

**CORPORATIONS AND JUSTICE:
A THEORY OF CORPORATE JUSTICE RESPONSIBILITY**

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Thesis submitted in partial fulfilment of the requirements for the degree of
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RESPONSIBILITY

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ABSTRACT

Political theorists have developed theories of responsibility for injustice, but rarely identify the corporation as a responsibility-bearer. Management scholars, on the other hand, widely acknowledge that corporations bear extra-commercial responsibilities but rarely include responsibility for justice, casting corporate social responsibility as discretionary duties of benevolence, mostly in service of corporate interests. These two literatures expose a gap in corporations' responsibility for injustice.

This thesis addresses this responsibility gap by bringing these two literatures into conversation. It argues that the responsibility gap derives in part from the gap, found in both literatures, in the conception of corporate injustice, which in turn derives from a misconception of corporate behaviour.

The thesis argues that corporations are mistakenly conceived as atomistic actors when, in reality, they operate in networks consisting of complex webs of corporate interactions. Upon setting right this misconception, the thesis identifies an overlooked mode of injustice, that of *networked injustice* that corporations routinely commit by their participation in corporate networks. With this conception of networked injustice, the thesis develops a non-discretionary account of corporate responsibility for injustice, termed *corporate justice responsibility*.

The thesis contributes to political theory by bringing the corporation firmly into the set of responsibility-bearers for injustice while also identifying networks as mediators of injustice. While networked injustice is developed in the context of corporate behaviour, the concept is applicable to any agents engaged in networked action. The thesis contributes to management and political theory by presenting corporations as fundamentally networked actors, and developing an account of non-discretionary, extra-commercial responsibility borne by corporations, grounded in their contributions to networked injustice.

By these theoretical contributions, the thesis, and the theory of corporate justice responsibility, contribute to closing the gap in accounting for corporations' justice responsibilities.

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INTRODUCTION

That our societies are awash with injustices is perhaps one of the least controversial claims political theorists can make. More controversial are claims about which agents ought to act to make the world more just, and what such action entails. As Barry writes, most observers assert that *some actor* is morally required to perform the actions, provide the resources and bring about changes in policies and social arrangements necessary to address the injustices, but few feel particularly *responsible* to work towards their enactment.¹ Until we are able to identify specific responsibility-bearers this situation is unlikely to change.

While considerable progress has been made in recent decades to theorise principles of justice, specifying what entitlements are owed and to whom, theorists have remained largely silent on the identity of the responsibility-bearers of justice, in other words, which actors bear the responsibility to implement the principles developed.² This thesis contributes to closing this gap by addressing the issue of identifying actors who ought to act to bring about justice, and what actions are required of them.

One explanation for the lack of attention to responsibility-bearers is the assumption that the state is the sole agent to secure justice. The state is deemed to uniquely possess the attributes required to implement principles of justice such as the use of coercive force and the ability to coordinate vast arrays of actions. But this position has not gone unchallenged, with theorists such as Cohen and O'Neill, for example, arguing respectively that individuals and non-state organisations too can bear responsibility for justice.³

¹ (Barry C. , 2003, p. 218)

² (Caney, 2013, p. 133)

³ (Cohen, 1997), (O'Neill, 2001)

One such non-state actor is the commercial corporation which forms the focus of this thesis. We are drawn to corporate scandals which are usually shocking cases of corporations acting wrongfully, but I suggest that more worrying than these scandals are the routine, yet largely overlooked, ways in which corporations commit injustice.

While we may agree with influential economists Jensen & Meckling who claim that the corporation is an “awesome social invention”⁴ for its transformative economic role over the last century, we know corporations also have devastating impacts in other realms of society and are often involved in vast injustices such as the exploitation of workers, perpetuating gender-based discrimination or enabling suffering associated with poverty and other forms of deprivation.

Sepinwall reminds us of three reasons to be especially concerned about the moral agential status of corporations.⁵ First, corporations enjoy tremendous power, and they are neither representative, as the state is, nor typically orientated toward providing for the public good. Second, legal doctrine has well-established methods for holding states accountable for their wrongs. By contrast, the notion that corporations may be sanctioned for their wrongs continues to generate opposition, largely on the grounds that corporations are not moral agents in their own right, and so cannot be said to deserve punishment. The ascendancy of this view would entail that corporations, unlike states, could commit wrongs with impunity. Finally, the outcome of the debate about corporate moral agency has implications for our thinking about corporate moral and constitutional rights, the recognition of which is already contentious. All three of Sepinwall’s concerns, corporate power and purpose, corporate accountability and corporate moral agency are addressed explicitly in what follows.

⁴ (Jensen & Meckling, 1976, p. 357)

⁵ (Sepinwall, 2016, p. 4)

Corporate responsibility for justice is severely under-theorised. Only in recent years have political theorists begun to consider the roles played by corporations in prevalent injustices such as exploitation, discrimination and deprivation of basic needs that plague the world. Highlighting this neglect, in one of the earliest studies on corporations and ethics, Donaldson writes that “professional philosophers ... are not expected to write about corporations,” although he does state that “the neglect is fading.”⁶ This is most likely because until recent decades, commercial corporations were not as significant social actors as they are today, leaving theorists to focus on individuals and the state as the main responsibility-bearers for justice. Where attempts to assign responsibility for justice to the corporation exist, they are mainly focused on positive duties, casting the corporation as a political actor or even quasi-government, given its resources, power and publicness,⁷ rarely on the contributing role corporations play in bringing about injustice. My view is that among the reasons corporations are not held to account for the injustices they cause and perpetuate is that theories of responsibility for justice overlook them or are incapable of picking out corporations for their egregious injustices. This leaves a responsibility gap which this thesis intends to contribute to closing.

Management scholars widely acknowledge that corporations bear extra-commercial responsibilities but rarely include responsibility for *justice*, casting corporate social responsibility as discretionary duties of benevolence, mostly in service of corporate interests. The political theory and management literatures expose a gap in corporations’ responsibility for injustice.

⁶ (Donaldson, 1982, p. vii)

⁷ (Wettstein, 2009), (Karp, 2015)

This thesis addresses this responsibility gap by bringing these two literatures into conversation with each other. It argues that the responsibility gap derives in part from the gap, found in both literatures, in the conception of corporate injustice, which in turn derives from a misconception of corporate behaviour. The thesis argues that corporations are mistakenly conceived as atomistic actors when, in reality, they operate in networks consisting of complex webs of corporate interactions. Upon setting right this misconception, the thesis identifies an overlooked mode of injustice, that of *networked injustice* that corporations routinely commit by their participation in corporate networks. With this conception of networked injustice, the thesis develops a non-discretionary account of corporate responsibility for injustice, termed *corporate justice responsibility*.

The thesis contributes to political theory by bringing the corporation firmly into the set of responsibility-bearers for injustice while also identifying networks as mediators of injustice. While networked injustice is developed in the context of corporate behaviour, the concept is applicable to any agents engaged in networked action. The thesis contributes to management and political theory by presenting corporations as fundamentally networked actors, and developing an account of non-discretionary, extra-commercial responsibility borne by corporations, grounded in their contributions to networked injustice.

The theory of corporate justice responsibility posits that commercial corporations bear moral responsibility to rectify injustices that stem from their interactions with individuals. In contrast to corporate *social* responsibility, corporate *justice* responsibility is a demanding responsibility that ought to attract moral sanction if not discharged.

Since the corporate injustices of concern here – deprivation, exploitation and discrimination – are socio-structural in nature, a promising approach to addressing corporate injustices is

presented by theorists of *structural injustice*, notably Iris Marion Young. Young, regarded as the pre-eminent theorist of structural injustice, made a substantial contribution to our understanding of injustice and the allocation of responsibility for injustice through her social connection model of responsibility.⁸ This work has been extended recently by Isaacs in focusing on *structured* injustices perpetrated by goal-orientated collectives.

However, the gap in assigning responsibility to corporations, mentioned above, remains and is particularly glaring in Young's work. Her theory identifies corporations as bearers of social connection responsibility, but my assessment is that it inadequately accounts for the mode by which corporate injustices are committed and lets them off too lightly. The thesis seeks to augment Young's and Isaacs's accounts to address this gap.

My account of corporate injustice centres on the fact that corporations do not operate in isolation (the atomistic view), instead fundamentally conducting their business in a range of collaborative and cooperative interactions with other corporations, essentially forming a unique social arrangement, the *corporate network*. Corporate networks are unique among aggregates such as groups or collectives since corporations act together but each in pursuit of their own individual corporate goals. A further uniqueness is that while they coordinate their activities in corporate networks, they simultaneously compete.

These networks offer significant economic benefits to network participants, but as I will show, are also the site of corporate injustices, what I term networked injustice. By their interactions, corporate behaviours become harmonised, serving their business interests but also facilitating and enabling the perpetration of networked injustices when corporations interact with individuals outside their networks. Since corporations necessarily participate in networks with each other to further their objectives, networked injustice is inevitable.

⁸ (Goodin & Barry, 2021, p. 340), (Sangiovanni, 2018, p. 462)

The study of corporate networks is not unique to this thesis although identifying networks as the root of injustice might be. Economists and management theorists typically focus on markets and organisations as the two relevant forms of social arrangement but do not acknowledge the role networks play as “a form of coordinating economic activity”⁹ Legal theorists too typically see economic activity being performed in markets and by organisations, but have turned their attention to networks given their prevalence in business and the fact that “the network can neither be subsumed under the category of market, nor under the organisation category.”¹⁰ Scholars in these fields recognise the prevalence of corporate networks and the need to pay close attention to them. Political theorists have catching up to do.

The thesis operates from the premise that the corporation does not set out to commit injustice. What arises by networked action is that harms arise as unintended consequences of economic activity or as means in pursuit of financial ends. However, the harms are foreseen by corporations and they both contribute to the unjust outcomes by their actions and are complicit with their fellow corporate network participants in committing networked injustice.

Both Young’s social connection model of responsibility and the standard liability models of responsibility are unable to fully account for this unique mode of injustice, which possesses elements that are both structural and non-structural. I show that the complexity of networks precludes the straightforward application of existing theory, thus necessitating a new theory to assign responsibility for networked injustice.

⁹ (Powell, 1989, p. 301)

¹⁰ (Amstutz & Teubner, 2009, p. vii)

The theory of corporate justice responsibility posits that corporations commit injustice by their interactions with individuals and their participation in corporate networks, for which they bear remedial responsibility. This responsibility is grounded in corporations' contributions to unjust outcomes and their complicity in the injustices committed by peer network participants. Even though these injustices arise by the aggregate formations of networks, I argue that corporate justice responsibility is borne by individual corporations, that it is not a collective responsibility.

Discharging corporate justice responsibility requires that corporations' actions be guided by a framework to remedy, avoid and prevent networked injustice. This comes at a financial cost. Any argument that corporations bear extra-commercial responsibility (for justice in this case) faces the challenge of justifying resource diversion from profit-generating activities to the pursuit of justice. I argue that corporations can only sustainably meet their justice responsibilities by revising their fundamental organisational logic which requires a change to their behaviour, which is best ensured when corporations are governed by the *just-profit principle*, a principle that seeks to maximise profit only after fulfilling the requirements of corporate justice responsibility. The corporate objective is thus revised to pursue just-profit rather than pure financial profit.

Like most political philosophers, Young follows an intuitively sensible three-step approach to developing her theory of social connection responsibility for justice. She starts by identifying and analysing the injustice of concern, followed by theorising a principle for allocating prospective remedial responsibility for this injustice, and finally offering guidance on the remedial action required to discharge this responsibility. Another well-known example is that of Peter Singer's account of child drowning in a pond, where the harm is

identified first – the life of the child at risk, followed by theorising a principle for allocating remedial responsibility to save the child, such as the duty of rescue, and finally offering guidance on remedial action such as swimming into the pond to save the child from drowning.¹¹ I will follow the same approach here.

The thesis is structured in seven chapters as follows:

In Chapter 1 I present the argument that existing theories of corporate responsibility are inadequate to assign justice responsibility to the corporation. The chapter starts with a close look at the corporation to reveal the power and influence it wields in society followed by analyses of theories of corporation social responsibility and the ‘secondary agents of justice’ literature. This analysis yields a gap in the accounts of responsibility for justice borne by corporations.

Chapter 2 focuses on the concept of injustice and concludes that we have a gap in the account of corporate injustice. The chapter introduces the work of Young and Isaacs on structural injustice and goal-orientated collective injustice respectively, which serves as an important conceptual launchpad for the development of the idea of networked injustice. These two modes of injustice, both entailing collective action, are presented alongside what I term standard injustice. Ultimately, on their own, none of these formulations of injustice will prove suitable to account for corporate injustice, leading to the development of networked injustice in Chapter 3.

In Chapter 3 I present an analysis of the dynamics of corporate networks and the networked action that occurs between network participants. I argue that by repeated interactions in networks, corporate behaviours become harmonised by adherence to norms and by imitation, which serves the interest of those in the network but also serve as the root for the

¹¹ (Singer P. , 1972)

emergence of networked injustice. I argue that networked injustice derives from a causal sequence of corporate actions which contribute to facilitating and enabling wrongful harms when corporations interact with persons outside the network. These interactions cause victims to be forced into harmful positions or to accept harmful offers.

Before proceeding to develop the argument for justice responsibility borne by corporations for networked injustice, in Chapter 4 I anticipate the objection that corporations lack moral agency making it inappropriate to assign to them justice responsibility. Here I argue that in virtue of it qualifying as a group, performing intentional group action and the capacity for moral judgements, the corporation is a moral agent. I rely on the work of Pettit & List, French, Isaacs and others to argue that the intentional structures by which corporations function grounds their moral agency and renders them fit to be assigned justice responsibility.

Chapter 5 starts with the development of the notion of justice responsibility as a prospective moral responsibility. As a lead in to developing the account of justice responsibility for networked injustice, I again turn to Young and Isaacs to investigate their models of responsibility, again contrasting it with the liability model of responsibility for standard injustice. This analysis concludes that existing accounts of responsibility for injustice are inadequate to assign responsibility for networked injustice but proves productive in identifying important elements to be included in the account developed in Chapter 6.

