritizes profitability as the sole criterion for green initiatives. Furthermore, Elvish has set ambitious targets to decrease energy and water consumption in its stores, align with Goal 2 of the UN Agenda 2030³³ (“Zero Hunger”), and reduce plastic packaging.

³³ <https://sdgs.un.org/2030agenda>

According to Hess, Elvish demonstrates several capacities. First, the ability to consider morally relevant information. Recognizing climate change as a threat to future generations, it is inclined to act morally in safeguarding their rights. Second is the capacity to hold and act on moral beliefs and desires. Elvish *wants* to green its image because it *believes* this effort will reduce emissions and positively impact climate change. The company is motivated by *moral reasons and acts* in accordance with moral principles. Third, the ability to pursue moral goals. Elvish's new commitments hold moral values and are pursued based on their intrinsic moral worth. If we asked Elvish about its change in strategy, one of its spokespersons might answer that Elvish *understood* what was right and *decided* to act on the basis of this moral belief. In essence, Elvish seems capable of acting on moral grounds and comprehending the moral weight of its decisions and actions. The corporation itself seems aware that it is engaging in morally commendable actions and is conscious of the ethical consequences of its actions. On this line, Collins (2023) recently argued that corporations possess moral self-awareness for what they are doing.

In light of this, Hess concludes that because Elvish possesses all these capacities, it can be deemed a moral agent. Corporations, like Elvish, engaging in moral reasoning about their commitments can act in light of moral reasons and reassess their motives similarly to how humans do.

However, it is crucial to note that performing moral actions does not inherently define an entity as a moral agent. While moral agents consistently act morally consciously, entities that *mimic* moral behavior might perform morally commendable actions without embodying moral agency – they *seem* moral without necessarily *being* moral. Thus, the fact that corporations behave *as if* they can make moral judgments and act on them does not imply their actual moral agency and, consequently, their blameworthiness. Opponents of corporate moral responsibility, in fact, argue that corporations lack the essential conditions required for moral agency: a *genuine* understanding of the normative force of moral claims and judgments, the capacity for reflective moral decision-making, and the ability to choose between various moral options (Sepinwall 2017; Velasquez 1983, 2003; Wolf 1985). According to them, moral agents must possess appropriate intellectual and emotional capacities, which corporations lack, to fulfill these requirements.

Firstly, moral responsibility necessitates a proper understanding of one's actions and their moral implications. However, corporations can merely *simulate* this comprehension; they lack the capacity to grasp the significance of their actions due to the absence of a phenomenological mind. In other words, they lack awareness of their intentions: their intent remains functional without genuine second-order desires and beliefs about their actions. Velasquez (2003) distinguishes between instrumental attribution of intentionality and what Searle defines as 'intrinsic intentionality', that is, the awareness of being intentional.³⁴ It is only in virtue of this awareness that we deliberate and choose our actions, rendering us morally responsible for what we do. However, corporations lack it; only their members can possess such awareness, comprehending the consequences of both their actions and those stemming from corporate agency.

When Elvish appears to understand the moral imperative of adopting sustainability, it is erroneous to claim that Elvish genuinely comprehends the moral value of it. If questioned about its decision, a spokesperson from Elvish might assert that the choice aligns with moral principles endorsed by the corporation and so that this choice is the *right* one. However, the proper understanding of the moral aspect of this action resides within the mind of the spokesperson, who, despite representing the company's perspective, *remains* the locus of moral reasoning. Only corporate members engage in the rational process of understanding what the right thing is to do, even when they take the company's point of view. The company behaves *as if* it understands the morality of what it is doing, yet it lacks a corporate mind capable of genuine moral understanding. As Peter Cane (2002, p. 65) highlights, "It is generally agreed that a minimum level of mental and physical capacities is a precondition for culpability. A person should not be blamed if they lacked a basic understanding of the nature and significance of their conduct, or basic control over it". If individuals cannot be blamed when lacking this mental capacity, it is unclear why corporations could be held accountable due to the absence of the same.

Furthermore, it has been argued that in order to understand the normative weight of moral judgments, a subject must also possess specific emotional capacities (Sepinwall

³⁴ See also Ronnegard (2003): "You cannot simply jump from an instrumental attribution of intentions, which says that the corporation behaves *as if* it intends, to a metaphysical attribution of intentions, which says that the corporation does have intentions" (p. 86).

2017). However, can we reasonably assert that corporations can experience emotions? And if so, where does corporate emotion – such as suffering or joy – reside? Velasquez (2003) claims that corporations cannot be morally responsible because they cannot feel the shame that is the appropriate response to being blamed and cannot experience the suffering or loss that accompanies punishment. Wolf (1985) contends that if corporations were moral agents, they would resemble sociopaths due to their absence of ordinary human sympathy and respect:

“Sociopaths [...] are fully capable of the same forms of practical reasoning as the rest of us. They are capable of recognizing that if they do things of which society disapproves, they are likely to suffer in various ways ranging from social exclusion or antagonism to fines or imprisonment. What they lack is a sense of inner disapproval that echoes the social disapproval of moral wrongs. Sociopaths seem to lack ordinary human sympathy and respect. More generally, they lack whatever motivations most of us have to keep our actions within moral bounds.” (Wolf 1985, p. 278)

Corporations may surely behave as if they sympathize with other moral agents or claim to respect them publicly. For instance, when corporations demonstrate respect for human rights and state that they do so because of human dignity, one might conclude that they genuinely grasp the moral value of respect. However, Wolf (1985) argues that in order to show respect to someone truly, or to feel moral sentiments such as sympathy, one must have an emotional life, a “sense of inner disapproval that echoes the social disapproval of moral wrongs” (p. 278). According to this view, without emotional capacities, corporations cannot understand *why* they should avoid wrongful acts: they cannot correctly understand why cheating, stealing, or killing are considered to be immoral. Their moral capacities resemble those of sociopaths, who may exhibit a lack of empathy and remorse for their actions. As it would be inappropriate to hold them morally responsible, it would likewise be improper to assign blame to corporations.

Those who possess the cognitive and emotional capabilities to comprehend the moral intentions and actions of the company are its members. In light of this, one might argue that corporations can rely on the members’ moral reasoning and self-reflection

capacity to fulfill the ‘value judgment’ and the ‘value sensitivity’ conditions. When members understand what the right thing to do is from the corporate perspective, it is the corporation that actually understands. Call this account ‘recruiting account’ (Collins 2023; Tollefsen 2003). However, this assertion might only hold if individuals were regarded as integral components of the corporate agent, forming a unique and inseparable entity. Nonetheless, as corporate members retain the autonomy to make moral judgments and select different courses of action that may not align with the corporate mind, the existence of such a singular moral agent is denied. In other words, the autonomy objection challenges the recruiting account.

Before exploring the Strawsonian strategy, I acknowledge that counterarguments may arise against these objections. Skeptics might contend that emotions are requisite solely for *human* moral agency, while *corporate* moral agency may require distinct capacities. Alternatively, one might reply that corporate members can experience moral emotions on behalf of the corporate agent, even though they maintain their autonomy from the corporate structure. This debate warrants further examination, but the aim of this section was merely to cast doubts on corporate moral responsibility, even in hypothetical cases where autonomous agency is proven. The theoretical defense of corporate blameworthiness remains profoundly problematic, given (i) the lack of consensus regarding the capacities indispensable for moral agency and (ii) the uncertainty surrounding the likelihood of corporations possessing these capacities.

For the purposes of my claim – that corporations are not blameworthy – I firmly assert that the failure to meet the first condition, as evidenced in the previous chapter, suffices to refute corporate moral responsibility. Corporations lack blameworthiness because they do not adhere to the ‘ultimate originator thesis’, which posits that moral responsibility for action rests with the entity *initiating* the action. Consequently, as corporations are incapable of directly initiating any action of relevance, they cannot be held responsible.

At this point, let’s explore an alternative strategy to defend corporate moral responsibility – one that does not rely on the agential capacities of the agent. This strategy – call it the ‘Strawsonian strategy’ – is grounded in the nature and structure of our folk reactive attitudes. Its basis lies in the theory of moral responsibility outlined by Peter Strawson in his famous work ‘Freedom and Resentment’ (1963).

3.3 The Strawsonian approach

3.3.1 Strawson and the Reactive Attitudes

Strawson (1962) famously argued that our individual reactive attitudes— such as resentment, blame, indignation, appreciation, etc. – are not justified by some external reasons but rather by considerations that arise from within the internal structure of the same reactive attitudes. Thus, whether human beings lack free will would be irrelevant to determining their moral responsibility (call it the ‘compatibilist view’).

The first original idea underlying this claim is that the attempt to ground responsibility in some reality external to human nature is misguided since our sense of ourselves as morally responsible toward each other is integral to human sociality itself. The rational warrant of our reactive attitudes can be ascertained by attending exclusively to considerations that arise from the internal structure of the reactive attitudes. Thus, any consideration that arises from any metaphysical claim about human beings – i.e., that humans are the ultimate originators of their actions - is, by that very fact, irrelevant to determining the nature of moral responsibility. Strawson’s intuition is that we intensely manifest some concern in how people regard one another, and this concern is expressed through a demand to be treated with regard and goodwill and an expectation to do the same:

“In general, we demand some degree of goodwill or regard on the part of those who stand in this relationship to us [...] The personal reactive attitudes rest on, and reflect on, an expectation of, and demand for, the manifestation of a certain degree of goodwill or regard on the part of other human beings towards themselves” (Strawson 1962).