In Chapter 6 I bring together the analysis of the previous chapters to present an account of *corporate justice responsibility (CJR)* as the justice responsibility borne by the corporation to rectify networked injustice which is rooted in corporate networks and networked action. This responsibility is grounded in corporations' complicity with injustices committed by fellow network participants and direct contributions to networked injustice. Because all

network participants participate in the production of the injustice, we hold all network participants responsible for the injustice that arises. However, corporate justice responsibility is not a collective responsibility but a shared responsibility with each participating corporation bearing responsibility to act and allocate resources to rectify the injustice. In virtue of this participation in networked injustice we assign to every corporate network participant the responsibility to rectify networked injustice.

Finally, in Chapter 7 I offer principles for discharging CJR and address the thorny issues of the priority of justice responsibility over shareholder interests and corporate purpose. I introduce the idea of corporate justice debt to capture the cost of the obligations that derive from CJR before developing the just-profit principle which I argue ought to serve as the governing objective for corporations.

We rightly worry about corporate power because today corporations have significant influence over governments, societies, the natural environment and individuals like we've never seen in human history. However, when we worry about corporations individually, we overlook the exponentially greater power, influence and impact they have when acting in concert with other corporations in corporate networks. Persons, especially vulnerable persons, find themselves not merely interacting with a powerful corporation when engaging in employment or trading in products and services, but with the far-reaching influence of these corporate networks, whose resources often dwarf that of states.

What I will argue in the chapters that follow is that the need to look to the corporation as a bearer of responsibility for justice is not only due to the prominent and powerful role it plays in society but because the corporation itself is a major contributor to the injustices we

observe in the world. I will argue that corporations commit injustices routinely as part of their ordinary operations, and for this they ought to be held responsible.

The corporation is a valuable part of society but also sometimes a danger to it. It is a mistake to merely cast the corporation among other agents in theorising responsibility for justice – this unique agent requires our focused attention. Management, economic and legal scholars have begun to turn their attention to this topic but have not given an adequate account of corporate responsibilities for injustice. Political theory needs to play a leading role in this focus on the injustices of corporations and their justice responsibilities. This thesis makes a contribution to this effort.

Chapter 1: CORPORATIONS AND RESPONSIBILITY FOR INJUSTICE

1.1. Introduction

The idea that a corporation bears any responsibility beyond commercial interests might raise objections in some quarters. Corporations are deemed to bear responsibilities only to investors to generate financial returns by providing goods and services to the market, often described as ‘shareholder primacy.’¹ A recent article in the *Journal of Business Ethics* states that “maximisation of financial value for shareholders [as] the ultimate goal of the business corporation, [is] still widely accepted ...” before acknowledging that this view is being challenged.² Traditionally, many economists, management theorists, corporate executives, corporate lawyers, among many others, have argued that corporations should guard against what is deemed “a broader effort to reorient corporate decision-making away from economic value maximisation in favour of broader societal objectives”³ and that corporations should remain focused on their economic mission rather than be distracted by engaging with social ills, these being best addressed by others in society.⁴

However, this traditional view of the corporation has begun to be challenged and revised. Scholars, policymakers and practitioners universally accept that corporations bear *some* obligation to society, that is, some obligation to take an active interest in matters beyond the generation of profit, and that they ought to allocate resources to extra-commercial initiatives that advance social causes.⁵ We see evidence of this growing acceptance in the development

¹ (Sternberg, 2010), (Friedman, 1970), (Mansell, 2013), (Marcoux, 2003)

² (Mansell, 2013, p. 583)

³ (Fisch & Solomon, 2021, p. 1310)

⁴ (Friedman, 1970)

⁵ (Buchholz & Rosenthal, 1999), (Melé, 2009), (Wang, Tong, Takeuchi, & George, 2016), (Orts & Smith, 2017)

of theories of *corporate social responsibility* (CSR) and an extensive associated literature that has developed in recent decades. Today, most corporations would acknowledge that they bear some duty, or expectation, to look and act beyond their commercial interests.⁶

What this chapter will show is that despite this broad acceptance of a social ‘responsibility’ borne by the corporation, the prevailing literature and theories fall well short of addressing the prevalent *injustices* we face in the non-ideal world. This, I believe, is because political theorists have largely overlooked the corporation as a bearer of responsibility for justice, leaving corporate responsibility for justice significantly under-theorised.⁷ That the proliferation and influence of corporations are late twentieth-century phenomena might explain why the corporation has not drawn much attention from political theorists who typically focus on the state and individuals as bearers of responsibility to secure justice. This theoretical gap has become a focus of business ethics scholars, however they have largely conceived of corporate responsibility as a charitable duty of benevolence, and steered clear of issues of justice.⁸ Only in recent years has the topic of justice entered this literature and similarly, only recently has the corporation been considered in the justice literature, and then only sparsely.

Under the umbrella of CSR theory, theorists look to corporations for assistance to remedy injustices because they possess resources that could be deployed.⁹ But these theorists often overlook the important fact that corporations are *significant contributors* to bringing about injustice. My claim is that rather than appealing to charitable goodwill on the part of

⁶ <https://www.bain.com/insights/making-business-do-better-for-everyone/>

⁷ (Singer A. A., 2019, p. 1)

⁸ (Wettstein, 2009)

⁹ (Wang, Choi, & Li, 2008)

corporations, society should be demanding rectificatory action from corporations as a matter of justice.

I support the view that corporations bear commercial as well as extra-commercial duties but challenge the view that these duties are limited to charitable, voluntary acts discharged by discretionary allocations of resources. Furthermore, I challenge the widely held view in the management literature that extra-commercial responsibilities can be justified solely on instrumental grounds that they promote business objectives.¹⁰

In this chapter, and throughout the thesis, I argue that it is a gross error to overlook the corporation in theorising responsibility for justice, that is, in picking out bearers of responsibility to make society less unjust. The power and influence that corporations have over the lives of members of society warrants consideration of them as agents of justice. What I will argue in the chapters that follow is that the need to look to the corporation as a bearer of responsibility for justice is not only due to the prominent and powerful role it plays in society but because the corporation itself is a major contributor to the injustices we observe in the world. I will argue that corporations commit injustices routinely as part of their ordinary operations, what I term networked injustice, and for this they ought to be held responsible.

I will argue in this chapter that corporate social responsibility theories are inadequate in assigning justice responsibility to the corporation. While some ethics-based theories of corporate social responsibility have arisen in recent years, as well as a literature among a few political theorists that assign some responsibility for justice to the corporation, I argue that even these are insufficient, necessitating the need for new theoretical treatment of corporate

¹⁰ (Moir, 2001), (Frederiksen & Nielsen, 2013)

injustice. I develop the theory of corporate justice responsibility not as the definitive solution, but as a contribution to filling the gap that currently exists.

The chapter proceeds as follows: I start with a close look at the corporation to reveal the power and influence it wields in society. This analysis of the corporation is followed by an overview of theories of corporation social responsibility to reveal their instrumental nature and their paucity in dealing with injustice. A study of the ‘secondary agents of justice’ literature follows which offers some promise, but ultimately falls short in important areas.

1.2. The corporation and corporate injustice

In general, corporations are considered candidates for bearing responsibilities to advance justice because they possess significant financial and other resources that can contribute to addressing the injustices in the world.¹¹ For example, the combined revenue of the world’s ten largest corporations, a list that includes Walmart, Shell and Apple, is larger than the combined GDP of the world’s 180 smallest *countries* by GDP, a list that includes Ireland, Indonesia, Israel, Colombia, Greece, South Africa, Iraq and Vietnam.¹² With a combined total of \$12 trillion in revenues in 2016, Fortune 500 companies represent more than four times the GDP of the UK.¹³

Regardless of their objectives, corporations are also capable of contributing to the exacerbation or alleviation of injustices.¹⁴ The significant list of injustices to which corporations have contributed to through time extends from human rights violations in clothing factories and

¹¹ (Karp, 2015, pp. 100-103)

¹² (Global Justice Now, 2016)

¹³ Office for National Statistics, Fortune

¹⁴ (O’Neill, 2001)

diamond mines, defrauding banking and investment clients, supporting oppressive regimes, to environmental catastrophes. These are often not due to miscalculations or bad luck, but intentional acts or acts with foreseeable harms.

Considering intentionality and regularity of unjust action helps us distinguish three broad approaches to the topic of corporations and injustice. The first approach assumes that corporations routinely perpetrate injustice with intent. This approach, popular among anti-corporation activists and anti-capitalist theorists, which holds that corporate activity is awash with injustice and that corporate action, and success, is predicated on unjust behaviour, and that business is fundamentally an unjust or anti-social endeavour. A second approach asserts that corporations commit injustice but only sporadically, whether with or without intent. By this view, corporate activity is taken to be morally neutral or morally good, but that sometimes corporations err, committing intentional unjust acts. This is a popular view among management and business ethics theorists. Most of these theorists remain silent on corporate involvement in injustice, as I will discuss below. A third approach, like the first, asserts that corporations perpetrate injustice routinely but do so unintentionally. By ‘unintentional’ I do not mean that corporations commit injustices accidentally but that they commit injustices by the ordinary operations that are foundational to the functioning of their organisations.

I will not consider the first approach since I will take as given that we are considering capitalist economies and societies. This thesis will focus on the third approach, accounting for the routine injustices that arise from ordinary corporate activity. While corporations do commit intentional injustices sporadically (second approach), my contention is that these harms are dwarfed in frequency and impact by routine, though less obvious, injustices committed unintentionally, though with foresight, in the ordinary practice of doing business through corporate networks (as discussed in Chapter 2).

In this thesis I will argue that corporations are candidates for justice responsibility on the grounds that they *contribute* to, and are often *complicit* in, the creation and perpetuation of injustices. It argues that routine corporate injustice comes into view when corporations are understood to conduct their business in corporate networks rather as isolated atomistic actors.

As important background to this claim, I will here offer an account of the corporation to avoid any doubt about the nature of the agent we are addressing, the main point being that the corporation is a powerful, resourceful, influential agent that is a valuable part of society, but can also be a danger to members of society. It is therefore a mistake to merely cast the corporation benignly among other agents in theorising responsibility for justice. This unique agent requires our focused attention to fully understand the scope of its justice responsibilities.

The commercial, for-profit corporation of interest to us, also referred to as a firm, company, enterprise or business, could be unlisted (private) or listed (public) on a stock exchange such as the London Stock Exchange or New York Stock Exchange.¹⁵ Most corporations are multinational or transnational with operating locations around the world – well known examples are Microsoft, Tesco, Nike, HSBC, Samsung and BP. Rather than an organisation like a university or a public entity like the British Broadcasting Corporation (BBC), we are dealing with the commercial, for-profit corporation which is the prime institution involved in economic development and growth.^{16,17}

¹⁵ A listed company is one which has raised capital by selling shares to the public; these shares are then traded on a stock exchange.

¹⁶ (Teece, 2019, p. 1)

¹⁷ I am excluding public corporations because I want to shed light on the nature of injustice that arises when corporations pursue their own private profit-focused interests. While certain public corporations might too be driven by a financial target, their governance and objectives have strong public-focused elements. I am not

As we know it today, the corporation is a social construction of recent development, since the mid-nineteen century, that has evolved as capitalism, markets, economies and societies have evolved, with the large multinational corporation only arising in the last thirty to forty years.¹⁸ Its recent origin as a significant social institution and agent partly explains why political theorists have historically paid little attention to it as a bearer of responsibility for justice.

In its current form, the corporation is an economic and legal entity¹⁹ in which people cooperate to offer products or services to customers to meet the objective of maximising profits (financial surplus) or the value of the firm.^{20,21} All activities, whether related to investments, operations or financing the corporation, are geared towards the primary goal of generating profit, and thus, within certain limits, particularly legal limits, the corporation is likely to endorse any action or practice that generates profit.

Profit generated by the corporation's economic activities are either returned to those investors (shareholders) who take the risk of investing in what corporations do,²² or reinvested in the business to produce future profits. This economic activity includes satisfying customer demand, consuming products from other entities, facilitating market transactions, providing employment, paying taxes, investing and offering investment opportunities to others. Society ordinarily values this economic role so is willing to encourage the operation of corporations.

Some theorists would consider the purpose of the corporation being described as only to generate profit, as being too simplistic, a position I adopt as well. Rather than a narrow focus on shareholder interests, Hsieh proposes corporate purpose as 'allowing members of society to

suggesting that public corporations don't commit injustice or that they bear no justice responsibility, only that their behaviour is already tempered by a partial or full public-serving mandate so would not reveal much in terms of the tension between pure private economic interest and social justice.

¹⁸ (Boyce & Ville, 2002)

¹⁹ (Chandler, 1992, p. 483)

²⁰ (Chandler, 1992, p. 488)

²¹ In Chapter 7, I will revisit the corporate objective in the context of considerations for compliance with the demands of corporate justice responsibility.

²² (Wolfe, 1993, p. 1692)

meet their wants and needs by coordinating labour and capital in the production of goods and services.’²³ O’Neill argues that corporations are ‘economically and socially complex institutions ... their constitutive aims are typically diverse and multiple’ and are ‘evidently capable of throwing their considerable weight in the direction either of greater justice, or of the status quo, or of greater injustice.’²⁴ That corporate action ‘can be judged for its contribution to justice – *or to injustice*,’²⁵ sits at the heart of my theory.

At its core, the corporation plays a vital social role in making goods and services available to members of society. Additionally, the corporation contributes positively to society by paying taxes which contributes to funding the state and offers employment that sustains livelihoods. It contributes to economic activity by forming the underlying asset in the equities markets, specifically those corporations whose shares are traded on stock exchanges (in addition to their role in the bond markets). It introduces intellectual property, new technologies and other social goods to society that advances the quality of life.

Corporations are ubiquitous, having thoroughly permeated modern societies and our contemporary civilisation, impacting the lives of all but a few, and control monetary power far greater than the world’s governments.²⁶ In most societies, many people judge their achievements and personal worth by their positions in a corporation, and the social stature of the corporation of their employment.

Most studies of the corporation, in its social and political context, focus on the influence of this context on the corporation, often overlooking the profound impact on its social and political environment the corporation can, and does, have.²⁷ While the corporation has been a force for

²³ (Hsieh N.-h. , 2013, p. 1) Note: I was unable to locate the published article but did manage to obtain a copy of the article directly from the author; I therefore cannot verify page numbers.