What Strawson seems to suggest here is that it is only through a basic demand and a basic expectation that a stance of holding each other responsible arises. This practice, indeed, is given to our social nature, and since it is integral to sociality, we cannot escape

it. We cannot escape the fact that we are morally responsible with respect to each other (Watson 2014).

The second original idea is that by looking at how our “folk” reactive attitudes work, we can bring out the conditions for the appropriateness and justification of the same attitudes (Silver 2005). In fact, Strawson suggests that even if we generally react to the quality of other people’s will – call it the ‘quality of will thesis’ – there are situations in which we *excuse* people despite their lousy will; in these situations, our reactive attitudes are being inhibited or softened. In particular, there are two different situations in which we excuse an agent. The first is the case in which, by focusing on the act itself, we discover the agent did not exhibit any ill will. In these situations, we typically use expressions such as “she didn’t mean to”, “she didn’t realize”, “she didn’t know”, “she was pushed” and other excuses involving local considerations. But there are also cases in which we are not merely excusing the agent, we are *exempting* her, that is to say, we are excluding her from the moral community because she lacks the capacity for moral address. We would then use expressions such as “she is just a child”, “she is a schizophrenic”, or “she is not herself”.

With these points in mind, we can adequately understand why Strawson believes that reactive attitudes are internally morally significant: they reveal by themselves the conditions in which it is appropriate or not to hold someone responsible. They are, specifically, (a) natural human reactions to the good or ill will or indifference of others (b) who are taken to be capable of participation in reciprocal interpersonal relations (Watson 2014). Note, however, that (b) seems to be something we ascribe to the agent itself – as an independent capacity to have and respond to normative expectations - so that we may be inclined to consider ‘being responsible’ as independent of ‘holding responsible’. Brink and Nelkin (2013), for instance, give a realist interpretation of Strawson’s claim by pointing out that “reactive attitudes involving blame and praise are appropriate just in case the targets of these attitudes are responsible” (p. 287), then concluding that Strawson’s account cannot completely abandon a metaphysical task. To escape the objection, however, it is sufficient to point out that Strawson understands being responsible in a “response-dependent way”. His notion of responsibility is relational, because it emerges from our practice of relating to each other within society: to be

responsible is just to be a (possible) fit target of that sort of attitude.³⁵ As mentioned before, responsibility arises from within our social (relational) nature. In virtue of this, ‘being responsible’ has no priority over ‘holding responsible’, since the latter grounds and brings out the conception of moral responsibility. As suggested by Watson (1987, p. 259),

“it is not that we hold people responsible because they are responsible; rather the idea (our idea) that we are responsible is to be understood by the practice, which itself is not a matter of holding some propositions to be true, but of expressing our concerns and demand about our treatment of one another. Holding responsible is as natural and primitive in human life as friendship and animosity, sympathy, and antipathy. It rests on needs and concerns that are not so much to be justified as acknowledged”.

Given that, Strawson’s account seems to be built *within* the realm of human beings and *for* human beings, and the condition of justification of our individual reactive attitudes emerges from our “folk” practice of holding each other responsible.

3.3.2 The compatibilist view

Strawson’s theory of moral responsibility holds significant force in its ability to counter the arguments of incompatibilism, which asserts that the sole means to account for the significance of our reactive attitudes is by viewing them as concerned with the moral quality of agents as ultimate originators of their actions. This perspective, known as the ‘ultimate originator thesis’ (Silver 2005), is rooted in the notion that we ought to assign blame to an agent only if it possesses the capacity to be the ultimate source of its actions. According to this view, our blame is rationally warranted when the agent is free; however, it becomes nonsensical when the agent lacks freedom. Therefore, conceding the truth of determinism would seemingly render our blame unjustifiable.

³⁵ According to Tollefsen (2003), “to hold someone responsible is just to be prone to have these attitudes towards others and to be responsible is just to be the appropriate target of these attitudes” (p. 220).

However, Strawson contends that we need not rely on the ultimate originator thesis to validate our reactive attitudes. Silver (2005) posits indeed that the justification arises from the reactive attitudes themselves, and he proposes three compelling compatibilist claims showing their internal moral significance. These claims are (i) the goodwill thesis, (ii) the appreciation of reasons thesis, and (iii) the moral disposition thesis. They demonstrate the internal moral value of blame, proving a solid foundation for justifying our responses without necessitating the notion of ultimate origination by agents.

The goodwill thesis posits that a reactive attitude is a response corresponding to the degree of goodwill exhibited by the agent in question. If this thesis is correct, the internal moral significance of the reactive attitude – such as blame or praise – resides in the fact that morality demands that individuals show an appropriate kind and degree of goodwill toward others. When this expected level of goodwill is not met, it becomes a matter of intrinsic moral concern. Thus, if I endure harm due to someone acting maliciously towards me, I would be justified in blaming her, even if she is not a free agent. Her deliberate ill-intent validates my sense of blame.

The second compatibilist claim - the ‘appreciation of reasons thesis’ - holds that our reactive attitudes stem from the quality of choices made by agents capable of appropriately appreciating and responding to reasons (Tollefsen 2003). As stated by Silver (2005, p. 284),

“if we accept the appreciation of reasons thesis, the internal moral significance of the reactive attitudes would lie in the fact that morality demands that rational agents appreciate and respond to moral reasons, and that when this expectation is not met this is a matter of intrinsic moral concern”.

This viewpoint is compatibilist because an agent does not need to be the ultimate source of actions to comprehend and respond to various reasons favoring or opposing actions. What is required, however, is an agent’s capacity to understand moral reasons, that is, to recognize the meaning of the moral expectations expressed by others.

The third compatibilist perspective regarding the internal moral significance of reactive attitudes does not mandate that a morally responsible agent possesses intentional states of goodwill or the capacity to appreciate reasons. This view, known as the ‘moral disposition view’, explains the internal significance of our reactive attitudes by considering them as responses to an agent’s moral disposition. As articulated by Silver (2005, p. 284), “in reacting to the quality of an agent’s moral disposition we thereby affirm the morally appropriate ways to deliberate about and act toward persons and other valuable entities”. This thesis remains compatibilist because an agent does not need to be the ultimate originator of actions to possess a moral disposition that is embedded in her character. A person exhibits an immoral character when she possesses a consistent inclination to act and think in immoral ways, regardless of how she acquired these tendencies.

Considering all of this, we can now understand how Strawson’s theory of moral responsibility enables us to transcend the metaphysical claim about moral agents. Whether individuals are free agents becomes irrelevant; what justifies our practices of blaming or praising is the fact that individuals possess the ability to act based on goodwill, appreciate moral reasons, or exhibit a moral disposition in their actions. We address these qualities – their goodwill, their mental capacity, or their moral disposition - when we hold them responsible.

In light of this, the Strawsonian strategy can shed light on how it can bolster the defense of corporate moral responsibility. The hypothesis here is that corporations can bear the blame for their actions even if we acknowledge their lack of bodies, minds, intentional states, or free will. According to this view, there is no necessity to demonstrate that corporations function as autonomous agents or possess the ability to choose among various moral options. What holds significance is that they satisfy one of the three compatibilist criteria mentioned earlier.

3.3.3 Corporate Reactive Attitudes

Silver (2005, 2006, 2018) famously offered a Strawsonian approach to corporate moral responsibility. First, he argues that there are different types of reactive attitudes, depending on the recipients of these attitudes. For instance, there are *individual* reactive

attitudes – those directed at human beings - and there are *corporate* reactive attitudes, wherein our blame or praise is directed toward the corporations themselves.

Secondly, since the conditions that justify reactive attitudes emerge from their structure, the conditions validating corporate reactive attitudes may differ from those legitimizing individual ones. According to Strawson, these conditions emerge from societal practices of assigning blame when reacting to the behaviors of various agents. It is the specificity of these reactive attitudes that shapes their internal justifications. Consequently, what holds for a theory of moral responsibility concerning human beings may not necessarily apply to a theory of moral responsibility regarding corporations, given that our blaming practices are directed at *distinct* subjects. Silver contends that arguing otherwise would constitute a fallacy of projection (Silver 2005, p. 285).

The third point posits that, in the same way the justifiable conditions for individual blaming emerge from how we blame or exonerate individuals, the justifiable conditions for corporate blaming arise from our approach of blaming corporations and endorsing their exoneration. Therefore, just as the presence of certain external conditions unrelated to the act of blaming does not impact its legitimacy in individuals, it is similarly irrelevant whether corporations possess a certain corporeality, mental state, or emotional life.

At this point, let's examine which of the three compatibilist theses on moral responsibility proposed by Strawson can be applied to corporations, thereby validating our practice of blaming them.

The goodwill thesis prescribes that assigning blame to an entity is justified if that entity demonstrates malicious intent toward us. The problem arises when considering corporations, as they lack a will comparable to that of individuals. When we blame individuals for their ill will, we assume they act with awareness of their malicious intent. However, as previously mentioned, corporations lack second-order intentional states, meaning they may appear to exhibit ill will without any conscious awareness of doing so. Consequently, we must conclude that the first thesis cannot be applied to corporations.