²⁴ (O’Neill, 2001, pp. 192-193)

²⁵ (O’Neill, 2001, p. 193)

²⁶ (Avner, 1970, p. 241), (French, 1984, p. ix)

²⁷ (Barley, 2007, p. 214)

good, it also causes or exacerbates social ills. As Wolfe notes: “they take actions that affect every aspect of people's lives, including people who have no formal contractual relationship with them.”²⁸ Through its market activity the corporation influences mindsets, tastes, attitudes and behaviours, and through its operating practices is often guilty of racism, sexism, agism, exploitation, or contributing to oppression.

Beyond their economic and social roles, corporations engage in activities that have traditionally been regarded as “governmental activities” by which it contributes to public goods such as public health, education, social security, and protection of human rights.²⁹ The scope of corporate activity widens particularly in countries with weak governance institutions, where corporations get involved in defining ethics codes and engaging in regulation.³⁰ An example is Walmart, who by imposing stringent labour requirements on its suppliers, often more demanding than the conditions in foreign countries, promotes to a system of regulation that contributes to “common law beyond the state,” casting the corporation as a “global legislator” of sorts.³¹ Private security companies that provide public safety or who are engaged by governments to perform activities traditionally performed by the military provide another example of the blurring of lines between business and the state. Weak institutions invite corporate crime and corruption that disturbingly manifests in corporations unduly influencing the state, such as the example of ‘state capture’ in South Africa where numerous global corporations were central to efforts to undermine the country’s democratic institutions to further corrupt goals.³²

Corporations have sophisticated systems and processes for gathering, analysing and reporting external and internal information to inform decisions. Market intelligence is gathered

²⁸ (Wolfe, 1993, p. 1692)

²⁹ (Scherer & Palazzo, 2011, p. 899)

³⁰ (Scherer & Palazzo, 2011, p. 899)

³¹ (Backer, 2007)

³² (Buthelezi & Vale, 2023), (Callaghan, Foley, & Swilling, 2021), (Williams, 2021)

externally continually through customer feedback and market research, and internal information is gathered and shared through technology-based management information systems and regular meetings. The types of information varies greatly including financial, statistical, operational, product-related, competitor, regulatory, and so on, the precise nature of which will depend on the type of business. This attribute of the corporation becomes particularly relevant when I argue for corporate moral agency in Chapter 4.

The corporation's activities are not benign since corporate activity can result in criminality and cause social harm. As Galbraith notes: "General Motors exists to serve the public. But General Motors also serves itself as well or instead."³³ As robust as the internal functions are, the private-public nature of the corporation allows it to 'shape shift,' which is very helpful for claiming some rights and disavowing certain responsibilities.³⁴

As mentioned, the corporation has become a dominant social institution, with the largest ones eclipsing most national governments in revenues, employment, logistical capabilities, and global presence.³⁵ Scholars argue that in a globalised world, the capacity of the state to regulate economic behaviour and to set the restrictions for market exchange is in decline, creating the space for corporations to fill this gap.³⁶ The influence over the state in policy, regulation and the delivery of services mostly derives from the concentration of economic and legal power wielded by corporations that often reduces the state to the position of a second-rate market agent.³⁷ These factors have led the corporation to become one of the major institutions in the global political economy, if not *the* major institution.³⁸ Corporations now wield inordinate political power³⁹ which has led scholars to characterise the corporation as a quasi-

³³ (Galbraith, 1974, p. 4)

³⁴ (Veldman & Parker, 2012, p. 413)

³⁵ (Ciepley, 2013, p. 139)

³⁶ (Scherer & Palazzo, 2011, p. 909)

³⁷ (Veldman, 2013, p. S27)

³⁸ (Wettstein, 2009, p. 13)

³⁹ (Barley, 2007, p. 201), (Ciepley, 2013, p. 139)

government.⁴⁰ This strongly political view of the corporations has been growing steadily, serving as grounds for assigning justice responsibilities to the corporation. I do not rely on this political view of the corporation, focusing instead on the responsibilities for justice that derive from corporations' contributions to injustice.

In recent years there has been growing acknowledgement of the extra-commercial responsibilities that corporations bear resulting in greater focus on rethinking corporate purpose and engaging in social good. However, the narrow focus on financial gain often blinds corporations to their social and environmental impacts, evidenced by some of the major corporate scandals in recent years such as the Enron fraud or the Volkswagen emissions scandal, or major disasters such as the BP oil spill in the Gulf of Mexico or the Union Carbide Bhopal gas disaster in India.⁴¹ There are ample examples of corporations collaborating with suppressive regimes (for example, IBM and the South African government during apartheid) or Enron allowing the Indian police to use its corporate helicopters to survey protesters, some of whom were violently suppressed.⁴² These injustices attract wide attention because of their visibility and scale, and are rightly condemned.

The fact that corporations can act with speed and focus to marshal enormous banks of resources, often with military-style precision, makes it an important force for good but it can also be a powerful, and often unaccountable, force for harm. This lack of accountability is often enshrined in law and cloaked under the role permissions granted to it as members of the 'private' sector, thus free from public scrutiny.

Corporations often invoke the language of war – strategies are developed in a 'war room', they're engaged in a 'war for talent', and so on, even though, as I will discuss in Chapter 3,

⁴⁰ (Wettstein, 2009), (Ciepley, 2013), (Wolfe, 1993)

⁴¹ (A Chronology of Enron's Woes, 2002), (Boston, 2017), (Gilbert, 2014), (Lahiri, 2010)

⁴² (Wettstein, 2009, p. 297)

there is a strong element of collaboration and cooperation built into everyday corporate behaviour that is essential to its operation. Corporations are subject to market, industry and legal norms and rules which create further constraints, although, whether by formal or informal means, corporations are able to influence and shape these rules. When the pursuit of profit is paramount, ethical or pro-social behaviour is often considered an unnecessary constraint or tax.⁴³

This brief overview has highlighted the fact that the corporation's activities are not restricted to benignly producing goods and services but that it instrumentally, in service of its economic objectives, also influences society in ways that are relevant to considerations of justice. The overview also illustrates the character, power and potential of the corporation to influence and impact society beyond its usual economic functions. This makes the corporation an important actor in our theorising justice and specifically for this thesis, as a candidate to bear justice responsibility.

1.3. The corporation as bearer of social responsibility

The concept and theories of corporate social responsibility (CSR) seek to capture the idea that a corporation has responsibilities to society that go beyond the production of goods and services.⁴⁴ On the face of it, CSR theories seek to address social needs by encouraging corporations to take extra-commercial actions that benefit society.⁴⁵ CSR begins with the notion of “businesses bearing a responsibility to society ... beyond its shareholders,”⁴⁶ a

⁴³ (Friedman, 1970)

⁴⁴ (Buchholz & Rosenthal, 1999, p. 303)

⁴⁵ (Melé, 2009, p. 50)

⁴⁶ (Wang, Tong, Takeuchi, & George, 2016, p. 534)

responsibility which involves “conferring benefits to parties that are unlikely to receive them otherwise through the course of normal commercial activity.”⁴⁷ CSR acknowledges the social role played by ordinary commercial activity hence the emphasis on extra-commercial actions, that is, socially beneficial actions outside the corporation’s ordinary commercial activity. This could entail a myriad of activities such as supporting schools in under-resourced communities to making financial contributions to cultural organisations to supporting civil society organisations working to advance human rights.

On my view, the term ‘responsibility’ in ‘corporate social responsibility’ is not necessarily a moral responsibility (as discussed below). While the meaning of responsibility is “susceptible [to] different interpretations,” as H.L.A. Hart writes⁴⁸, and thus hard to pin down, I present my use of the term in Chapter 5 where I compare different interpretations of responsibility and present my account of *justice responsibility* that I will later assign to the corporation.

As is common in many areas of the social sciences, there is no consensus on the precise definition of CSR.⁴⁹ Wettstein writes that trying to find a binding definition is a “hopeless endeavour” and that “there is not even agreement on the correct use of the terms themselves.”⁵⁰ Carroll identifies over *twenty-five ways* that CSR is defined in the academic literature⁵¹ and Mele considers it a difficulty to organise the “great variety of existing approaches,” some of which “are presented as a vague notion or even as a belief.”⁵² CSR’s vagueness features prominently in critiques of the theories. Definitions often evoke ideas of corporate citizenship which itself is regarded as a “diffuse concept” with a “dependency on managerial discretion”⁵³

⁴⁷ (Orts & Smith, 2017, p. 188)

⁴⁸ (Hart, 1973, p. 173)

⁴⁹ (Scherer & Palazzo, 2011), (Kooskora, 2006, p. 185)

⁵⁰ (Wettstein, 2009, p. 270)

⁵¹ (Carroll, 1999)

⁵² (Melé, 2009, p. 48)

⁵³ (Melé, 2009, p. 75)

Under corporate citizenship theory a good corporate citizen is one that clears the low bar of “respect for others.”⁵⁴

CSR typically requires corporations to perform actions and allocate resources, most commonly financial resources, to social initiatives.⁵⁵ However, the required actions and quantum of resources are mostly left to the discretion of the corporation. With CSR conceived as charitable ‘corporate giving’ or ‘corporate philanthropy,’ the only expectation placed on the corporation is that it makes *some* contribution, but otherwise can continue with its business uninterrupted.

A recent development in CSR theory is *stakeholder theory* which tries to describe and analyse the corporation’s relationships to society. The basic idea is that a corporation has a web of stakeholders who each have a *stake* in what it does. Stakeholders are thought of as “any individual or group who can affect or is affected by the actions, decisions, policies, practises, or goals of the organisation,”⁵⁶ which could be customers, suppliers, employees, competitors, government, shareholders, financiers, government and communities. According to these theories, the corporation should be run in the interest of all its stakeholders⁵⁷. This approach has intuitive appeal because it relates the corporation to a broader set of stakeholders rather than focusing only on shareholders, and it identifies the categories of stakeholders and the types of ethical dilemmas that might arise in relationships with each. While this approach usefully makes explicit the need broader considerations than the narrow focus on profit, it is unclear how corporations are to make trade-offs between the interests of the various stakeholders. Like CSR in general, the guiding principles of stakeholder theory are vague, requiring that corporations “acknowledge and actively monitor” concerns, that they “listen” and “communicate” with stakeholders and “attempt to achieve a fair distribution” and “work

⁵⁴ (Melé, 2009, p. 72)

⁵⁵ (Wang, Choi, & Li, 2008)

⁵⁶ (Buchholz & Rosenthal, 1999, p. 315)

⁵⁷ (Hsieh N.-h. , 2013, p. 13)

cooperatively” and so on.⁵⁸ While there is an ethical basis for ensuring that all those affected by our actions are considered, the objective to which stakeholder theory drives is not justice but remains the creation of economic value.

The problem with the way CSR is conceived is that it sees the corporation as separate from society, what Freeman terms the “separation thesis.”⁵⁹ It upholds ideas of shareholder primacy while seeking to “engage in philanthropic activity as a minor side-activity disengaged from the day-to-day mission of the firm,”⁶⁰ where this mission is to maximise profit. Social initiatives are seen as instrumentally valuable to the business to advance its reputation and build its brand. There is no commitment to justice and social engagements are seen as charitable and voluntary. In the main, CSR is a reaction to social expectations, taken to preserve or enhance the social acceptance or legitimacy of the corporation.

To place CSR in the wider context that corporations face in deciding upon actions relating to society, we can simplify their options as behaving in ways that are either good or bad for business, combined with activities that are either good or bad for society. These combinations create four sets of activities or approaches that corporations could adopt. Firstly, corporations could be guided to perform activities that are *good for business and good for society*, call this the ‘Happy coincidence’ option in which social initiatives undertaken by the corporation, and its general activities, derives benefits for society as well as benefits for the corporation itself. Such activities are usually straightforward to pursue because they meet social expectations while delivering economic value to the corporation. A second option is to do what is *bad for business and bad for society*, which, though feasible, is not worthy of consideration since it has nothing to commend it, so I will set this option aside. The third and fourth options are more

⁵⁸ (Melé, 2009, p. 66)

⁵⁹ (Freeman, 1994, p. 413)

⁶⁰ (Anderson, 2015, p. 187)

interesting. The third option is to pursue activities that are *good for business but bad for society*, let's call this the 'anti-social' option. Such activities may yield faulty products, see corporations involved in corruption or fraud, set out to exploit workers, practice discrimination or engage in practices that exacerbate poverty or human suffering. Yet corporations would justify these activities because they serve their economic interests by lowering or avoiding costs, gaining access to business opportunities, increasing sales, and so on. The contrast need not be as stark as activities being bad for society, they could be activities that place societal interests as subordinate to that of business, or where harmful actions are mixed with activities of value. This is certainly my view of corporate activity, that it produces significantly social value, while also committing serious harms. The fourth option would be to conduct activities that are *good for society but bad for business*, let's call this the 'pro-social' option. Again, these activities may not necessary be harmful to business but would place business interests as subordinate to that of society.

These four crude categories mask subtleties and ignore overlaps, but they are useful to illustrate my point. I contend that corporations are typically motivated to perform activities in the 'anti-social' category where the focus is on what is good for business with social interests subordinated to business interests. It is an approach which seeks to get away with as much as the corporation can and only constrain activity and social harm in response to societal pressure. I will also argue, by this 'anti-social' behaviour corporations inherit responsibility to act to advance justice, and that this may involve 'pro-social' activity where activities are performed for the benefit of society, or more specifically the victims of corporate-produced injustice, even at the cost of profits or shareholder returns.

But where does CSR fit in this framework of corporate behaviour? While corporations often portray CSR as fitting in the 'pro-social' category where corporations are purported to be making sacrifices for the good of society, the reality is that CSR almost always fits in the 'happy

coincidence' category, where activities are indeed good for society, but also provides benefits to the corporation. That corporations can pursue their business interests while benefiting society in extra-commercial ways should be welcomed and encouraged, but not if this is regarded as the full extent of corporate responsibility to society. The problem with what is deemed to be ethical business practice being orientated only to 'happy coincidence' activities where socially orientated corporate actions are taken if and only if they benefit both society and business, is that social needs whose satisfaction offer no business benefit go unattended. These are often the most severe social ills and often arise and persist owing to activities by corporations (the 'anti-social' category).

Furthermore, upon a closer look at CSR we discover that the 'happy coincidence' activities are not a coincidence at all. Often justified as needing to "contribute to society,"⁶¹ CSR theories show what companies should do to "maintain appropriate behaviour in society"⁶² in service of its economic goals. The dominant motivation for CSR is one of instrumental self-interest, that CSR is good for business with slogans such as: "doing good in order to do well."⁶³ The fact that more than one hundred empirical surveys have been published on the contribution of CSR to corporate financial performance is a clear expression of this underlying premise.⁶⁴ CSR actions are intended to "accomplish social benefits" no doubt, but these are to come "along with the traditional economic gains which the firm seeks."⁶⁵ Rather than driven by a sense of duty to society, CSR is conceived as responding to social expectations,⁶⁶ that is, to avoid undue sanction from society, corporations ought to be seen to meet society's expectations of acting beyond its financial interest and in the interest of society. This of course is yet again in self-interest since this response to social expectation serves the objective of maintaining social

⁶¹ (Moir, 2001)

⁶² (Melé, 2009, p. 76)

⁶³ (Seifert, Morris, & Bartkus, 2003, p. 196)

⁶⁴ (Scherer & Palazzo, 2011, p. 904)

⁶⁵ (Davis K. , 1973, p. 313)

⁶⁶ (Melé, 2009, p. 50)

legitimacy,⁶⁷ that is, the “license to operate”⁶⁸ that society bestows on companies to conduct business and earn a profit.⁶⁹ Rather than driven by a duty to benefit society, CSR describes a responsibility to shareholders by acting to benefit society. Social initiatives are a means to the ends of advancing economic benefits to shareholders.

Hsieh comments that a debate continues as to whether duties that arise from CSR are to be pursued “even if there is no clear case to me made in terms of profitability.”⁷⁰ This points to the default position, that CSR typically requires companies to engage in activities for social benefit instrumentally, only when there is a business benefit such as greater profits, improved goodwill from local communities and governments or a stronger reputation. CSR activities are decided by which action yields the greatest business benefit, rather than what action has the greatest social benefit. Corporations often use cost-benefit analysis in making these decisions, where the financial outlay for the social initiative is compared to the business benefit, which arises usually in building their brand, growing their customer base or currying some favour with market participants that will lead to future business opportunities. By such cost-benefit analyses, good actions are those that produce more business benefits than the cost of the social initiative. These initiatives are thus pursued while those where the cost of the social initiative is deemed to exceed the benefit to the corporation, are rejected.

For many, CSR is a series of corporate actions to build “brand perceptions or societal goodwill” with the upside of “a broader license to operate.”⁷¹ While I present this reactionary approach as a criticism here, in Chapter 7, when exploring mechanisms for ensuring corporate

⁶⁷ (Moir, 2001, p. 17)

⁶⁸ (Moir, 2001, p. 20)

⁶⁹ (Moir, 2001, p. 17)

⁷⁰ (Orts & Smith, 2017, p. 189)

⁷¹ (Wang, Tong, Takeuchi, & George, 2016, p. 535)

compliance with the demands of corporate justice responsibility, I suggest that perhaps social expectations enacted by citizens could be one such mechanism.

The beneficiaries of instrumental CSR are whoever offer the greatest potential benefit not necessarily those suffering injustice. The theories give no account of what must be done and for whom, merely that *something* must be done for *some* recipients. Given its self-serving justification, CSR usually directs actions in favour of the powerful with greatest voice and influence, or the urgent. While addressing urgent human needs such as those that arise after a natural disaster for example, are commendable, such interventions usually don't address any structural deficiencies in society that make some people more vulnerable to shocks such as natural disasters.

Debates over “whether or not business should undertake CSR” and “why business might undertake CSR”⁷² are illustrative of the fact that CSR is viewed or indeed developed, as discretionary, not as a moral responsibility. Rather than meet obligations, corporations are considered as needing to “contribute” to society through CSR,⁷³ a notion that I support but when it is left unspecified, as is often the case in the CSR literature, it loses its purchase.

The position adopted with regard to CSR is linked to the idea that business is apart from moral concern as articulated in the separation thesis, the base assumption is usually that the corporation is morally neutral or morally positive, very rarely negative. The assumption is that nothing extra-commercial is morally owed to society, so any action is voluntary and optional. Reiman makes the point that underlies CSR – with imperfect duties, like the duty of charity,

⁷² (Moir, 2001, p. 16)

⁷³ (Moir, 2001, p. 16)

acting on our duties is at our *discretion*, but we are expected to do so generally when we can *without undergoing a serious loss*.⁷⁴

Described as “enlightened self-interest” CSR delivers “business benefits” such as enhanced reputation and greater employee loyalty and retention.⁷⁵ Such spend, one could argue, is not in fact extra-commercial at all, because, like spend on marketing and advertising, it advances the corporation’s commercial interests. If CSR is only discharged when it generates benefits to business, then it is nothing more than a business investment like any other. If companies are merely addressing social ills in response to social expectations and the threat of declining reputation, then CSR is merely marketing or reputation management.

Dominated by this instrumental approach, corporations focus on the business case for CSR that requires CSR-practices be adopted if and only if it is profitable. By this logic, when profits and just outcomes come apart, CSR advises corporation to focus on profit.⁷⁶ Even when ethical considerations are incorporated, theories make no demands on corporations to forego profit in furthering social good.

This analysis has shown that theories of CSR are useful to extend the responsibility of corporations beyond mere financial responsibility to shareholders to consideration of a broader set of responsibilities and beneficiaries, but that its scope does not extend far enough to account for corporations’ justice responsibility – CSR mostly does not clear the minimal hurdle of acting in the social interest, let alone to advance justice. None of these theories would enable us to assign justice responsibility to the corporation.

⁷⁴ (Reiman, 2012, p. 743)

⁷⁵ (Moir, 2001, p. 17)

⁷⁶ (Frederiksen & Nielsen, 2013)

1.4. The corporation as secondary responsibility-bearer for justice

Attempts to assign responsibility for *justice* to the corporation have been sparse, occurring mainly over the last two decades with corporations cast as political actors or even quasi-governments given their resources, power and publicness.⁷⁷ While philosophers have argued that corporations bear responsibility to ‘promote just institutions’⁷⁸ or act as ‘more than secondary agents of justice,’⁷⁹ development of more concrete proposals for how corporate behaviour ought to change has been slow. O’Neil argues that in societies where the state is either unwilling or unable to secure justice, that corporations may have the responsibility to act as agents of justice.⁸⁰ Hsieh has argued that corporations ought to promote and support the creation of just institutions where these are absent in societies where they operate.⁸¹ O’Neill distinguishes between two types of agents, namely primary agents of justice, usually states, who have capacities to determine how principles of justice are to be institutionalised within a certain domain, and secondary agents, among them corporations, who contribute to justice by complying with the demands of primary agents.⁸² This is along the lines of Tan’s institutional approach to justice which holds that an actor’s responsibility of justice is primarily to support, maintain and comply with the rules of society’s just institutions.⁸³

Caney suggests that rather than *types* of agents who possess fixed characteristics, agents have *roles* which they play in given circumstances.⁸⁴ In its secondary agent role, the extent of the corporation’s justice-advancing activities would be to comply with just legal requirements.

⁷⁷ (O’Neill, 2001), (O’Neill, 2016), (Hsieh N.-h. , 2009), (Hsieh N.-h. , 2013), (Caney, 2013), (Karp, 2015), (Wettstein, 2009)

⁷⁸ (Hsieh N.-h. , 2009)

⁷⁹ (O’Neill, 2001)

⁸⁰ (O’Neill, 2001)

⁸¹ (Hsieh N.-h. , 2009), (Hsieh N.-h. , 2017, p. 199)

⁸² (O’Neill, 2001, p. 181)

⁸³ (Tan, 2016, p. 19)

⁸⁴ (Caney, 2013, p. 142)

However, this changes, the argument goes, when the state is unwilling or unable to secure justice. In such a case the corporation might bear responsibility to act as more-than-secondary agent, indeed assuming primary responsibility to secure justice.

These theorists are not suggesting that when states fail, corporations replace them, but rather that corporations bear a responsibility to play a more active role in bolstering the capabilities of the state.⁸⁵ This responsibility is not derived from the corporation's actions, for example, in committing injustice, but the unjust background conditions and corporation's resources and capabilities.

1.5. A gap in the account of responsibility for corporate injustice

The idea that corporations bear extra-commercial responsibilities, as expressed by theories of CSR, and the idea of corporations as secondary responsibility-bearers of justice, is beneficial to society since it gets businesses to be more socially conscious, more aware of the impact they have on society and alerts them to possible contributions they can make to addressing social ills.

But these theories are inadequate in assigning to corporations responsibilities to rectify injustices, especially the injustices perpetrated by corporations themselves. This is not to say these theories are faulty, just that they are inadequate for our purposes since they are not designed to do what we need.

Part of the reason for CSR's apparent incoherence, as discussed earlier in this chapter, is that it stems from attempts to justify the existence and behaviours of corporations rather than

⁸⁵ (O'Neill, 2001, p. 190)

address particular moral concerns. This view is captured by Mele’s somewhat cynical statement that CSR is an attempt to “give a human face to capitalism.”⁸⁶ Management theorists and economists have begun addressing ethical concerns relating to corporate activity but usually with a primary focus on protecting or “reimagining capitalism.”⁸⁷ I suggest that we need greater intellectual flexibility in exploring paths to eradicating injustice than seeking to uphold any particular ideologies (such as capitalism) or institutional arrangements (such as corporations in their current form).

CSR theories appear to assume that corporations are outsiders looking in on social injustices. The presumption of moral blamelessness and focus on corporate philanthropy presents corporate ‘social responsibility’ as supererogatory and something for which society ought to be grateful and praise corporations, rather than demand action. CSR theories offer corporations little guidance on the complex trade-offs between ethical and financial responsibilities because it sees no need for a trade-off – profit is always the top priority. A properly ethical approach would justify a social action as the morally right thing to do and will still adopt CSR-practices even if it might impact profit negatively.⁸⁸

CSR theories are therefore inadequate in three important areas: *firstly*, they are usually prudential rather than normative where social good is done only where it supports the profit motive, *secondly*, they account for social responsibility as voluntary or benevolent, overlooking any obligations, and *thirdly*, they mostly avoid the topic of the responsibility corporations bear to advance justice or rectify injustice. As Wettstein points out “... the current debate on corporate social responsibility hardly ever refers to the concept of justice”⁸⁹ let alone assign responsibility for it. I described the ‘happy coincidence’ of certain conceptions of CSR when

⁸⁶ (Melé, 2009, p. 55)

⁸⁷ (Henderson R. M., 2021)

⁸⁸ (Frederiksen & Nielsen, 2013)

⁸⁹ (Wettstein, 2009, p. 271)

it benefits business as well as society. When it comes to injustice we cannot simply rely on the occurrence of these coincidences. Deliberate action to eradicate injustice is required.

The secondary responsibility-bearer approach which deems corporations to bear responsibility for injustice when states are unable or unwilling to secure justice, or where just institutions are absent, does address injustice but portrays the corporation as a sort of justice superhero who goes about his life, out of sight, until there is a justice emergency and then dramatically swoops in when needed or called upon. The superhero plugs the institutional gap and then flies off to the applause of appreciative minions. I believe the pursuit of justice should not be a 'side-activity' as Anderson describes CSR, and that the corporation ought to embed the pursuit of justice and other ethical considerations in its day-to-day operations.⁹⁰

By this 'secondary agent of justice' approach, political theorists seek to assign responsibility for justice to corporations only where states are weak and even then, with a focus only on institutional change, overlooking the need for remedial action and change of corporate behaviour to avoid injustice. I do not dispute the fact that under certain conditions we may look to the corporation, in virtue of its possession of resources, to contribute to efforts of the state in institutionalising the principles of justice. However, I consider this insufficient grounds upon which to assign to the corporation the responsibility of justice. In this thesis I will argue, whether a state is weak or strong, corporations bear justice responsibility in virtue of their contribution to injustice, contributions that are built into the corporate objective and its accepted activities to meet this objective.

It is my view that this literature is wanting in terms of picking out corporations to address injustices prevalent in society, leaving a significant theoretical gap. We don't hold corporations responsible for the full spectrum of injustices they commit because we have an incomplete

⁹⁰ (Anderson, 2015)

understanding of the modes by which corporations commit injustice. Our existing theories of responsibility for justice don't pick out the corporation as bearer of responsibility for injustice, particularly those injustices that corporations themselves routinely commit. We need the concept of networked injustice to help us identify corporate injustices. Only then, with the concept of networked injustice and the responsibility that follows, can we theorise solutions to the responsibility gap for corporate injustice.

1.6. Concluding remarks

This chapter has analysed the extra-commercial commitments expected of corporations as expressed by the most prominent bodies of literature, namely CSR and literature that conceives of the corporation as a secondary agent or responsibility-bearer for justice. My critique of these literatures is that there is a mismatch between the corporate injustices we observe, and justice responsibility assigned to corporations. These theories are mostly silent on corporations as perpetrators of injustice and consider corporate responsibility as a positive duty of benevolence, or a duty to support primary agents in advancing justice. It is my view that this literature is wanting in terms of picking out corporations to address injustices prevalent in society, leaving a significant theoretical gap.

The need for a new theory of responsibility for corporate injustice stems from the prevalence of injustice broadly and roles of corporations particularly, combined with the inadequacy of existing theories. What is needed is a theory that sets out the scope of obligatory actions that corporations ought to take to advance justice, the circumstances under which they should take these actions, how they are to deal with the competing responsibilities to other stakeholders. Importantly, such a theory of corporate responsibility must respond to the mode by which

corporate injustice arises and causes suffering to people with which the corporations interact, which in the case of the corporation is networked injustice, as developed in Chapter 3.

The theory of corporate justice responsibility, developed in this thesis, will seek to make a contribution to closing this gap. The theory will aim to meet the expectation that it carries “moral weight, so that we can say that agents who fail to discharge their remedial responsibilities act wrongly and may be properly sanctioned.”⁹¹

⁹¹ (Miller, 2001, p. 454)

Chapter 2: CORPORATIONS, NETWORKS AND MODES OF INJUSTICE

2.1. Introduction

Theorising the responsibility that corporations bear to eradicate injustice requires that we have an understanding of the injustices that corporations commit – how the injustices arise and what forms they take. Corporations are regularly involved in major scandals such as those mentioned earlier – the Enron fraud, the Volkswagen emissions scandal, the BP oil spill and the Union Carbide Bhopal gas disaster in India. What does not get as much attention, are the ongoing, widespread injustices that corporations commit, often in plain sight, through their ordinary operations. These injustices usually relate to social practices that cause suffering to those with whom corporations interact such as customers or employees. Yet corporations are rarely held to account for these practices, not only because legal frameworks and law enforcement are weak but also because, as I argued in Chapter 1, theories of corporate social responsibility and theories of responsibility for justice, are inadequate when it comes to identifying corporate injustices and assigning corporate responsibility for these injustices. We need an understanding of how corporate injustices arise and are committed, so that we can theorise the appropriate form of responsibility to assign to the corporation. At the base of this theoretical gap is a mischaracterisation of how corporations operate, a mischaracterisation which I start to set right in this chapter.