Now, let's explore the 'appreciation of reasons thesis'. Can companies consider and appreciate specific moral reasons to guide their actions? As discussed earlier, one could argue that genuine appreciation of reasons requires a phenomenological mind, that is, genuine mental states. Merely acting as if one had such mental states would not be sufficient. Against this position, Tollefsen (2003) contends that companies can indeed

comprehend moral reasons because they display behavior akin to an individual capable of understanding such reasons. For instance, when companies are blamed for misconduct, they are able to change their future behavior and make revisions to the organizational structure that led to the wrongdoing. This ability for moral response presupposes what John Doris terms “normative competence”, that is, “a complex capacity enabling the possessor to appreciate the normative considerations, ascertain information relevant to particular normative judgments, and engage in effective deliberation” (2002, p. 36). For Tollefsen, if the agent engages in the practice of giving and taking reasons, responds to criticism, and so forth, then there is substantial reason to believe that the agent possesses this ‘competence’. Corporations demonstrate this capacity because “we bring them to court, we file complaints, we address them in public forums, in the boardroom, before Congress” (2003, p. 227). Considering these actions, it is reasonable to conclude that corporations are capable of appreciating normative reasons.

However, the debate revolves around whether functionalism and behaviorism can adequately account for mental states. Since this thesis remains controversial, we cannot accept the claim of ‘appreciation of reasons’.

The third compatibilist criterion stipulates that a subject can be the target of our blame if it simply shows a moral disposition in its actions. A moral disposition signifies an individual’s attitude in acknowledging others as having moral value. When an individual displays disrespect towards other moral agents, our act of blaming them becomes justified. In the context of human behavior, an immoral disposition becomes evident through an individual’s character. Thus, it is justifiable to hold someone accountable for embodying traits such as rudeness, arrogance, or indifference toward the ethical concerns of others.

Similarly, Silver (2005) argues that we are justified in blaming corporations when they display an immoral disposition in their interactions with other entities. However, the question arises: do corporations possess a character comparable to that of individuals? According to Dempsey (2015) a company’s character is embodied in its corporate culture. Companies showing a disposition to treat others immorally harbor an immoral culture, while those considering the moral requests of others possess a good culture, thus warranting praise. In Silver’s words (2005, p. 288),

“the culture of a corporation counts as a moral disposition because it influences how agents of the corporation see how it is appropriate to think about persons (and other things of value) when acting on behalf of the corporation. Consider, for example, a corporation where the reigning corporate culture is to achieve maximum profit without recognizing any moral constraints on the pursuit of this goal. Refer to this as the pursuit of ‘unconstrained profit maximization’ [...] To the extent that a corporate culture manifests immoral views of corporate reasons it is appropriate to direct corporate reactive attitudes toward the corporation itself. In so doing one condemns the corporate culture which fosters unacceptable ways of taking into account the value of persons and other valuable entities”.

This third thesis does not necessitate any metaphysical assumptions for support. Even if we assume that corporations lack intentional states, conscience, or emotional lives, they undeniably possess a corporate culture, the same kind of culture that deserves blame for contributing to the wrongdoing in the three cases outlined in chapter one. In other words, our *prima facie* reasons to blame corporations are theoretically sufficient to have *justified* reasons to blame them, as having an immoral culture is the only element required for such justification.

In conclusion, the acknowledgment of an immoral disposition, our tendency to direct reactive attitudes towards corporations due to their culture, and the expectations for corporations to behave morally constitute sufficient grounds to legitimate and justify blame. Put it simple, if we accept Strawson’s theory of moral responsibility, we must accept that corporations can be blamed on this third compatibilist criterion.

3.3.4 Objections

The Strawsonian perspective on corporate moral responsibility seems to justify our reproach towards corporations without necessitating any metaphysical claim about them. This renders objections on agential and intentional capabilities raised in the preceding chapter and discussed earlier in this one irrelevant. However, at least three objections can be raised against this approach, undermining its theoretical validity.

The first objection contends that our reactive attitudes are not always reliable indicators of moral accountability. In some cases, humans might be inclined to blame an entity, attribute an immoral disposition to it, and expect virtuous behavior from it, yet our act of blaming lacks meaningfulness. For example, in ancient times, natural objects such as volcanoes, rivers, and winds were perceived as manifestations of divine behavior. Natural disasters were interpreted as punishments or displays of behavior of external deities. Therefore, men blamed forces like the winds for their destructive nature and perceived them to exhibit a disposition antagonistic to humans. However, we would never assert that such blaming or praising was justified; instead, we would regard those individuals as victims of deception, viewing their reactive attitudes as a product of their ignorance. This example seems to suggest that the Strawsonian theory of responsibility requires a minimum set of agential capacities in the blamed subject, even admitting the truth of determinism.

Silver countered this objection by asserting that contrary to corporations, natural objects do not fulfill any of the three compatibilist claims. The Strawsonian approach can easily explain why blaming natural objects is unjustified: they do not even possess an immoral disposition. Using the personification of rocks as an illustration, he contends that:

“Rocks lack free wills, the capacity for goodwill, the ability to appreciate reasons, and moral dispositional states analogous to the character of an individual or the culture of a corporation. This leaves it completely mysterious what internal moral significance there could be to rock reactive attitudes, and this explains the bafflement one experiences toward anyone who regards them as morally significant” (2005, p. 288).

The second objection holds that corporations cannot be objects of blame because one of the “paradigmatic” functions of blame is its ability to cause harm, and corporations are incapable of feeling pain. When a subject is blamed, in fact, it should feel a sense of guilt, experiencing the impact of being blamed. Without the capacity to feel emotions, blame would lose its moral significance and cease to be genuine *moral* blame.

Sepinwall (2017), in fact, argues that the type of blame directed at corporations is not moral because corporations are incapable of adequately *receiving* that blame, lacking an emotional life on their own. She emphasizes that blaming serves a dual punitive function. Firstly, blaming someone records a demerit in her moral conduct, essentially highlighting her moral failure and diminishing our estimation of her character (Zimmerman 1988, p. 38). This process is painful in two aspects. Since everyone values her behavior according to others' moral expectations, when these expectations are violated, the blamed individual should suffer due to this moral failure. What is more, even if the individual does not prioritize others' moral recognition, she would still suffer from being blamed *per se*, feeling the judgmental scrutiny of others upon her.

Secondly, blaming is also associated with anger. When we blame someone, it often stems from anger toward their actions. This anger intends for the other person to understand the gravity of her wrongdoing. It serves not only as punishment but as a means to make the person comprehend the immorality of her actions. The angrier we are, the more we want the other person to understand how wrong she has been. Conversely, the less angry we are, the less significance we tend to give to the other person's understanding of the seriousness of her wrongdoing. Sepinwall states, "it is in this sense, then, that blame functions to make its target feel bad - both about herself and the pain she has caused" (2017, p. 154). Since corporations lack the ability to suffer in the manner required by blame, Sepinwall concludes that they cannot be legitimately blamed.

It is important to note that this objection, while similar, differs from the one raised earlier regarding corporations' inability to experience emotional states. This is because they aim to invalidate distinct claims. The previous objection asserts that emotional life is necessary to make value judgments and to grasp the moral significance of moral claims. Given that, corporations would not be able to evaluate the moral values of different courses of action and choose between them, as required by Pettit's second and third conditions for blameworthiness. Instead, the objection raised here contends that the capacity to feel emotions is a prerequisite for being a suitable object of others' blame. To be the *recipient* of blame, in fact, one must inherently have the capacity to suffer from that blame. If the target of our blame cannot experience the pain of being blamed, we are not really blaming it. Thus, when we assert blame against corporations, we are actually engaging in a different action that resembles moral blaming, but that is not blaming.

Against this objection, however, one might raise three arguments. The first argument holds that members of a collective group can receive blame on behalf of the collective. Thus, corporate members can experience the pain arising from being blamed on behalf of the corporate agent. This means that even if they were not directly involved, these members would feel a sense of guilt for the corporation's wrongful actions. Tollefsen (2003) suggests that guilt felt by the members is sufficient to validate corporate blame, fulfilling its inherent function of causing emotional distress.³⁶

However, as previously discussed, when blaming the corporation, the intent is to hold the entity *itself* accountable, not its individual members. We do not want to target them but the corporation. Stating that the company can be blamed in itself means that there might even be cases where the company is blameworthy without any of its members acting immorally. However, if the company cannot inherently experience guilt without its members, this raises doubts about the feasibility of attributing blame solely to the company in such cases. Whenever we assign blame to the company, it inevitably implicates its members, contradicting the initial intention of separating blame from individual constituents. Hence, the corporation itself is not genuinely capable of experiencing guilt on its own: when we blame it, this is essentially instrumental blame, as our initial blame ends up affecting its members.

A second argument counters the idea that inducing guilt is a necessary function of blame, that is, we cannot blame without causing guilt. Blame serves various purposes beyond causing guilt, such as motivating behavioral change, suggesting remedies, excluding others from the moral community, signaling our moral values to others, or reinforcing moral and social norms. For instance, blaming a company for human rights violations is also a way to express our moral belief that it is right to respect human rights, that a rights-respecting society is morally desirable, or to alert other companies about the unacceptability of such behavior, urging them to meet our moral expectations.