In this chapter I will argue that in contrast to the common discourse that considers corporations as free-standing, isolated entities, what I term the *atomistic view*, the default corporate behaviour is to operate with constant interaction with other corporations, what I term the *networked view* of the corporation. These interactions and relationships between corporations

occur in corporate networks, and I contend that corporations cannot but operate in corporate networks, rendering the atomistic view largely fictional.

Fundamentally, trade requires networked activity while a range of other forms of networks serve important corporate needs. This feature of corporate behaviour features significantly in the concept of corporate injustice as networked injustice that I present in Chapter 3.

The implication of this networked or structured nature of corporate behaviour is that it leads us to explore structured modes of injustice as candidates for characterising corporate injustice. The thinking is that if corporations standardly operate in interorganisational networks, then we should be investigating this standard networked behaviour to understand the possible source and means of corporate injustice.

To start this analysis, I turn to prominent accounts of structured injustice in the political theory literature, that of *structural injustice*, developed by Iris Marion Young, and what I term *goal-orientated collective injustice*, developed by Tracy Isaacs.¹ These theories focus on agents acting together in society-wide structures and collectives, respectively, by what these theorists term *collective action*. These modes of injustice are contrasted with standard forms of injustice, usually associated with the atomistic view of the corporation. In addition to informing the concept of corporate injustice, these three accounts of injustice have associated with them established theories of responsibility which we can draw on. I present and analyse the theories of responsibility in Chapter 5 as input to the development of the account of corporate justice responsibility but will here focus on the accounts of the modes of injustice.

¹ (Young I. M., 2011), (Isaacs, 2011)

The chapter proceeds as follows: I start by arguing for the networked view of the corporation since this is central to our understanding of corporate injustice. To defend this networked view, I then present a study of corporate networks to demonstrate that corporations fundamentally operate in networks, not as lone entities. This discussion is followed by a detailed study of the nature of the actions within corporate networks what I term, *networked action*. Having established that corporations operate in structured social arrangements, I turn to structured accounts of injustice to assess whether these modes of injustice offer accounts of the networked mode by which corporations act and commit injustice.

The chapter assesses three modes of injustice – structural injustice and goal-orientated collective injustice which are both structured injustices, and contrasts these with the standard mode of injustice. I pay attention to the contributory actions of participants in the injustices and the conditions under which their actions are deemed to be unjust or lead to unjust outcomes. Following a discussion of these accounts of injustice I conclude that if we rely on them alone, we will miss important aspects of corporate behaviour which contributes to injustice. This leads me to Chapter 3 where I develop the unique account of corporate injustice, that of *networked injustice*.

As I develop the account of corporate networks, networked action and the injustice that proceeds from it, I will emphasise that corporate networks are not moral agents and do not take group or collective action. While it is the case that within networks, at times, subsets of network participants have joint goals and perform group actions, this is not how the network as a whole functions. Instead, network participants assemble to pursue their own individual goals, and while they cooperate and collaborate in some areas of their operations, they compete in others.

2.2. Atomistic view vs. networked view of the corporation

The standard conception of the corporation is that of an atomistic entity that operates independently and interacts, as a single entity, with persons. It is common to speak of what ‘Tesla did’ or what ‘Google achieved,’ referring to individual corporations. Call this the *atomistic view* of the corporation. Under the atomistic view, corporations go about their operations as an isolated entity, buying and selling products and services, recruiting staff, and so on. All interactions between the corporation, as an agent, and another agent such as an individual person or another corporation, are viewed as bilateral, that is, the interaction is between two agents – one corporation and one individual, say.

Under this atomistic view, when we consider corporate injustice, we would consider it to be an injustice that arises in the bilateral interaction between the corporation and another agent, for example in the corporation’s interaction with a supplier of goods or a customer. The corporation could use its power and influence to force a small supplier into accepting a contractual arrangement that is detrimental to the small supplier’s business or take advantage of the fact that a potential employee has limited employment options to get her to accept employment on harmful terms or leave a customer in a harmed position by making essential products and services unaffordable or selling unsafe products while withholding relevant product information. These corporate injustices are usually committed with harmful intent in pursuit of profit, or with foresight of the harms that might come to the parties.

When it comes to picking out a responsibility-bearer to rectify the injustice committed, we would straightforwardly pick out the corporation because, all else being equal, we can trace the injustice to the corporation given its bilateral interactions with harm parties.²

² I am setting aside unjust background conditions and focusing only on interactional injustice.

While this atomistic view of the corporation is the standard, most prevalent view, I suggest that it is an incomplete, or even mistaken, view of the corporation, of how it operates and of how it contributes to injustice. Corporations engage with other corporations and entities constantly whether through trade, which is itself an interactional endeavour, recruiting staff, engaging with policymakers, competing for customers, engaging with the media, or raising capital from the capital markets.³ The reality of corporate behaviour is that corporations operate within a multitude of different corporate networks, as I will discuss further in this chapter. Relying then on the atomistic view, we miss prevalent corporate injustices, often committed unintentionally, but that are locked into the way corporations actually operate, not as isolated, atomistic entities but in networks with other corporations. Call this the *networked view*.

Management scholars write, in reference to corporations, that “the image of atomistic actors competing for profits against each other in an impersonal marketplace is increasingly inadequate in a world in which *firms are embedded in networks* of social, professional, and exchange relationships with other organizational actors.”⁴ (my italics) and that corporations are “no longer structured like medieval kingdoms, walled off and protected from hostile outside forces” but instead involved in “an *intricate latticework of collaborate ventures with other firms*, most of whom are ostensibly competitors.”⁵ Ongoing exchange relations with other organisations translate into more or less stable *interorganisational networks*.⁶ Even libertarian proponents of unfettered free market capitalism characterise the essentially cooperative nature of markets, that cooperation is as much a part of capitalism as competition and that through the market system firms are competing with some for the opportunity to cooperate with others.⁷

³ (Leenders & Gabbay, 1999, p. 7)

⁴ (Gulati, Nohria, & Zaheer, 2000, p. 203)

⁵ (Powell, 1989, p. 301)

⁶ (Leenders & Gabbay, 1999, p. 7)

⁷ (Boaz, 1997)

With this networked view, we might then no longer look at what ‘Tesla did’ or what ‘Google achieved’ but at what Tesla, for example, did with its network of corporate affiliates, or what Google’s interorganisational network achieved.

By the networked view of the corporation, corporations standardly operate in networks with other corporations. These network interactions transform corporate behaviour, by a process I term *harmonisation*, such that interactions with third parties, for example individuals, are no longer purely bilateral, but have *the effect of multiple corporations interacting with or acting upon an individual*. When such situations arise, they have the effect of transforming ordinary, unharmed corporate actions into harmful actions, even when the actions have no harmful intent. This causal sequence that starts with corporate networked action in networks and ends with wrongful harms being done to persons, what I term the *action transformation causal sequence*, in effect simulates the situation in the atomistic view where the corporation uses its influence and power to force a supplier to accept a harmful offer or leave a new recruit with no choice but to accept harmful employment terms, or leave a customer in a harmed position. Except in this situation, it is not obvious which corporation or corporations, ought to be held responsible for the injustice because the harmful actions have their roots in the networked actions among numerous corporations who do not necessarily act with harmful intent. In these scenarios, no single corporation has forced anyone to accept harmful terms or forced anyone into a harmful position, yet from the individual person’s perspective on the interaction with a corporation, this has resulted.

I contend that because of the limitations of current accounts of responsibility, such injustices remain unaccounted for and unremedied, and that they persist.

To understand the transformation of actions that occurs, and that leads to the unjust outcomes, we first need to understand the unique networked way in which corporations act and then, rather than look to traditional bilateral explanations of injustice, we need to look to more complex *structured* explanations. This is the approach I will adopt.

I contend that when we study corporations in their dominant networked operating arrangement, we gain insight into how corporations routinely contribute to injustice, often injustices to which corporations do not necessarily intentionally contribute.

Given the importance of corporate networks to the account of networked injustice, I will delve into the functions, types, and purposes in the next section, and then in the section that follows, present an account of the types of interactions that occur in these networks.

2.3. Corporate networks

Management scholars have in the last ten to twenty years begun considering the corporation in its networked context, while political theorists, who as discussed in Chapter 1, have only recently begun considering corporations as agents that bear justice responsibility, have largely overlooked the fact that powerful social agents like corporations act in even more powerful corporate networks. While theorists have theorised justice in the context of social structures, groups, and other collectives, it is important that we also begin considering networks broadly, and corporate networks specifically.

Social networks arise as a means of coordinating social life.⁸ While a network, in general, is a “complex system ... of interrelated things,”⁹ a *social* network is a set of socially relevant nodes

⁸ (Tilly, 1999, p. 48)

⁹ (Goodin R. E., 2023, p. 55)

(persons or organisations) connected by one or more relations. Nodes, or network members or network participants, are the units that are connected by the relations.¹⁰ Relations between network members could include collaborations, friendships, trade ties, resource flows, information flows, exchanges of social support or any other possible connection between these particular units.¹¹ Networks are encountered in medicine (such as neural-networks in the brain) or in technology (such as the circuits in digital networks), or in the built environment where we talk of road and rail networks that connect towns, cities and countries. The internet is another example of a network where each computer is a node and the relation between them is one of information or data flow, similarly with telephones where each handset is a node between which voice and text information flows. A family is an example of a social network, where each family member is a node or network member, and the relation between them is one of kinship. An individual's social network consists of those persons with whom they maintain contact and has some form of social relation.¹²

Modern societies comprise a vast number of social networks as webs of interconnecting actions and social processes that make our societies function. Arguably, every facet of our lives functions within some subset of these networks whether relating to politics, the economy, education, sport, entertainment, healthcare, the provision of food and drink, or the many other aspects of our lives. Every active member of society, participates, by their actions, in these networks whether as voters, consumers, producers or contributors of some kind to the existence and functionality of these networks, systems or social structures. The benefits of networks that motivate continued membership are numerous, but paramount is reduction of uncertainty, fast

¹⁰ (Scott & Carrington, 2011, p. 11)

¹¹ (Scott & Carrington, 2011, p. 11)

¹² (Adams, 1967, p. 64)

access to information, reliability and responsiveness which stem from trusted mutually beneficial relationships built over time.

A social network is not as formal as an organisation such as a government department where there are clear hierarchies and lines of authority, but not as loosely arranged as a crowd, where actions are ad hoc. Networks facilitate exchange of items of value such as information, goods or services but also share risk, effort, and resources. A network forms when agents agree to some form of sustained coordination or collaboration among themselves in pursuit of their own goals.

Social networks function by the contributions made by members. These social arrangements are resilient in that they persist over time, but this does not mean they are static, instead network boundaries are fuzzy, membership is dynamic, and networks are restructured over time.¹³

However, despite the many benefits and reasons to be part of social networks, Goodin reminds us that networks form part of the mechanisms of injustice.¹⁴ While networks are essential to the functioning of society, facilitating social cooperation to ensure well-being and contribute to social progress, these networks can also be the source of social harms.

In discussing corporate networks, I am referring to a type of social network where each node is a corporation and the relation between them relates to the achievement of corporate objectives. Stated broadly, a corporate network is the social arrangement in which corporations perform their business activities. In networks, interactions occur neither through discrete exchanges as occurs in markets or administrative fiat as in hierarchical forms of organisation, but through webs of individual agents engaged in reciprocal, mutually supportive actions.¹⁵

¹³ (Cooper & Shumate, 2012, p. 626)

¹⁴ (Goodin R. E., 2023)

¹⁵ (Powell, 1989, p. 303)

Networks are built on relationships which facilitate exchange through which corporations acquire resources, reduce uncertainty, enhance legitimacy and further common interests.¹⁶ Corporations with strong network ties have higher survival rates and higher performance.¹⁷ As expected, when agents act together, they bring about outcomes that cannot be achieved without combined effort.¹⁸ For example, this is how markets work to arrive at prices of goods – the mechanism of many buyers and sellers acting according to their preferences eventually brings a market for a product or service into equilibrium which offers us a price. No agent could arrive at an acceptable price on their own in a market.

An extensive body of literature exists in social network analysis and social network theory that is mainly concerned with sociological and psychological questions relating to individual behaviour in social contexts. This will not be the nature of my discussion here since I am focusing on interorganisational corporate networks. The concept of a corporate network arises in numerous fields, including economics, sociology, and law. Where such networks are studied in the management literature it is to gain understanding of the financial performance variations in corporate networks, the variables affecting innovation diffusion, and so on.¹⁹ These analyses do not typically study the likelihood of behaviour in corporate networks contributing to injustice.

While I will comment on behaviours within networks in broad strokes, I am not conducting a study of the internal mechanics of corporate networks. My interest here is centred on the effects produced by corporate networks when network participants interact with non-network third parties, especially vulnerable persons.²⁰ I rely here on the limited available literature to develop

¹⁶ (Brass, Galaskiewicz, Greve, & Tsai, 2004, p. 802)

¹⁷ (Brass, Galaskiewicz, Greve, & Tsai, 2004, p. 806)

¹⁸ (Isaacs, 2011, p. 16)

¹⁹ (Lechner & Dowling, 2003), (Lincoln, Gerlach, & Ahmadjian, 1996), (Gulati, Lavie, & Madhavan, 2011)

²⁰ My focus will be on individual persons who interact with corporations either as employment recruits or customers. These individuals do not form part of corporate networks which are networks between corporations.

an understanding of these effects, but the exact nature of these effects would require separate study.

Although corporate networks come and go, or members come and go, they are usually ongoing arrangements with repeated or ongoing interactions by participants who consider the network a useful facilitator or mediator of pursuing their own interests. The networks survive as long as members derive value from them, and corporations maintain their participation in particular networks as long as they derive benefit from that membership or are not expelled. In serving their own interests, continued participation in the network is of great value, so are the relationships with other network participants.

I contend that, in contrast to many other collectives, an important feature of corporate networks is that while participants act together, even continuously, they do so to further their *own, individual objectives or goals*. This can be deduced from the fact that corporations participate in corporate networks to advance their corporate objectives which are reflected in each corporation's individual financial measurement and incentives. Unlike most other forms of social aggregates, there is typically no higher common purpose motivating network participation. Unlike the selfless purpose-driven actions of soldiers at war, in a corporate network every corporation acts largely in their self-interest. The goals of network participants may be aligned, but the network does not form around a joint goal as in a goal-orientated collective discussed later in this chapter. There may be intermediate goals that are shared (for example to shut down proposed legislation over an element of the industry) or indeed shared project goals which are the basis for the collaboration or coordination (such as joint

When the customer is not an individual person but another corporation, it would be considered as part of the network. This is less clear for small enterprises, non-profit organisations or government departments that also *trade* with corporations for part of Level 1 networks, and so straddle the broader definition of participants of corporate networks. Since they are not corporations, for this thesis I will not consider them network participants.

development of a technology or a joint academy to train young industry technicians), but these are incidental and not the full basis for network participation. Participants might observe or come to realise that others in the network have complimentary goals but even if no one shares their goal they will maintain participation if the network enables them to pursue their goal. Participants of a corporate network might have the common interests of finding ways to increase profit, but one might want to grow sales, others may want to lower costs, still others may want to achieve a strategic objective like growing market share or crowding out a foreign entrant.

By my account, a corporate network is characterised as an aggregate of corporations who interact as separate actors with their own goals (as opposed to joint goal), that find the network a convenient mediator of the pursuit of their goals. In this sense, networks share similarity with society-wide structures, as Young describes,²¹ in that there is no common goal to participants' actions, in contrast to organisations and collectives, but unlike society-wide structures and similarly to organisations and collectives, actions in networks are coordinated, which is a critical feature of networks. Networks are not entirely harmonious arrangements since the very same participants collaborating in one aspect might be competing in another, again showing divergent goals.

The consistent growth in corporate networks has led scholars to consider networks alongside the traditional concepts of markets and organisations as pieces of the larger puzzle of an economy.²² Some consider business groups²³ or networks now to dominate the economies of many countries.²⁴ This proliferation of networks points to the benefits to corporations of these arrangements. Corporations form into networked arrangements because these arrangements

²¹ (Young I. M., 2011)

²² (Rumyantseva & Tretyak, 2003, p. 2), (Lavie, 2006, p. 639), (Powell, 1989, p. 301)

²³ Defined as sets of legally separate firms bound together in persistent formal and/or informal ways (Granovetter, 2005)

²⁴ (Granovetter, 2005, p. 429)

further their commercial interests by facilitating exchange of items of value. These networks are characterised by trust and rich exchange²⁵ with their own logic.²⁶

I observe two aspects of social networks or to types that stand to potentially mediate injustice, what I term hoarding networks and extractive networks. Some networks will be more directed by either hoarding or extractive tendencies, and I will speak of them as distinct types, although arguably, all networks share traits of both.

Whether corporate networks or not, *hoarding networks* are exclusionary, seeking to keep unwanted participants out and only accommodating those deemed fit to be on the inside. The clichéd ‘old boys’ club’ typifies this idea of a hoarding network. The networks hoard opportunities and resources that are valuable in society by restricting information and access to participants of the network. These networks of interpersonal connections facilitate cooperation and exchange internally and afford those within the network competitive advantage over others outside it.²⁷ They often create beliefs and practices that sustain their control of these opportunities and resources. These beliefs relate to elitism, exclusion and prejudice uphold the injustice that often result from the actions of hoarding networks.²⁸ Consider South Africa under apartheid, white South Africans were led to believe that they were entitled to superior wealth and bestowed with greater intellect and culture compared to black South Africans. These beliefs justified and sustained the injustices that stemmed from the hoarding network created by white South Africans. Such networks are often homogenous, based on ethnicity, gender, social class and so on in a sort of ‘self-sorting’ along dimensions

²⁵ (Gulati & Gargiulo, 1999, p. 1440)

²⁶ (Powell, 1989, p. 301)

²⁷ (Goodin R. E., 2023, p. 54)

²⁸ (Dorling, 2010, p. 2)

of advantage.²⁹ Employing these dimensions give members the power to include or exclude others with respect to language, kinship, courtship, marriage, religion and so on.³⁰

Such social networks hoard opportunities and seek to avoid those on the outside, who are often victims of their exclusionary behaviour. The networks create and perpetuate advantage for those in the network while injustice has its roots in exclusion of others, forced to remain on the outside of the networks.

Extractive networks have a very different *raison d'etre*. These are looser arrangements than hoarding networks, holding more flexible ideas about homogeneity or hoarding, but instead form as a means for participants to advance their self-interest which can be facilitated by coordination with others. I term these networks extractive because they derive their benefits by extraction from those outside the network. For example, a corporation generates profits by selling products to customers, the surplus of revenue over costs, is extracted from the customer. To generate profit, the corporation must gain (or extract) something from the customer. Similarly, when the corporation employs workers, the corporation extracts labour from workers. I am making no normative judgement about these interactions by terming them extractive. Customers and employees could be seen as extracting utility and employment respectively from the corporation.

While hoarding networks try to avoid outsiders, extractive networks pursue outsiders to impose themselves on outsiders for their extractive benefit. Injustice suffered by victims derives from being in some way subjected to the machinations of the network or their effects.

As noted above, it may be more accurate to describe hoarding and extractive as two dimensions of networks, rather than necessarily suggesting that we will see pure, ideal types of either

²⁹ (Goodin R. E., 2023, p. 61)

³⁰ (Tilly, 1999, p. 154)

network. Networks can certainly be extractive in some respects and hoarding in others, although I believe they will have a core function of one or the other.

Both hoarding and extractive networks have potential to cause injustice. While social scientists and political theorists have theorised much about hoarding networks, they have largely overlooked what I've termed extractive networks. These are the networks that I believe theorists such as Young and Isaacs overlook in theorising mediated injustice (as discussed in Chapter 2). And these are the type of networks that I believe reflect the way corporations coordinate their activity and bring about their social good and harm. I will therefore focus on extractive networks and from here on – when I refer to networks, I am referring to extractive corporate networks.

I identify three levels at which corporations are involved in corporate networks, going from the superficial *level 3* networks, to deeper, more strategic *level 2* networks, and finally the most foundational *level 1* networks. The lines between these levels are blurry at times but they offer important insight to how fundamental networks are to corporate behaviour and how they mediate corporate injustice.

Level 3 networks are those most visibly and commonly associate with corporations, such as industry associations, professional bodies and business clubs. The latter typically includes a sport like golf and would have a strong social element to it. These networks serve to facilitate relationship building and information sharing between organisations, particularly around business opportunities. These networks have membership criteria and participants typically apply and pay to join.

Level 2 networks are strategic arrangements that corporations enter to facilitate significant business opportunities. Such networks include strategic alliances, joint ventures or consortia

that focus on long-term opportunities around markets, products, research or addressing a particular challenge. The networks could be in related industries such as an alliance between car manufacturers and engine makers, or within an industry such as between a set of pharmaceutical companies to pool research resources to develop a particular cure or vaccine. The network could also be across industries such as digital companies and banks collaborating to provide financial services through cellphones or online. Companies that share institutional infrastructure and skilled staff often locate in the same geography to facilitate networked action. Many industries such as textiles and jewellery-making are located in districts. Further examples would be Silicon Valley in the US with its clustering of high-technology companies or the concentration of financial services firms in London. The bonds between participants of these networks are strengthened by support services that include industry research institutes, vocational training centres, marketing agencies and other forms of specialised information and knowledge sharing.

Level 2-type networks are deemed to offer participants competitive advantage that stem from network relationships.³¹ Management scholars argue that networks of corporations have the capability to generate competitive advantage that is shared by all participants and in turn “produce its own rent - a supernormal profit jointly generated in an exchange relationship that cannot be generated by either firm in isolation.”³² Corporate innovation is most effectively undertaken as a collective process in which networks play a central role.³³ Each corporation is a “participant in a network of stakeholder relationships ... in the creation of surplus value”³⁴ Not only direct economic value is derived from networks, participants also offer tacit

³¹ (Lavie, 2006), (Duschek, 2004)

³² (Rumyantseva & Tretyak, 2003, p. 12)

³³ (Ozman, 2009, p. 39)

³⁴ (Melé, 2009, p. 73)

endorsement of each other and the behaviours by which they conduct their business. It is an important way by which companies achieve legitimacy.³⁵

Decisions to enter such networks are typically made at the CEO or board level and require significant investment of time, effort and resources to realise the value from the network.

Level 1 networks are foundational networks. Since trade is an interactional activity, a corporation is part of trade-related networks in virtue of being in business and since reciprocity and collaboration, core to networks, is foundational to economic exchange.³⁶ There's no decision to join the network and no membership fee to pay. These networks include sets of economic actors in an economy, or sets of employers in a community or society, or between corporations, their customers and suppliers.

Markets can be viewed as synonymous with economic social structures as Young describes, where interactions are diffused, impersonal, where vast numbers of agents interact with each other. Networks are something different to these concepts of markets and social structures. In contrast to market transactions that are characterised by low relational commitment to the parties, there is a high level of relational commitment among network participants. Such high relational commitment is present in organisations too but here they are governed by contracts and administrative supervision, while in networks relationships are governed by norms of reciprocity and reputational concerns – they are less bureaucratic with emphasis on mutual benefits.

An example of Level 1 network would be the participants in trade relationships along a supply chain, such as grocery retailers, food distributors, food processors and canners and farmers, where fresh produce is grown by farmers, processed and canned ready for the market by

³⁵ (Rumyantseva & Tretyak, 2003, p. 6), (Martin-Rios, 2014, p. 190)

³⁶ (Powell, 1989, p. 299)

processors and canners, then warehoused and distributed to grocery retailers who sell the product to customers. Another supply chain network would include high street clothing retailers, clothing brands, apparel manufacturers, yarn spinners and weavers, and wool and cotton farmers where the farmers supply the raw inputs to spinners and weavers, who in turn sell their fabrics to apparel manufacturers who produce clothing based on the designs of the clothing brands and finally ends up on the shelves of high street retailers where they are sold. No doubt, there are overlaps between networks, for example, corporations could participate in a geographical network that spans multiple industries.

After all, public trading is a form of information sharing whereby network participants set prices in open markets by their trading behaviour.

The point to emphasise here is that corporations, by definition, are participants in Level 1 networks, and that the modern corporation cannot succeed without Level 2 networks. Networks of these kinds are therefore intrinsic to doing business and form an integral part of economic and social reality.³⁷ Corporations are always operating in some form of a network, in fact, numerous networks at any one time. While Level 3 networks enhance business opportunities, they are not strictly fundamental to how corporations operate. When I refer to corporate networks, I am referring to Level 1- and 2-type networks, those that are either fundamental or essential to the functioning of a corporation.

To avoid possible confusion, corporate networks do not refer to franchise arrangements, or divisions of a corporation, or subsidiaries of a multinational corporation, but what the management literature terms *interfirm* or *interorganisational* arrangements³⁸ where there is

³⁷ (Rumyantseva & Tretyak, 2003, p. 12)

³⁸ (Martin-Rios, 2014), (Majchrzak, Jarvenpaa, & Bagherzadeh, 2015)

typically no ownership or authoritative control between any of the participants. We are also not talking about cartels which are explicitly illegal.

Within a network, at least three motivations influence participants' behaviour – they are driven to meet their own goals, and in service of this motivation, they want to remain in the network, and they want to protect the network. These three motivations introduce great complexity into the network because they are sometimes at odds with each other and require participants to make trade-offs. Since participation in the network delivers some benefit to participants, they often trade-off some elements of meeting their own goals to contribute to the advancement of the goals of peers and will act to maintain relationships with peers. Similarly, participants will temper the pursuit of their goals and rally resources if the network comes under threat, still in the ultimate interest of their goals, because the network facilitates this pursuit.

With this understanding of corporate networks as self-serving, primarily extractive arrangements among corporations that are foundational and strategic to their operations, I turn to the nature of the interactions within networks, *networked action*, as the next step in our process of understanding how networked injustice emerges.

2.4. Networked action

Corporations, by definition, act in Level 1 networks and enter Level 2 networks because the networked action offers them benefits that further their commercial goals, that they could not achieve otherwise. As I will discuss in this chapter, it is this very set of actions from which

corporations derive benefit that also creates conditions by which networks mediate corporate injustice. But for now, I will focus on the interactions that constitute networked action and the benefits that corporations derive. Networks can be structurally complex³⁹ and networked action describes the complex web of interactions that takes place between corporations in a network. It is through this networked action that corporations derive benefits from participating in networks.

While theorists often refer to group action or collective action (discussed later in this chapter and Chapters 5) as a general description for agents *acting together*, networked action has a specific definition that includes a specific family of corporate interactions.

Networked action in corporate networks involve four intentional interactions, namely coordination, collaboration, cooperation and competition.⁴⁰ Definitions of these terms are hard to pin down. One attempt suggests that *coordination* is characterised by the attitudes, behaviours, and outcomes of *joint determination* of individual and aligned goals, while *cooperation* refers to the attitude, behaviour, and outcome of the *implementation* of those goals as agreed on, which could include sharing information, supporting managerial and technical training, supplying capital, and/or providing market information.⁴¹ *Collaboration* refers to voluntarily *helping others* to attain an individual or aligned goal,⁴² or direct participation by two or more actors in designing, producing and/or marketing a product.⁴³ By collaborating with other organisations, a firm increases its probability of gaining the use of valuable resources held by its partners such as financial assets and extensions of credit; timely information, scientific knowledge, or expert advice; proprietary technologies or patents; marketing expertise or penetration into new countries and cultures; organizational prestige, status, or corporate or

³⁹ (Ozman, 2009, p. 54)

⁴⁰ (Castañer & Oliveira, 2020, p. 965)

⁴¹ (Polenske, 2004, p. 1031)

⁴² (Castañer & Oliveira, 2020, p. 994)

⁴³ (Polenske, 2004, p. 1031)

brand reputations; and trustworthiness and low risk.⁴⁴ *Collaboration* between corporations is defined as “a cooperative, inter-organisational relationship that is negotiated in an ongoing communicative process, and which relies on neither market nor hierarchical mechanisms of control.”⁴⁵ The challenge of finding precise definitions is highlighted by the fact this definition of collaboration refers to cooperation.