To this claim, the skeptic might answer that while blame indeed serves multiple functions, its *paradigmatic* function remains inducing guilt. Without guilt experienced by the target of our blame, there is no moral blame. This does not imply abandoning blame,

³⁶ The collective emotion is defined as the emotion that "one feels in response to the actions of one's own group" (Tollefsen 2003).

as it remains essential for performing its other vital roles. As I will outline later, blaming corporations can still be seen as a socially positive act. What is being argued here is that this form of blame does not qualify as *moral* blame; it could be labeled as social or causal blame.

A final argument contends that corporations are capable of experiencing guilt and, therefore, fulfilling the paradigmatic function of blame. Björnsson and Hess (2017) propose a functional account of guilt. While corporations cannot undergo phenomenological guilt due to their lack of a human-like mind and body, they can still experience guilt functionally. If, subsequent to being blamed, corporations modify their behavior and exhibit genuine remorse for their actions, why would this not suffice to fulfill the purpose of blame? The fact that humans experience guilt through phenomenological pain does not necessarily imply that other entities, such as collective, institutional, or artificial entities, should experience it in the same manner. Moral blame might still be valid even if guilt is experienced differently from our customary understanding, as long as the guilty behavior is exhibited. In other words, it is unclear why what is true for human blame must universally apply to all moral blame.

It is not the purpose of this chapter to delve into the intricacies of constructing a moral theory for non-human entities. What is more, I believe the following two objections are sufficient to undermine the Strawsonian approach to corporate moral responsibility.

The third objection against the Strawsonian approach argues that the Strawsonian theory operates on a relational premise involving two poles: one party holds an expectation of specific moral behavior, while the other is aware of this expectation, possessing the capacity to choose compliance or transgression. Individuals hold moral expectations towards corporations, yet corporations lack awareness of these expectations. Blaming practices requires a mutual understanding of the practice's meaning between two parties. Companies cannot comprehend the significance of the expectations directed towards them, so they are deemed incapable of bearing blame.

The only way to justify this perspective is to argue, again, that it is the members of the organization who are aware of others' expectations from the company, and they can exercise this awareness on behalf of the corporation. But again, a theory of corporate moral responsibility should presuppose that the awareness of expectations lies in the

corporate mind, not in members' minds. The aim is to remind the company of its failure to meet certain expectations, not the members: cases outlined in the first chapter illustrate that at least a portion of our blame is targeted at the company, specifically its structure. For this blaming to be effective, the structure itself would need to be aware of these moral expectations. However, how can the structure possess this awareness? Even in individual cases, the lack of awareness of other's expectations undermines blame. Consider, for instance, the cases of children. Even if they appear to behave as though they know moral expectations, we do not blame them, as their awareness is only apparent.

A fourth objection resembles the problem of independence highlighted in the second chapter. Strawson's approach presupposes that even if individuals we blame are not free, they are still in control of their actions. Once blamed, an individual can choose to modify her behavior, counter-blame, remain indifferent, or persist in her immoral actions. In essence, she can decide to adjust her actions based on her reaction to others' blame. This is possible because even if we admit that we are not free, we are not reliant on other moral entities to take action. If I choose to improve my behavior, I possess the ability to do so because I retain control over my agency, even if this control is purely illusory due to its predetermined nature.

Conversely, companies lack control over their actions: when blamed, they cannot independently react to our blame without necessarily relying on the agential capacities of other moral actors, their members. Should a company choose to reform its behavior, revise its organizational structure, or persist in wrongdoing, it would inevitably rely on the decisions of other agents. Therefore, since in blaming the company, we expect a reaction to our blame, and since the object of our blame cannot react, it makes no sense to claim that we are blaming the company itself. When we blame it, we are actually blaming all those individuals who have the control and the power to steer the company toward moral behavior. It is solely individuals who are the ones we shake with our blaming practices because they are the only ones who can respond to us.

To illustrate this, consider another type of non-human agent, an artificial agent like a black-box algorithm.³⁷ A Strawsonian here can legitimately argue that we can blame the artificial agent even if it lacks mental states and is determined by inputs. This is not

³⁷ A black box algorithm refers to a computational method or system whose inner workings are not visible or understandable to the user or observer. These algorithms take inputs and produce outputs, but the process by which the transformation occurs is opaque. Also, they seem to act autonomously (Bathae 2018; Scholz 2017).

only because it might manifest a particular immoral disposition but also because, once blamed or praised, the artificial agent might *autonomously* adapt to society's expectations. It does not need to rely on other agents. For instance, we could program the algorithm to delete or reform specific behavior every time it is punished for something. In this case, the algorithm would be able to react autonomously once blamed. Conversely, companies cannot do this. The fact that other moral agents perform these reactions on behalf of the corporation implies that *they* are the actual targets of blame when companies are blamed.

In light of this, the Strawsonian approach could reasonably be applied to non-human agents capable of autonomous interactions, while companies – as secondary agents – do not meet this criterion. The only viable way to endorse this approach is to prove the company's autonomy, showing that its members would solely respond according to instructions from its organizational structure. However, we demonstrated in chapter two that, as long as members retain a degree of freedom in their response to these instructions, their reactions remain their *own* reactions, not the company's.

3.4 Corporate Social Responsibility

The absence of moral responsibility in corporations does not necessarily mean that we should discard our instrumental blaming of them. There are indeed grounds for treating them *as if* they were morally responsible. Call this kind of blame 'social blame', thereby holding corporations socially accountable for their actions. Before delving into these reasons, it is essential to clarify that we can socially blame them because they mimic the behavior of moral agents. Corporations behave as if they can be motivated by moral reasons and they can act on them, engaging in an apparent self-reflection to respond to external considerations. What is more, they exhibit behavior akin to conversable agents. This is evident in their capacity to offer their own reasons, which can be either rejected or accepted. They can communicate their reasons and concerns to society through designated spokespersons, commonly management figures. This ability to engage in dialogue sets business entities apart from two other entity types: inanimate objects and artificial agents. While both of them exert causal influence over the world, they lack the capability of dialogue.

In this regard, Wolf (1985) argues that corporations are not solely *causally* responsible, but since they have all these capacities, they are also *practically* responsible. Practical responsibility entails an individual's capacity to be sensitive and responsive to reasons for action or inaction. It involves foreseeing the consequences of actions, reassessing and revising goals, and reacting to societal expectations. While they may not possess these capacities in the *appropriate* sense required for *moral* responsibility, their ability to mimic them would be sufficient to hold them practically responsible. Practical responsibility, then, can be considered a condition for social responsibility.

Firstly, considering corporations as potentially blameworthy entities might serve the objectives of the legal system. The way society directs blame at corporations themselves and how this blame varies based on specific circumstances can offer insights into their legal responsibility and subsequent legal consequences. This becomes particularly relevant in scenarios where there are legal gaps, commonly occurring in jurisdictions with weak or absent laws or when unprecedented situations arise. In such cases, attributing a fictional moral responsibility to corporations — treating them as if they possess moral obligations that could be breached or upheld — can aid in reshaping our legal framework. These reactive attitudes can guide us in reforming and enhancing laws to address these situations.

For example, consider again the recent involvement of multinational corporations in the conflict between Russia and Ukraine.³⁸ Following Putin's invasion of Ukraine and the resulting human rights violations on Ukrainian soil, numerous multinationals chose to withdraw from the Russian market in response to Putin's actions.³⁹ Some made this decision based on genuine moral considerations, while others were motivated by concerns about their reputation or institutional legitimacy. During this phase of reaction, consumers and civil society tended to condemn companies that remained in the Russian market while praising those that exited the region.⁴⁰

My intent here is not to debate the correctness of companies' responses or determine the morally permissible action in this context. But suppose that, in this unprecedented situation, there were no legal obligations on their part. They had the

³⁸ <https://time.com/6154429/companies-withdrawing-from-russia-ukraine/>.

³⁹ <https://som.yale.edu/story/2022/over-1000-companies-have-curtailed-operations-russia-some-remain>.

⁴⁰ <https://www.swissinfo.ch/eng/business/stay-or-go--western-consumer-brands-wrestle-with-russian-dilemma/47419388>.

freedom to stay or leave the Russian market without violating national or international laws. However, the negative societal response towards the companies that stayed offers insights into how laws should or could regulate such behavior in similar future situations. This does not imply that the law must conform to civil society's reactive attitudes, which may prove to be inadequate or insufficient. Instead, it underscores the significance of the law considering society's moral response to novel situations. Therefore, treating corporations as morally responsible serves a valuable purpose for legislative endeavors.

Secondly, we have social reasons for considering companies as being socially responsible. Imagine a situation where companies have no legal obligations due to existing loopholes. In such cases, lacking both moral responsibility and legal liability, they would operate without any obligation. This freedom poses a significant problem as we don't want corporations to evade responsibility whenever legal gaps exist. We expect them to act morally. Therefore, treating corporations *as if* they were morally responsible enables us to influence their role according to our societal goals. It helps assign social obligations and duties that match our goals and values – e.g., urging companies towards sustainable practices, respecting human rights, and addressing social inequalities. It legitimizes us to align their agency with norms and principles characteristic of a fair and just society.