Exact definitions are not required for the argument being made. I’ve introduced these concepts to illustrate the types of interactions between corporate network participants and the levels of intimacy and interdependence established. Ordinary dictionary definitions of these terms are sufficient for our purposes. The Oxford English Dictionary offers the following definitions.⁴⁶ *Coordination* is defined as the ‘harmonious combination of agents or functions towards the production of a result’ or ‘the action of arranging or placing in the same order, rank, or degree.’ An example would be a car being assembled on an assembly line – it is vital that the manufacturing and delivery processes of parts suppliers are coordinated with the assembly line, that is, their functions are harmonised, and the parts arrive in the same order as they are required in the assembly process, especially in a just-in-time process.⁴⁷

Collaboration is defined as ‘united labour’. For example, a mix of financial services companies such as a life insurer, property insurer, retail bank and unit trust investment firm collaborate in selling and servicing the same customers in one branch. If a customer takes out a home loan, the banker will suggest that the customer see the property insurer in the cubicle alongside him, and the life insurer two cubicles over to buy insurance cover for the loan.

⁴⁴ (Knoke, 2009, p. 1696)

⁴⁵ (Majchrzak, Jarvenpaa, & Bagherzadeh, 2015, p. 1338)

⁴⁶ www.oed.com

⁴⁷ Refers to manufacturing processes where parts inventory is minimised as a cost reduction effort, requiring suppliers to deliver required inputs only when needed.

The dictionary definition of *cooperation* captures the essence of network interactions, defining it as ‘joint operation or the action or practice of working together, or with another or others, towards the same end, purpose, or effect.’

As many scholars do, I will use these terms synonymously⁴⁸ or use one to imply all three in referring to networked action.

I stated earlier that networks are not moral agents and do not take group or collective action, a topic I will return to regularly in the following chapters. While it is the case that within networks, at times subsets of network participants have joint goals and perform group actions, this is not how the network as a whole functions where network participants assemble to pursue their own individual goals, and while they cooperate and collaborate in some areas of their operations, they compete in others. When I talk of collaboration, for example, I am not suggesting that the entire network is involved in one collaborative project with everyone else in the network. What I mean is that there’ll be numerous collaborations going on among subsets of network participants, which may or may not overlap. There would indeed be joint goals for these particular projects, initiatives or programmes. For example, companies collaborating to develop a new technology would presumably have the same goal to produce a successful outcome, each corporation may still maintain their separate corporate goals of how they will employ the technology. In the example above of the financial service collaboration, all efforts will be geared towards the same goal of upselling as many financial products to a customer as they can (a shared goal), each company will still have their own unique goals whether in terms of sales revenue, number of customers, types of customers, and so on, and these companies will still compete.

⁴⁸ (Polenske, 2004, p. 1031)

Embeddedness in networks provides an alternative to explanations of organizational action anchored in self-interested utility maximisation.⁴⁹ Business is fundamentally a cooperative endeavour. The standard view of corporate behaviour as one of competition is only part of how corporations interact with each other, even between companies in the same industry serving the same customer segments. This cooperation is vital to the functioning of the corporate enterprise to enable economic value creation. At the micro level, every transaction is an act of cooperation where seller and buyer cooperate in the exchange of goods for cash. At the macro level, corporations comply with market rules and norms, cooperate to achieve shared benefits and lobby to advance particular agendas. It is common for corporations to build cooperative ties that benefit their performance.⁵⁰ Rubin reminds us that these cooperative ties are not altruistic, for even rational selfish agents will be highly cooperative because this is the way to maximise their own utility.⁵¹ The reality is that at root, cooperation is the heart of economics because corporations are simply competing for the opportunity to cooperate with a customer.⁵²

While participants cooperate, collaborate or coordinate in the network, they may compete outside the network, or even across certain parts of the network. A group of corporations may collaborate on a research project to develop some shared intellectual property but could then compete in commercialising that intellectual property. Coordination could be explicit where plans are co-developed and shared, or tacit, where participants observe each other's behaviour to assess their plans. Coordination between networked participants helps them keep in step, to act in ways that supports each other or enhances their mutual benefits. The dual cooperation and competition are sometimes referred to as 'cooperation'⁵³ which adds another layer to the complexity in corporate networks that we don't find in other groups. These interactions, some

⁴⁹ (Knoke, 2009, p. 1695)

⁵⁰ (Rumyantseva & Tretyak, 2003, p. 7)

⁵¹ (Rubin, 2014, p. 879)

⁵² (Rubin, 2014, p. 877)

⁵³ (Bengtsson & Kock, 2000, p. 411)

friendly, some adversarial, are the foundational actions to commercial activity of the modern corporation, and all essential for corporations to achieve their commercial objectives.

Through the complex web of networked actions corporations develop sophisticated ways of sharing resources, information and opportunities which translate into benefits by way of furthering their individual goals and reinforcing the networks. There are two kinds of benefits that a firm acquires through networks. First of all, firms access the resources (physical, skills, knowledge) of other firms, and second networks enhance firms access to outside developments, like a major technological innovation, or failures through knowledge spillovers.⁵⁴

The coordination, cooperation, collaboration and competition which constitutes networked action are the means by which corporations generate benefit from participating in networks. Corporations cannot operate without Level 1-type networks and would be unable to achieve their objectives without Level 2-type networks. To describe the way the modern corporation operates, especially relating to inter-firm relations, is to describe networked action, which is typified by reciprocal patterns of communication and exchange.⁵⁵ This reciprocity creates indebtedness or obligation to other participants which strengthens the connections between participants.

It is straightforward to recognise how this networked action enables network participants to satisfy their three motivations for operating in a network. The cooperative sharing and support from others in the network furthers their ability to meet their own goals, the collaboration maintains relationships and coordination strengthens the network, offering it stability. In considering the durability of networks, management scholars note that compact connections between participants are prevalent in networks qua networks, that is, they need no particular

⁵⁴ (Ozman, 2009, p. 49)

⁵⁵ (Powell, 1989, p. 295)

conscious design or institutions for facilitating cohesion. This, scholars note, makes networks durable and “highly resilient to change.”⁵⁶

This section has presented an overview of the types of interactions in corporate networks, the main purpose to demonstrate the intimate nature of the relationships with which corporations operate with each other, and the complexity of interactions in networks. What corporate networks illustrate is that the notion of corporations only competing with each other is a mischaracterisation of actual corporate behaviour. The fact that corporations cooperate and compete (coopetition) makes corporations and their networked actions unique among aggregates. These interactions are motivated by the benefits that corporations derive, and as management scholars note, is becoming increasingly dominant as the way business is done. What follows from networked action and how it leads to the emergence of networked injustice is the topic of Chapter 3.

Given this understanding of corporate networked and the behaviour of corporations in networks, my task now is to assess which, if any, of the existing accounts of modes of injustice fits with the mechanisms by which corporations operate and might bring about injustices.

2.5. Modes of injustice

With the initial understanding of the fundamentally networked behaviour of corporations just developed, I proceed in this section of the chapter to a review of three modes of injustice – structural injustice, goal-orientated collective injustice or standard injustice – that could

⁵⁶ (Davis, Yoo, & Baker, 2003, p. 313)

potentially offer an account of the injustices that arise from corporate networks. The standard mode of injustice would most closely reflect the atomistic view of the corporation, while the structural and goal-orientated collective modes of injustices will capture elements of the networked view of the corporation. As I conclude in this chapter, however, none of these three modes are adequate on their own to fully capture the networked view of the corporation. But before I proceed with this analysis, it will be useful to set out my understanding of injustice, and then turn to the analysis of the three modes.

Rawls states that, “what is just and unjust is usually in dispute,”⁵⁷ and I take the view that in discussing injustice we are not only referring to the opposite of justice. At the outset, it is important to distinguish between distributive justice which dominates contemporary political theory, and corrective (sometimes called reparative, remedial or rectificatory) justice which is the subject of this thesis.⁵⁸ I rely on the account presented by David Miller to make this distinction.⁵⁹

Distributive justice develops principles for assigning distributable goods of various kinds to individual agents, whereas corrective justice develops remedial principles that apply when one agent wrongly interferes with another’s interests. Thus suppose Bill steals Alice’s computer, or sells Alice faulty goods which he claims to be in perfect order: then Alice suffers a loss, which justice demands that Bill should remedy by returning the computer or fulfilling his contract honestly. Corrective justice, then, essentially concerns a bilateral relationship between a wrongdoer and his victim, and demands that the fault be cancelled by restoring the victim to the position she would have been in had the wrongful behaviour not occurred; it may also require that the wrongdoer not benefit from his faulty behaviour. Distributive justice, on the

⁵⁷ (Rawls, 1971, p. 5)

⁵⁸ There is also a significant body literature debating the competing merits of distributive vs relational justice, for example Elizabeth Anderson ‘*What is the Point of Equality*’ and Samuel Scheffler ‘*What is Egalitarianism?*’

⁵⁹ (Miller, 2021)

other hand, is multilateral: it assumes a distributing agent, and a number of agents who have claims on what is being distributed. Justice here requires that the resources available to the distributor be shared according to some relevant criterion, such as equality, desert, or need.

The conceptual distinction between distributive and corrective justice seems clear, but their normative relationship is more difficult to pin down. Corrective justice could be conceived as being merely instrumental to distributive justice, that is, its aim is to move from a situation of distributive injustice brought about by the faulty behaviour to one that is more nearly (if not perfectly) distributively just. I see the merit of this view, under which, if we assume a just distribution of goods prior to his faulty behaviour, Bill has disturbed this distributive equilibrium and so his corrective responsibility to Alice restores this equilibrium. The significant assumption here is that Alice had a legitimate claim to her laptop and that her ownership did not derive from an unjust act. If corrective injustice is deemed to serve distributive justice, to restore distributive equilibrium we may require that someone other than Bill restore Alice's laptop to her. This seems problematic since it seems to endorse Bill's interference with Alice's interests. This underlines the bilateral nature of corrective justice, and also the fact that it comes into play in response to faulty behaviour on someone's part. Its primary demand is that people should not lose out because others have behaved wrongfully or carelessly, but it also encompasses the idea that 'no man should profit by his own wrong'.

I believe corrective justice can, but does not always, serve distributive justice. At base it shares ideas of fairness and desert with distributive justice, but it rests on the principle that each agent must take responsibility for their own conduct, and if they fail to respect the legitimate interests of others by causing injury, they must make good the harm. In this way, everyone can plan their life secure in the knowledge that they will be protected against certain kinds of external setbacks. In considering corporations and their responsibility to advance justice, we will be

considering what corporations owe victims and what reallocation of resources is required, which may promote distributive injustice, but the immediate focus will be on rectifying wrongful harms caused by these corporations.

In light of the above, I will take an injustice to be *a wrongful harm committed by one or more agents against one or more other agents*. We harm someone when their interests have been affected adversely by our actions.⁶⁰ We act wrongly when we breach a duty or moral principle with no valid justification or excuse.⁶¹ I will take the constraint against doing harm, the most common moral constraint,⁶² to be the standard to be adhered to and consider an agent blameworthy when the harm is wrongful. Many harms involve no wrongdoing – if I accidentally trip while walking and fall against an oncoming pedestrian causing her injury, I have harmed her, but I would not have acted wrongly. But most wrongdoing also constitutes harm. If I didn't accidentally trip to cause the oncoming pedestrian injury, but attacked her because of her gender and race, then I have both harmed and wronged her, thus committed an injustice for which I would be blameworthy.

We commit an injustice when we act wrongly to interfere with someone's interests, especially their ability to live a decent life, such that we would be held morally blameworthy. Following Sepinwall in quoting Gardner, I use the term 'wrong' or 'wrongful' as a shorthand for 'the kind of act that would be considered a wrong were it to have been committed by a moral agent.'⁶³ Blame and blameworthiness will be discussed in Chapter 5, but for now it suffices to say that we would assign blame to an agent for an intentional act that violates a moral principle. The wrongdoing could entail large-scale atrocities such as genocide, slavery or events such as the Holocaust, or could relate to less horrific but no lesser wrongdoings associated with acts and

⁶⁰ (Kagan, 1998, p. 84)

⁶¹ (Sepinwall, 2016, p. 5) quoting John Gardner, (Isaacs, 2011, p. 99)

⁶² (Kagan, 1998, p. 105)

⁶³ (Sepinwall, 2016, p. 5) quoting John Gardner

situations of discrimination, exploitation and acute deprivation. I will not develop the arguments that these are examples of injustice but rely on those presented by others.⁶⁴

Following Rawls who writes that “justice has a certain priority,”⁶⁵ I take justice to enjoy the highest of our moral responsibilities and as Risse writes, “considerations of justice carry the most weight in moral deliberation” such that there is little doubt that one should proceed in the way that these considerations propose.⁶⁶ This is echoed by Reiman who writes that “injustice ... is normally a matter of the strictest kind of moral claim” which “can be required of people, even forced from them.”⁶⁷ Nagel writes that “injustice is not just another cost; it is something that must be avoided, if not at all costs, then at any rate without counting the costs too carefully. If a form of inequity in social arrangements is unjust, it should not be tolerated, even if that means giving up things that may be very valuable in other ways.”⁶⁸ This makes the pursuit of justice non-discretionary.

There is an urgency to justice⁶⁹ that I believe is heightened when considering injustice. Having judged an injustice to exist, there’s an immediacy to the need for action because of the suffering at hand and the unacceptability of the situation, even if the injustice has prevailed for some time and the solutions require long-term, sustained intervention. According to Risse, where the most stringent claims of justice are unsatisfied, their realisation is urgent.⁷⁰

⁶⁴ (Lippert-Rasmussen, 2014), (Zwolinski, 2007), (Young I. M., 2011), (Young I. M., 2006), (Goff, 2016), (Goodin R. E., 1985), (Pogge, 2012)

⁶⁵ (Rawls, 1971, p. 6)

⁶⁶ (Risse, 2020, p. 300)

⁶⁷ (Reiman, 2012, p. 743)

⁶⁸ (Nagel, 1997, p. 303)

⁶⁹ (Risse, 2020, p. 301)

⁷⁰ (Risse, 2020, p. 301)

With this background on my understanding of injustice, I now turn to the study of three modes of injustice, that is, the mechanisms by which injustice arise or emerge. We are exploring whether any of them offer us an account of corporate injustice given their network behaviour, or at a minimum, offer us guidance in developing a new mode. While this analysis generates useful insight that I draw on in the next chapter, the conclusion of this analysis is that none of these modes of injustice fully capture the nature of the injustice that arises from corporate behaviour in networks, necessitating the need for developing what I term, networked injustice, the development of which I undertake in Chapter 3.