What is more, social responsibility becomes a tool through which we exercise our political power. When we blame or praise corporations, we endorse or reject certain actions, regulate their conduct, recommend better practices, and express our approval or disapproval of their goals. All of this holds significant political weight, as all the literature on stakeholders' political activism and social movements shows (Baron and Diermeier 2007; McDonnell 2015; McDonnell et al. 2015).

In light of this, corporations carry social responsibility for their actions - they must be accountable to society as a whole, which can establish norms and obligations for them to follow. These rules might conflict as different groups of the same society may assign different obligations to the same company, leading to conflicting expectations. When multinational corporations face social issues today, they know that taking an explicit political stance will garner approval from some and criticism from others, as societal expectations are diverse and challenging to reconcile. This complexity makes it

challenging to define a company's social obligations precisely, that is, *what* exactly it is required to do. However, this does not negate the fact that they *have* social obligations.

Social reasons are inherently grounded in moral principles. We also have compelling moral reasons to consider companies as if they were morally responsible entities. When viewed through a consequentialist lens, assigning moral responsibilities to corporations aids in maximizing overall utility. For instance, if protecting the environment positively contributes to general well-being, we possess a moral imperative to compel corporations to prioritize environmental stewardship.

Furthermore, we can establish further justification for social responsibility by considering the expressive function of blame and punishment, particularly within moral language (Feinberg 1965; Hasnas 2012). By attributing social duties and responsibilities to corporations, we gain a means to articulate our emotions, beliefs, and experiences effectively. When we experience anger towards corporations that have violated human rights, directing our anger at the corporation allows us to express our emotions' precise nature and intensity. It is only by focusing our anger, blame, and resentment towards the corporation that we can genuinely convey the depth of our thoughts and feelings. For Tollefsen (2003, p. 230), "eliminating our emotional response to collectives would eliminate the possibility of relationship with collectives and relationship of this sort are a substantial part of society".

Lastly, referring to corporations as if they were moral entities holds considerable explanatory power; it represents the most convenient way to depict reality. Describing a violation of human rights as the fault of a group of individuals within the corporation would not fully represent the situation as our understanding perceives it. It is the existence and capabilities of the corporation itself that enabled the violation. Thus, it is only by treating it as if it is responsible that we can adequately explain what happened and the configurations of agencies at stake, regardless of the lack of a precise theoretical basis supporting our assertions.

3.5 Conclusion

Emphasizing the importance of social blame towards companies does not dismiss the reality that they lack moral responsibility. Asserting that corporations bear moral responsibility or possess moral duties would be theoretically incorrect. In truth, corporations are not morally responsible for their actions, nor do they carry any moral obligations or duties. Neither the agency-based approach nor the Strawsonian strategy convincingly supports the idea of assigning moral responsibility to them. The inclination to hold corporations accountable separately from their individual members clashes with the theoretical impossibility of attributing moral responsibility to entities like corporations. Consequently, questions arise: Who bears moral responsibility for corporate actions? Who carries the moral obligation to uphold human rights on behalf of the corporation? Who do we genuinely blame when we blame companies?

I believe there are three paths to answer this question. The first perspective acknowledges a moral gap: when a corporation engages in the wrongdoings outlined in the initial chapter, we can assign blame to the individuals involved in their roles, yet there remains a moral outrage that cannot be attributed to anyone specifically. Alternatively, we might hold specific individuals within the company entirely accountable for corporate wrongs, even if they do not meet the standards of moral responsibility. Management seems to be a suitable target for our blame (Sepinwall 2012). Once managers take on leadership roles within a company, they should bear complete responsibility for everything, regardless of their efforts to prevent it or if the outcome is not entirely within their control.

However, a third approach exists that not only allows for a fairer and more just distribution of responsibility but also illuminates who holds forward-looking responsibility for corporate actions and the nature of this responsibility. This approach requires discarding the notion of moral responsibility solely as accountability requiring intentionality and causality. Instead, it involves a different kind of responsibility – what I will call ‘structural responsibility’ – and it extends moral obligations to agents operating beyond the corporation’s boundaries. I will delve deeper into this specific type of responsibility in the concluding chapter.

4. Towards a theory of structural responsibility

4.1 From corporate responsibility to management's responsibility

The conclusion I have reached so far is that the corporation itself is not inherently blameworthy. Consequently, we cannot attribute moral responsibility, obligations, or duties to it. This claim challenges our intuitions regarding the role of multinational corporations in our societies. The first intuition is that we desire them to act responsibly, ascribing them moral duties and obligations grounded on moral principles. However, this kind of theoretical gap can be bridged by recognizing their legal and social responsibility. Even though they do not possess the ability to act morally, we can still activate mechanisms of social blame and punishment that serve a similar role to moral blame. Social blame enables us to regulate their behavior, penalize them for transgressing social norms, and align them with societal expectations.

Secondly, this conclusion also contradicts our initial inclination to blame the corporation itself for the types of wrongdoings outlined in our three categories of cases. In this scenario, social blaming alone is insufficient to bridge the moral gap. Our moral indignation demands that we pour our blame into a subject capable of properly receiving it, understanding the reasons for it, and taking corrective actions to prevent recurring immoral and wrongful behaviors. The corporation cannot be *this* subject because it lacks the autonomy to perform all these actions. Whatever it does is only the product of the actions of other individuals who retain autonomy in their primary agency with respect to the secondary corporate one.

At this point, why not direct our entire moral indignation towards corporate members? Why not hold employees and officers accountable in the name of the corporation? When a company violates human rights, it indicates that certain individuals generated these violations. Similarly, when a company exceeds legal limits on environmental pollution, it implies that specific individuals are culpable for pushing the company into such actions. It is true that these transgressions are the product of the causal powers of corporations; without them, these individuals could not have committed such wrongdoings. However, to the extent that some members are responsible for activating corporate agency, and thus corporate *causal* responsibility, they are also culpable for the

wrongdoing arising from the same agency. Precisely, why not place the blame on management for all corporate wrongdoing? They do appear to be the individuals in control of the corporate mind and agency, possessing the decision-making power.

Yet, we demonstrated how the three categories of cases examined pose a challenge to the distribution of responsibility from the company to management or to all other members. The problem is that in these cases, management did not intentionally instigate these transgressions. Management neither intended to cause the oil disaster in the Gulf of Mexico, nor forcibly remove David Dao, nor have its employees illegally open bank accounts. Responsibility demands intentionality, and management did not intend any of these actions. As mentioned, the companies “intended” them.

However, one might argue that intentionality is not a necessary condition here, as management should be held accountable for negligence or reckless indifference to the causal role of the corporate structure. If a corporate structure is inherently inclined to generate wrongdoing, management should bear responsibility for it. It is crucial to emphasize that while the corporate structure is not morally responsible in itself, it is the origin of the corporate agency leading to the wrongdoing - the structure is causally responsible for it. In all these cases, the corporate structure is criminogenic because it promotes the occurrence of wrongdoing. However, given that the structure is causally responsible for the wrongdoing, but it is not morally, and given that the management has the power to design and modify the same structure, management must be held accountable.

In the case of BP, management would be accountable for the environmental disaster because it failed to do everything within its capacity to change the organizational structure. All avenues that management could have explored were acting on principles of prudence and precaution, adopting stringent controls over machinery operations, and investing in the research and development of safer technologies. If, despite these efforts, the tragedy still occurred, it could have been accepted as a tragedy, and our indignation set aside. However, since management could have taken more preventive measures to prevent BP’s culture from becoming criminogenic, why not direct the remainder of our moral outrage toward it?

In the case of United Airlines, management should be held accountable for maintaining policies that carry the risk of generating that specific wrong. If you hold a

policy requiring the removal of extra passengers at any cost, and if you are also aware that overbooking is frequent, you should anticipate that a situation might arise where a passenger refuses to disembark and a flight attendant decides to forcibly remove her. To prevent this from happening, effective management should loosen the policy, offer more compensation, or empower the flight attendant to involve company representatives in resolving such situations. Once again, management would be liable for designing and perpetuating a corporate structure that contained the risk of generating specific wrongdoings.

Lastly, in the case of Wells Fargo, management appears fully responsible for tolerating an unethical culture within the company, focused solely on profit maximization. This is because such a culture would inevitably influence the behavior of some members. If you contribute to or merely tolerate an immoral culture, then you should also be responsible for the side effects of that culture - the wrongdoing that culture is responsible for producing. This is not to say that the culture is evidently causally related to the occurrence of the wrong, but that we observe an association. Observed association (the event occurs within a corporate culture) is not equivalent to causal association (the corporate culture *causes* the event).

The type of responsibility I am referring to differs from traditional accountability, which necessitates a link between the agent's intentionality and the final result. Management would bear responsibility for the wrongs produced by the corporate structure not because it *aimed* to generate those wrongs but because it has the authority to shape and perpetuate the blameworthy structure. This responsibility is akin to the responsibility parents have for their children. When a child causes harm to another child, we tend to attribute blame to the child only instrumentally, recognizing that, as an incomplete moral agent, the child is not *genuinely* responsible for her actions. A child is not conscious of the moral obligations she should have. Instead, we are inclined to hold parents accountable for teaching the child to mistreat others or being indifferent to her education. Responsible parents would blame themselves for their daughter's actions because they wield influence over her causal responsibility. They perceive their daughter's moral lapse as their *own* failure – at least partly. Similarly, it seems reasonable to argue that management should feel culpable for the firm's wrongdoing not only when it intentionally contributes to it, but also when there is no link between management's

intentionality and the wrongdoing. Management would still be responsible for shaping and sustaining an inherently criminogenic corporate structure, which is likely to generate a wrongdoing.

However, it's crucial to note that the comparison between the two cases - management and parents - holds true only if we can draw parallels between the freedom parents have to affect their children's education and the control management exercises over the corporate structure. Can management completely control the corporate structure? Is management free? Before delving into the presence of this element, let's explore the nature of the responsibility I want to attribute to management. It can be viewed as a form of *structural* responsibility because it involves management's role in creating a corporate structure that exerts a causal influence on the world, prompting employees to produce wrongdoing. This structure ends up possessing intentional states - a corporate mind - that guides the actions of its members and restricts their agency. In light of this, let's define structural responsibility as the responsibility for creating and perpetuating those conditions - e.g., a corporate structure - likely to generate wrongdoing.

4.2 Young and the Social Connection Model

The idea of structural responsibility aligns with Iris Marion Young's idea of responsibility, termed 'political responsibility', as it pertains to the role individuals play in a society characterized by social injustices. Young's 'social connection model' (Young 2006) underscores the significance of the relationships between our actions and the social structure of our society.

Suppose an American citizen residing in suburban Philadelphia commits murder. It is revealed that the individual had been unemployed for several months, unsuccessfully sought alternative employment, and resorted to illegal drug dealing, ultimately ending up living under a bridge. Further details emerge that, in the period preceding the murder, the individual was grappling with depression. When asked about the moral responsibility for the murder, the answer would be that this citizen is fully responsible because she intentionally chose to kill, knew the act was wrong, acted autonomously, and had the freedom to choose otherwise. All the conditions for accountability are met, and the citizen is held morally responsible and legally liable to the extent that a culpable mind exists.

On the moral plane, however, Young suggests broadening our perspective. It is reasonable to assume that the living conditions drove the U.S. citizen to commit murder: not just her job loss but also the absence of employment prospects and the lack of support from the State and the broader community. It could be argued that if the citizen had found another job and not lost her home, she might never have turned to the illegal drug trade, avoided falling into depression, and consequently refrained from committing the murder. While it is true that she committed the murder, in assessing the reasons behind it, we cannot overlook the context in which it unfolded.

As outlined by this case, the context can be criminogenic, pushing individuals living in it towards illegal actions they likely wouldn't have taken in its absence (Isaacs 1997). By context, I specifically refer to the social structure of a society (Haslanger 2016). A society configured in a way that fails to assist those in economic distress and compels them into illegal work for survival creates the conditions for wrongdoing. The social structure, therefore, is *causally* responsible for the murder as it facilitated the occurrence of that event. While it is true to say that the American citizen committed the murder, it is equally reasonable to direct some moral indignation toward the social structure that produced it. This is because it is likely that *any* other person in the same circumstances, even if virtuous, might have committed the same action. However, as in the case of corporations, social structures are not blameworthy in themselves. We can only place causal blame on them.

In this case, Young's thesis posits that part of the moral responsibility associated with murder lies with all those individuals who contributed to creating and perpetuating the social structure fostering the conditions for murder. Young terms this responsibility as *political* responsibility, emphasizing that members of society are politically responsible for shaping a social structure, placing individuals in a position to act immorally. Everyone is, in light of his role within society, responsible for social injustice. Underlying this idea is the recognition that our actions, even the seemingly small and everyday ones, are inherently interconnected. Hence, one must always consider the relationship between her agency and all the potential consequences she may unintentionally generate.

Consider the case of the fast fashion industry, which is implicated in the violation of human rights, particularly concerning children in various developing countries.

Following the accountability model, we would be justified in holding accountable only multinational corporations and all companies within the fast fashion supply chain that deliberately choose to engage with entities exploiting child labor. If they possess knowledge of this exploitation, they will bear full responsibility. However, are multinational corporations *solely* responsible for this exploitation?

Young's social connection model points out that by consistently seeking the best (lowest) prices online, fast fashion consumers contribute to fostering a culture of unchecked consumerism at low prices that inevitably relies on cheap labor to maintain those prices. It appears to be the industry's culture itself that propels multinational corporations to act unethically, and this same culture is sustained through the daily actions of millions of consumers choosing to purchase clothes at low prices. In this case, consumers also play a contribution in the violation of human rights to the extent that they create conditions conducive to such exploitation.

One could also envision that some managers within these multinational corporations were opposed to employing such labor practices but were compelled to conform due to the prevailing industrial structure. It becomes a situation where one must either adapt to prevailing practices or risk losing significant profits, defaulting on obligations to shareholders, seeing a decline in the multinational's market competitiveness, facing termination, or even witnessing the company go bankrupt. Young's model allows moral responsibility to *extend* beyond individuals directly involved in the fast fashion industry to those who, while not directly engaged in its activities, play some role in morally objectionable outcomes. According to Young (2006, p. 119),

“the social connection model of responsibility says that individuals bear responsibility for structural injustice because they contribute by their actions to the processes that produce unjust outcomes. Our responsibility derives from belonging together with others in a system of interdependent processes of cooperation and competition through which we seek benefits and aim to realize projects. Even though we cannot trace the outcome we may regret to our own particular actions in a direct causal chain, we bear responsibility because we are part of the process. Within this scheme of social

cooperation, each of us expects justice toward ourselves, and others can legitimately make claims on us.”

This type of responsibility exhibits four distinct characteristics:

(i) *Not-Isolating*. The conventional model of liability seeks to pinpoint and isolate those responsible, apportioning blame between direct wrongdoers and those complicit, who are then blamed, made to feel guilty, and subsequently punished. This idea of responsibility also underpins legal punishment, whether in criminal or civil law. In contrast, political responsibility does not aim to blame individuals for generating wrongdoing. Instead, it acknowledges that all members of a society can contribute to the processes that lead to injustice. They are thus called upon to contemplate their agency in light of this interconnectedness. It does not pursue identifying a culprit but guides individuals toward becoming fully moral subjects.

(ii) *Judging Background Conditions*. In the traditional model, the offender is judged as such without considering the context in which the offense occurred. Only intentional states and the capacity for the agency are taken into account, while societal factors that may have influenced the person’s actions—such as social norms, peer expectations, economic conditions, and life prospects—are overlooked. It merely recognizes a moral norm of behavior and advocates punishing any actions that transgress that norm. Conversely, the social connection model acknowledges the interplay between individual behavior and the surrounding society, aiming to explore the causal role exerted by society itself. Young suggests that:

“a model of responsibility derived from understanding the mediated connection that agents have to structural injustices does not evaluate harm that deviates from the normal and the acceptable; rather, it often brings into question precisely the background conditions that ascriptions of blame or fault assume as normal. When we judge that structural injustice exists, we mean that at least some of the normal and accepted background conditions of

action are not morally acceptable. Most of us contribute to a greater or lesser degree to the production and reproduction of structural injustice precisely because we follow the accepted and expected rules and conventions of the communities and institutions in which we act.” (Young 2006, p. 120).

(iii) *More Forward-Looking than Backward-Looking*. The act of ascribing responsibility, whether in the accountability or social connection models, involves both forward-looking and backward-looking dimensions. Typically, assigning liability, in terms of blame or fault, serves to deter future wrongdoing and, perhaps more significantly, to seek retribution or compensation for past actions. In contrast, political responsibility primarily looks to the future, urging individuals to take the initiative in reforming the social structure, regardless of whether they are blamed. As Young argues (Young 2006, p. 122):

“The temporality of assigning and taking responsibility, then, is more forward-looking than backward-looking. Because the particular causal relationship of the actions of particular individuals or organizations to structural outcomes is often impossible to trace, there is no point in seeking to exact compensation or redress from only and all those who have contributed to the outcome, and in proportion to their contributions. The injustice produced through structures has not reached a terminus, but rather is ongoing. The point is not to blame, punish, or seek redress from those who did it, but rather to enjoin those who participate by their actions in the process of collective action to change it”.

(iv) *Shared Responsibility*. In observing that the social connection model differs from the liability model by not isolating those who are accountable, it follows that all individuals contributing to the structural processes generating injustice share responsibility for such injustice. Larry May distinguishes shared responsibility from collective responsibility in that the former is distributed, while the latter is not (May 1992). Shared responsibility is personal responsibility for outcomes or risks produced by a group. Each individual is partially responsible since they do not solely produce the

outcomes, and the specific role each person plays cannot be isolated, making the responsibility inherently shared.

(v) Discharged Only Through Collective Action. Another distinctive aspect of the social connection model compared to a liability model is that forward-looking responsibility can solely be fulfilled through collective action. This arises from the fundamentally shared nature of responsibility. Thousands or even millions of agents contribute to the processes, producing unjust outcomes within specific institutional contexts. Our forward-looking responsibility involves altering institutions and processes to yield less unjust outcomes. Achieving this goal is beyond the capacity of any single individual, and even, if possible, a single group of consumers, for instance, would not improve working conditions in sweatshops by abstaining from purchasing items produced under unjust conditions. Structural processes can only be transformed if numerous actors in diverse social positions collaborate to intervene and create different outcomes.

At this juncture, it remains to be clarified who bears responsibility as agents for the social processes that perpetuate injustice, sustaining a social structure possessing - in Silver's words - an immoral disposition. This form of responsibility, eschewing the search for culprits, appears rather broad. Within this model, who holds political responsibility? Is this responsibility equally distributed? Young highlights that while all individuals can affect the structure by exercising their political agency, the extent of responsibility to the social structure hinges on four factors: power, interest, privilege, and collective capacity.

According to Young, those with a more significant share of responsibility are individuals wielding more power to effect change, those with a vested interest in the functioning and benefits of the social structure, those possessing privilege over others, and those with a substantial share of transformative agency. Consider again the fast fashion industry. Those who have the power to impact the industry significantly include the management or board of multinational corporations directly exploiting child labor. If, for instance, fast fashion management(s) were to align themselves with efforts to reform the fashion industry structurally, they could make a tangible difference. They hold a significant share of power as they directly control the agency linked to social injustice and ultimate wrongdoing, being the ones violating human rights.

On the other hand, those with an interest in maintaining this industry include shareholders of the involved multinational corporations who reap substantial profits from product sales. Also, middle-class fast fashion consumers could be regarded as privileged stakeholders, as they can purchase large quantities of inexpensive clothes without bearing environmental and social consequences. Notably, the waste generated by these industrial and consumer processes often returns to developing countries, burdening them with the costs without enjoying commensurate benefits beyond meager paychecks.

Consumers themselves constitute a group with significant agency to impact the industry, assuming they collectively exercise this agency. If, for example, all consumers collectively decided to suspend purchases or no longer tolerate human rights violations, they could compel management to reassess its strategy and consequently alter the corporate structure. Actions such as boycotting serve these purposes. Employees, too, possess collective agency; by forming unions, they can unite to compel management to institute structural changes.

4.3 Structural responsibility for corporate wrongdoing

Let us now revisit the issue of responsibility for corporate wrongdoing. We can draw parallels between the corporate structure and the social structure that Young identifies as causally responsible for social injustices. From this standpoint, we can conceptualize the firm as a society comprised of unified members operating under the guidance of a corporate structure, akin to the role played by the social structure in a larger society. As we have already observed, the corporate structure exerts a causal influence on its members, prompting immoral actions or the development of new intentional states that might not emerge in its absence. Wells Fargo's deceptive culture encourages employees to act dishonestly, United Airlines' policies influence a flight attendant to commit wrongdoing, and BP's criminogenic structure sets the stage for environmental disasters. Just as the social structure of a society is causally responsible for murders committed under desperate conditions, and as the structure of the fast fashion industry compels actors to violate human rights, corporate structures can coerce their members into immoral actions, exercising a form of coercive power.

The crucial question at this point is: who bears responsibility for the corporate structure that creates conditions for these types of wrongdoing? Who are the agents capable of exercising structural - or political, following Young - responsibility to redesign processes that generate injustice? As the initial insight suggests, management appears to hold a position of power to wield this responsibility. This is because it controls the corporate structure, possessing a transformative power to instigate change. We can compare management to the designer of an algorithm: just as the designer is responsible for crafting the algorithm to function in a specific way, management is responsible for shaping the corporate structure in a specific manner, understanding that from a particular conformation - i.e., a specific moral disposition of the structure - certain (bad) outcomes will probably be generated.

Although employees do not wield the same power as management in designing and perpetuating the corporate structure, they, too, can play a significant role. In general, employees can contribute to forming and perpetuating a specific corporate culture through their actions (Dempsey 2015; Hess 2018).

Consider, for instance, the phenomenon of whistleblowing. When employees refrain from reporting internal misconduct, they should be held accountable, as they become complicit in unethical actions. However, employees often hesitate to report illegalities or other morally problematic actions within the company due to their awareness of the potential negative consequences associated with whistleblowing. This reluctance stems from a culture that actively discourages whistleblowing through internal social norms, directives from higher-ups, fear of workplace repercussions, threatening emails, or the dread of losing peer esteem. In such circumstances, the corporate structure bears responsibility for discouraging whistleblowing, thus creating conditions for a scandal to spread and escalate in severity. Consequently, we are inclined to partially exonerate employees who refrain from reporting misconduct, attributing blame directly to the corporate culture and, by extension, the company itself. However, the previous analysis raises a crucial question: who is responsible for the corporate culture that discourages whistleblowing? The responsibility lies not only with the management but also with the *same* employees, who possess the ability to shape this culture by contributing to its perpetuation. Employees could form internal alliances to report illegalities, encourage colleagues to blow the whistle, establish safety nets, and prompt

management to develop internal policies and procedures protecting whistleblowers. In essence, members of an organization hold a share of the power to influence the organizational structure, especially when acting collectively, in order to free themselves from the constraining influence exerted by the same structure. In several cases, their agency may prove more significant than that of management.

Consider the scenario of a multinational corporation that recently underwent a change in its top management, directed by the board of directors, while leaving middle management unchanged. In such instances, even if the top management is keen on implementing structural changes to the corporate culture, they may encounter resistance from middle management. Middle management, with more direct control over employees and detailed knowledge of the company, can impede any proposed changes. This situation may lead to a scenario where the commitment of top management to “moralize” the company fails without the support of middle management or other employees. This dynamic is analogous to a large city mayor facing challenges in reforming political management without the support and will of bureaucratic offices.

Structural responsibility, therefore, needs to be extended to all members of the organization, recognizing that their level of responsibility will vary based on their roles or the information they possess. This variation aligns with the parameters highlighted by Young: power, interests, privilege, and collective agency. For instance, low-level employees, despite having limited internal power and no organizational privilege beyond a modest salary, can still organize and leverage their collective agency to compel management to alter the corporate structure. If employees at Wells Fargo had formed alliances and exposed the unethical culture of the company, collectively bearing the economic and psychological costs of such exposure, they might have been able to influence a change in the corporate structure. The argument presented here suggests that organizational members, despite not binding themselves to the corporate intentional states but rather serving as executors of the corporate mind, can still wield influence over the organizational structure.

In light of this understanding of responsibility, we might argue that corporate members bear a dual moral responsibility concerning the actions of the company. They bear (i) moral responsibility in accordance with the traditional concept of accountability, which links their intentions to the eventual outcome. If they contribute to or are complicit

in generating a corporate scandal, it is justifiable to blame them, recognizing their partial culpability for the incident due to their intentional involvement in the wrongdoing. Simultaneously, they also hold (ii) *structural* responsibility. As previously mentioned, they are responsible for creating and perpetuating an organizational structure prone to producing wrongdoing, even though they may not have intended or been aware of the connection between their individual actions, their impact on the corporate mind, and the ultimate result. In this sense, they bear a *twofold* responsibility.

While responsibility as accountability entails blame and punishment, structural responsibility looks to the future, aiming to shed light on the role of members in influencing potential future wrongdoing. Acknowledging this distinct type of responsibility enables us to bridge the moral gap. The indignation we wish to direct toward the corporation aligns with the structural responsibility shared among various agents who directly or indirectly contribute to perpetuating the organizational structure. Essentially, we can replace the blame intended for the corporation with the responsibility held by all individuals playing a causal role in bringing about the wrongdoing, individuals who may alter their actions in light of this connection. For instance, Hess refers to this type of responsibility as ‘collateral’ and emphasizes the need to attribute it to all members of the corporation (Hess 2020). Similarly, Dempsey argues that employees share responsibility for the corporate culture (Dempsey 2015).

Considering all these factors, once structural responsibility is allocated among the company's members, and once they become cognizant of their roles, we would have taken all necessary steps to prevent future wrongdoing. This is because the members of the organization, especially the management, wield *all* the transformative agency that potentially holds the capacity to bring about change. However, this conclusion is challenged by the acknowledgment that even management – the most influential group of employees – is subject to the influence of the corporate mind. In reality, management is at risk of being a mere cog in the corporate machine. Remember, for instance, the example of the new management attempting to implement a sustainability strategy in the multinational corporation but being compelled to engage in greenwashing.

4.4 Extending structural responsibility.

The management cannot govern the business based on what they deem useful, right, or desirable for it. While this may hold true for small businesses, start-ups, or family enterprises, the scenario is different in a multinational corporation. In such entities, management must execute a strategy that aligns with the preferences of agents or groups of agents crucial to the survival and success of the corporation. Despite the manager's authority and freedom *within* the organization, they are still obliged to adhere to direct or indirect demands from agents operating beyond corporate boundaries. For instance, asset management companies can exert influence on the manager to adopt profit-maximizing strategies, catering to the interests of numerous shareholders expecting substantial financial returns. Even if management is personally disinclined to prioritize profit maximization for moral reasons, external pressures could lead to such actions. Management is also tasked with meeting the needs of consumers, employees, suppliers, the State in which the corporation operates, and all stakeholders identified by Freeman (1984, 2007, 2010). For instance, management must consider wage demands and corporate welfare to retain staff and prevent talent attrition to competitors. Additionally, the demands of consumers, including their product preferences, spending capacity, ethical beliefs, and political inclinations, must be factored in. Consider a scenario where a company aims to provide sustainable products but is hindered by the high cost of sustainability, compelling it to compromise its ethical strategy for market survival due to consumers' limited spending capacity. Another example involves a company deciding to remain in the Russian market following Putin's invasion. If consumers boycott its products as a political protest, the company would be forced to exit the market against its will. In this case, the question arises: Who is exiting the market, and who bears responsibility for this exit—management or the consumers?

Management must also consider the demands of its suppliers and the state. If the United States were to instruct its multinationals to exit the Russian market, compliance would be mandatory unless they wished to jeopardize U.S. interests and security. Such non-compliance could lead to direct conflicts with federal agencies like the CFIUS (Committee on Foreign Investment in the United States) and result in future repercussions (Aresu 2020), impacting the corporation's ability to lobby, receive government funding, or engage in cooperative activities with the government.

In light of these considerations, asserting that management has complete control over the corporate mind and strategy would be disingenuous. The manager is required to formulate a strategy that optimizes an aggregate function of the preferences of numerous groups of agents both inside and outside the firm, often in conflict with each other. For instance, Wells Fargo's management may feel compelled to endorse a culture of profit maximization at all costs due to pressure from shareholders. In such a scenario, who bears responsibility for fostering that culture? Shareholders appear to constrain – wittingly or unwittingly – management agency.

The point here is that management's agency is constrained by external factors that limit its freedom to design and perpetuate the corporate structure according to its own intentional states. Then, if management is not entirely free, how can it be held entirely responsible? The argument I aim to present, and one that warrants further research, is that external stakeholders also bear responsibility for a corporate structure, and so for the final outcome. Since we have argued that those responsible for the corporate structure hold structural responsibility for corporate wrongdoing, stakeholders can bear responsibility for all the cases outlined in the first chapter. This is because they wield power over the organizational structure, which can be either direct or indirect.

Direct power is exercised by stakeholders who exert causal influence over the corporate structure directly, without intermediaries between their agency and the structural effects. This group includes management, previous managers, employees, and monitors. Previous management refers to a cohort of managers who have profoundly shaped the organizational structure, often to the extent that new managers find it challenging to alter. They might have initiated projects or implemented policies and procedures that new management is compelled to accept and perpetuate for the enterprise's survival in the marketplace. Therefore, they bear responsibility for that structure even if they are no longer part of the company at the time of the wrongdoing.

Monitors encompass individuals or entities appointed by authorities, such as government agencies or courts, to oversee and ensure compliance with legal agreements, settlements, or non-prosecution agreements (NPAs) between regulatory bodies and corporations or individuals. They are accountable for reshaping the corporate structure to prevent future wrongdoing. Specifically, their role is crucial in ensuring meticulous

adherence to the terms of NPAs and that the involved party takes necessary steps to rectify any past misconduct or wrongdoing.⁴¹

Agents exercising *indirect* power include consumers, suppliers, and the government. Indirect power denotes the capacity to influence the corporate structure through the agency of management. Indeed, these entities can compel management to take actions that, in their absence, would not have been taken or would have been taken differently. Consequently, they possess a share of transformative agency, which they can collectively wield to influence management into desired actions. For this reason, they can be regarded not only as stakeholders - due to their vested interest in the enterprise - but also as ‘powerholders,’ as they can enforce changes in management’s agency to alter the corporate structure and thereby its intentional states, dictating what the business will do. This is why structural responsibility extends beyond corporate members to agents operating outside the corporate boundaries. Consumers, for instance, might shape the corporate mind through boycotts and social activism. They can undertake specific actions to push corporations to change their intentional states, and change behavior.

Considering all of this, let’s take the initial question of this work: who bears moral responsibility for corporate wrongdoing when the traditional model of liability hinders us from assigning blame solely at the individual level? The answer lies in a shared responsibility model where responsibility should be conceptualized in a twofold way: accountability and structural responsibility. While accountability involves only internal members, structural responsibility can be extended to other agents, with the potential for direct or indirect influence on the corporate mind. Some individuals may bear only accountability, others only structural responsibility, and some - such as employees and

⁴¹ Their responsibilities may include:

- Compliance Oversight: Monitors ensure that the party involved adheres to the terms and conditions stipulated in the NPA. This might involve reviewing policies, procedures, and practices within the company or - individual’s operations to ensure they comply with the agreement.
- Reporting: Monitors often provide periodic reports to the authorities or court overseeing the NPA. These reports detail the progress made in meeting the requirements of the agreement and highlight any areas that may need improvement or further attention.
- Recommendations: Based on their observations and assessments, monitors may suggest changes or improvements to the processes and procedures to ensure compliance with the agreement.
- Communication: Monitors act as a liaison between the involved parties and the overseeing authority, ensuring that any issues or concerns are addressed promptly.
- Evaluation: Monitors assess the effectiveness of the compliance measures put in place and determine whether the agreed-upon objectives are being met.

management - may bear both. Redistributing structural responsibility enables us to bridge the moral gap.

Let's consider a final point. At this point, the reader will observe that what we are attributing is not honestly blame, as there was no breach of moral obligation. Each of these agents did not have a moral obligation directed towards the corporate structure, especially considering that (i) one may be unaware of the effects of one's actions on the organizational structure, and (ii) there is no intention to contribute to future wrongdoing. The gap between the actions of individuals concerning the organizational structure and wrongdoing is too extensive to warrant blame, punishment, and guilt. In fact, this is not a case of accountability, as they have not violated any moral obligation. Indeed, as previously mentioned, in all three categories of cases outlined, the wrongdoing is the result of a concatenation of actions not intended to produce the wrongdoing, where the corporate structure plays a definite role. By attributing structural responsibility to individuals, we are not *blaming* them in the traditional sense, but rather reminding them that they can be responsible for what they do in relation to future actions of the company, since their agency is deeply connected to corporate agency. They can change their behavior, knowing that what they do will affect management's decisions and, thus, the possible occurrence of wrongdoings. They are being made aware of their role in a highly socially connected system. This does not diminish the possibility that, in the future, moral obligations could be ascribed to the same individuals in light of this responsibility. Once new moral obligations are established, those who act irresponsibly could be blamed and punished. However, determining when an action should be considered blameworthy or not remains challenging. Is the consumer who continues to buy cheap clothes contributing to an increased likelihood of human rights violations somewhere in the world blameworthy and, consequently, punishable? The answer seems to be negative, but moral progress might entail fostering moral obligations that we never thought would be supported.

Future research should delve into and develop the theoretical points presented here, aiming to construct a systematic and structured theory of extended responsibility for corporate wrongdoing. For instance, the following aspects could be explored:

(i) Who are the agents to whom we should ascribe structural responsibility, and what kind of actions should be considered? Can we blame and punish these agents for their structural responsibility? Is blame without punishment conceivable? Can we blame without anger?

(ii) What is the nature of the power these agents can exert concerning the corporate structure? What tools do they possess to exercise this power? In pursuit of the desired responsibility, should efforts be made to create the conditions conducive to its proper exercise, and what would these conditions entail?

(iii) What kind of corporate structure encourages the occurrence of wrongdoing? How is the relationship between organizational context and individual agency defined? In what ways does the corporate structure influence and restrict individual agency?

(iv) Is it conceivable to envision a company led by artificial intelligence? If so, and if the corporation could be configured as an autonomous agent, would it be morally responsible? Could it be considered blameworthy for its actions if it shows the capacity to react autonomously without relying on other moral agents?

5. Conclusion

In this dissertation, I have endeavored to navigate the intricate web of moral responsibility in the context of corporate wrongdoing, challenging traditional dichotomies that either singularly blame the corporation or focus exclusively on individual actors. My analysis has revealed that understanding corporate wrongdoing necessitates a nuanced approach, recognizing the complex interplay between individual actions and the overarching corporate structures that enable these actions.

I have argued that corporations, as entities, do carry a form of blame for their actions but lack the inherent moral agency traditionally ascribed to individual humans. This led me to propose a model of dual responsibility: one that delineates between the direct involvement of individuals in wrongdoing and their structural responsibility. This structural responsibility pertains to the roles individuals play in creating, sustaining, or failing to challenge the corporate systems that facilitate wrongdoing.

My exploration has not merely been an academic exercise but a quest to bridge the moral responsibility gap that often emerges in the discourse surrounding corporate ethics. By dissecting the layers of responsibility within corporate entities, I aimed to provide a framework that can guide both theoretical understanding and practical policy-making in corporate governance and ethical practice.

The dual responsibility model I propose is not just a theoretical construct but a call to action for rethinking corporate governance and ethical standards. It stresses the importance of acknowledging and addressing the systemic issues that contribute to corporate wrongdoing. This perspective demands a more holistic approach to corporate ethics, one that encompasses the actions of individuals and the structural dimensions of the corporation itself.

In conclusion, my work contributes to a deeper understanding of moral responsibility within the realm of corporate actions, offering a perspective that balances the individual and collective dimensions of wrongdoing. The dual responsibility model elucidates the complex dynamics of corporate ethics and provides a framework for analyzing and addressing corporate misconduct.

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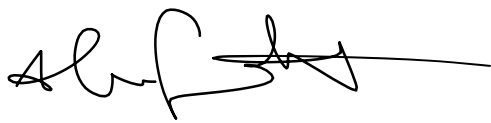
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A handwritten signature in black ink, appearing to be 'M. J. Zimmerman', with a long horizontal line extending to the right.