2.5.1. Structural injustice

In her landmark work on responsibility for justice, Young introduced the idea that injustice could be mediated by social arrangements.⁷¹ Young's argument is that injustices are mediated by the social processes by which agents act according to accepted norms. On her view, people go about their daily business, acting without coordination and without harmful intentions, yet these actions interact with features of the structures in society to produce what she terms *structural injustice*.

The causes of structural injustice are embedded in unquestioned norms, habits, and symbols, in the assumptions underlying institutional rules and the collective consequences of following those rules. Groups in society suffer "vast and deep injustices" that are embedded in everyday life.⁷² Young writes that we cannot eliminate this structural oppression by getting rid of the

⁷¹ (Young I. M., 2011, pp. 43-74)

⁷² (Young I. M., 2011, p. 41)

rulers or making some new laws, because oppressions are systematically reproduced in major economic, political, and cultural institutions.⁷³

The breakthrough of Young's work was that till then, injustice was largely considered to result from unmediated actions as described as standard injustice below. Whereas Young claimed that those who contributed to structural injustice were morally blameless, the standard unmediated form of injustice holds perpetrators blameworthy for the injustices they commit.⁷⁴

With the inclusion of mediated injustices like her structural injustice, Young's theory extended the scope of actions and outcomes for which we could hold agents responsible.

Many endure dependency or vulnerability that "is arguably created, shaped, or sustained, at least in part, by existing social arrangements."⁷⁵ These social arrangements or structures refer to the economic, political, legal, religious, or cultural institutional rules, norms, and routines in which individual behaviour is embedded, which limits and enables them to act,⁷⁶ and shapes how individuals and groups interact within a social system.⁷⁷ These social structures consist in the connections among the positions that agents hold and the relationships between these positions.⁷⁸ For Young, a structure is not necessarily a single identifiable institution that regulates human behaviour, instead it amounts to many agents interacting through set arrangements or institutions against a background of generally accepted norms, habits or expectations.⁷⁹

Individuals fit into this structure and stand in a particular position, so do all other actors including corporations. Workers and owners occupy different social positions, so do people of varying racial or ethnic backgrounds which render them vulnerable to exclusion or

⁷³ (Young I. M., 2011, p. 41)

⁷⁴ More on this below.

⁷⁵ (Goodin R. E., 1985, p. 191)

⁷⁶ (Phillips & Schrempf-Stirling, 2022, p. 318)

⁷⁷ (Rylko-Bauer & Farmer, 2016, p. 48)

⁷⁸ (Young I. M., 2003, p. 4)

⁷⁹ (Atenasio, 2019, p. 152)

discrimination. The different social positions in which people find themselves offer differing and unequal opportunities and potential benefits to their occupants, and their relations are such that constrained opportunities and minimal benefits for some often correlate with wider opportunities and greater benefits for others.⁸⁰

Social structures are dynamic and exist through the actions and inactions of individuals. Young writes that structural injustice “is produced and reproduced by thousands or millions of persons usually acting within institutional rules and according to practices that most people regard as morally acceptable,”⁸¹ but when we judge the structural injustice exists, we are saying precisely 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.”⁸² Far from being taken-for-granted as just or fair, the background conditions and their harmful effects on those living within these structures are the catalyst for, and object of, critical examination.⁸³ These structures persist over time and “exist only in the action and interaction of persons; they exist not as states, but as processes”⁸⁴

The injustice is structurally caused, or mediated, and the outcome of the normal actions of a large number of actors, that is, injustice does not result from the actions of one or a few specifiable actors, rather harms come to people as a result of structural processes in which many people participate, and it is not always possible to trace the specific causal relation between someone’s particular action and some particular part of a harmful outcome.⁸⁵

⁸⁰ (Young I. M., 2006, p. 112)

⁸¹ (Young I. M., 2011, p. 95)

⁸² (Young I. M., 2011, p. 107)

⁸³ (Phillips & Schrempf-Stirling, 2022, p. 319)

⁸⁴ (Young I. M., 2003, p. 5)

⁸⁵ (Malpas, 2013, p. 6)

Structural injustice is a “specific kind of moral wrong,” that is “distinct from wrongs traceable to specific individual actions or policies.”⁸⁶ Thus, like Rawls, Young considers social structure to be the subject of justice.⁸⁷

With a standard injustice we can draw clear linkages between the perpetrator, the wrongful act and the victim. If Jack murdered Bill, we would identify Jack as the perpetrator, his murderous action as the wrongful act and Bill as the victim. We would then be in a position to theorise the responsibility we assign to Jack. Or if Jack and Liam both stabbed Bill multiple times, we would identify Jack and Liam as the perpetrators, their stabbings as the wrongful act and Bill as the victim. With a mediated injustice such clear linkages cannot be drawn usually because the injustice is mediated by some social arrangement by which agents participate in the wrongful act or acts that bring about wrongful outcomes. On Young’s account, mediating social arrangements may cause injustice to derive from innocent actions, or cause minor harms to be magnified into devastating unjust outcomes.

In developing her argument, Young introduces the fictional character, Sandy, a low-skilled single mother of two who, through no fault of her own, faces the bleak prospect of being homeless after being compelled to vacate her apartment with low probability of finding another suitable option.⁸⁸ Despite her best efforts, Sandy seems unable to break out of her doomed situation, neither able to earn a higher salary nor able to find suitable affordable housing. Through her work, Young also points to the plight of sweatshop workers who work under horrendous conditions in factories for the textile and apparel industry.

⁸⁶ (Young I. M., 2011, p. 44)

⁸⁷ (Rawls, 1971, p. 7), (Malpas, 2013, p. 6)

⁸⁸ (Young I. M., 2011, p. 43)

In presenting the injustice of vulnerability to homelessness or working conditions in the apparel industry, the structural injustice argument is that there is no single tyrannical landlord or employer that metes out the harm suffered by Sandy or textile factory workers. The harms they suffer, by Young's account, derives from the vast number of decisions and actions of a large number of actors, none acting with ill intent. The suggestion is that the sheer volume of actions and the complexity with which these actions interact with each other and victims, transform innocent actions into harmful actions or actions that produce harmful outcomes.

In the housing example, the actions of property developers, banks, rental agencies and others combine to unintentionally bring about the situation where Sandy cannot afford to rent another suitable apartment after being required to vacate her current apartment due to it being redeveloped. The landlord's decision to sell the building, the requirement for three months security deposit, a sex-segregated labour market, the spatial planning of the city that situates affordable apartments far from the city centre, and so on, these are the social processes which impinge upon Sandy's ability to achieve even the most basic requirement of adequate accommodation, and combine to unintentionally bring about the situation where she cannot afford to rent another suitable apartment after being required to vacate her current home. By the account of structural injustice, even the myriad individuals buying and selling, or leasing apartments, contribute to the injustice Sandy suffers. Even though all these actors are acting by conventional policies and accepted social norms and not deemed to be doing anything that is obviously wrong, they participate in the social processes that bring about the moral harm that Young deems Sandy to suffer in which she falls victim to conditions that prevent her, and many others like her, from developing their capacities or improving their situation.⁸⁹

⁸⁹ (Young I. M., 2006, p. 114)

Similarly, in the apparel industry case, a combination of global retailers, big name brands, product distributors, small manufacturers, consumers of apparel, among others, by their actions bring about background conditions that cause workers to work in horrendous conditions.⁹⁰ The injustices, according to Young, are not caused only by direct action, but mediated by society-wide structures in which many participate to produce the injustice.

Structural injustice arises from “a complex combination of actions and policies ... that most people consider normal and acceptable, or even necessary and good,” and from the “unintended, generalised, or impersonal harms or wrongs that result from social structural processes in which many individuals and corporate agents participate.”⁹¹

Proponents of structural injustice claim that the focus on standard injustice is inadequate because it fails to account for “most major political and social injustices” which result from “widespread wrongs” that “involve the operation of various structural injustices in which many participate.”⁹² The claim is that the standard form of injustice which requires causal links and intentional wrongful acts between identifiable perpetrators and victims cannot account for all injustices that people suffer. This is because injustice works on both interactional and institutional levels. Some people suffer injustice not because a tyrannical power coerces them, but because of the everyday practices of a well-intentioned liberal society who commit no specific wrong.⁹³ This is apparent in Young’s original account of the single mother’s vulnerability to homelessness and the sweatshop workers. The landlord does not evict Sandy because of a prejudicial belief or with harmful intent, nor is there a tyrannical employer that independently metes out the harm suffered by textile factory workers. The harmful outcome

⁹⁰ (Zwolinski, 2007)

⁹¹ (Lu, 2017, p. 100)

⁹² (Lu, 2018, p. 44)

⁹³ (Young I. M., 2011, p. 41), (Young I. M., 2011, p. 47)

arises when “vast numbers of actors contribute to the processes that produce this outcome, many of them with little awareness of how their actions contribute.”⁹⁴

As participants in the social processes that produce structural injustice, corporations are judged to commit structural injustice. All the service providers in Sandy’s case are commercial enterprises such as the landlord, bank, her employer, and so on.

Structural injustice arises when numerous agents act independently in small unintended ways to unknowingly bring about the social conditions that cause harm. Structural injustice is a wrong distinct from those committed by particular agents against particular others. In fact, it can be present without it being the case that any particular agent seems to wrong any other agent.⁹⁵ The injustice arises as a by-product of the agents’ actions as in the case of the consumers who purchase T-shirts manufactured in a sweatshop – they merely set out to acquire clothing but in so doing, as a by-product of their uncoordinated actions, contribute unintentionally and invisibly to the injustice that the workers suffer. While accounts of structural injustice indicate that actors have neither harmful intention nor knowledge of harmful outcomes, my account of networked injustice (in Chapter 3) does rest on foreseeability of harm although not harmful intentions.

To summarise this account: By the structural injustice account, injustice arises by the actions of individuals who act within social structures with no harmful intent or foresight that harms might result from their actions. The injustice results from the collective wrong of subjecting victims to the cumulative harms of the myriad of actions in society, however there is no individual responsibility or blame.

⁹⁴ (Young I. M., 2011, p. 99)

⁹⁵ (Barry & Ferracioli, 2013, p. 250)

2.5.2. Goal-orientated collective injustice

Scholars other than Young have also developed accounts of mediated injustice relating to groups and collectives,⁹⁶ pointing out that mediated injustices are not only committed by agents with harmless intentions performing uncoordinated acts, as Young describes, but that often injustice arises from groups or collectives that set out with the goal of causing harm, and that they coordinate their actions to achieve this goal. One such account is developed by Isaacs who introduces the concept of a *goal-orientated collective* which is a group that operates with “a collective intentional structure that gives rise to collective intention and collective action.”⁹⁷ Isaacs gives the account of the 1994 Rwandan genocide as an example of such a collective that shared a common goal and coordinated their activities in pursuit of that goal. Over a three-week period, over eight hundred thousand Tutsis were hacked to death by over one hundred thousand Hutus in “a coordinated and systematic effort to kill any man, woman, or child who was Tutsi.”⁹⁸ Another prominent example of a goal-orientated collective committing an injustice is offered by Christopher Kutz who describes the Allied strategic bombing of the city of Dresden during World War 2 which killed thirty-five thousand civilians and involved at least a thousand planes and eight thousand crewman in various roles as pilots, navigators, bombers and gunners.⁹⁹ The goal in this case, according to Kutz, was to kill civilians. Following the earlier example of the men who attack Bill. If ten men had mobbed Bill, attacking him violently, it would be less clear what the wrongful act is and which of the ten men perpetrated which wrongful act. We could say that the harm done to Bill is mediated by the social arrangement in which the ten men participate, that is, a mob or a gang. The joint action by the

⁹⁶ (Lu, 2017), (French, 1984)

⁹⁷ (Isaacs, 2011, p. 27)

⁹⁸ (Isaacs, 2011, p. 4)

⁹⁹ (Kutz, 2007, pp. 117-121)

ten men of mobbing Bill and inflicting harm on him is another example of a goal-orientated collective.

These accounts extend the scope of mediated injustice with the introduction of collectives which range from highly structured entities such as organisations, to loosely structured groups of as few as two agents. Rather than injustice mediated by society-wide structures, injustices mediated by goal-orientated collectives (GOC) are sub-society-wide, and are more closely coordinated arrangements. Examples of organisations would be governments, non-profit groups, professional sports teams, universities and corporations. By this account, we would describe a corporation as a highly structured goal-orientated collective since it has well-structured internal processes and the actions of all members of the collective are directed at maximising profit.

Goal-orientated collectives pursue a joint goal through collective action and organise their efforts through a well-defined organisational structure.¹⁰⁰ Isaacs argues that goal-orientated collectives can be held collectively morally responsible for their actions, with their moral agency being derived from the mechanisms by which collective intentions are developed and exercised, what she terms their collective intentional structure.¹⁰¹

Other representations of mediated injustices are “*structured* injustice,” defined as injustices “through or by organised social groups,” in contrast to structural injustice which, as discussed above, is injustice “mediated and conditioned by social structures and processes in which many participate,”¹⁰² and “*institutional* injustice” that accounts for ways in which “formal social institutions, such as systems of government, law, health, or education, violate principles of justice that they should embody.”¹⁰³ Lu’s account of structured injustice is an injustice where

¹⁰⁰ (Isaacs, 2011, p. 25)

¹⁰¹ (Isaacs, 2011, p. 5)

¹⁰² (Lu, 2017, p. 118)

¹⁰³ (Aragon & Jaggar, 2018, p. 441)

“wrongful acts or objectionable outcomes committed or produced by individuals can be attributed to their roles within corporate agents or highly organised and/or purposeful social groups.”^{104, 105}

Isaacs’s and these other ideas further extend the scope of actions by which we consider injustice to arise and for which we may seek to assign moral responsibility. In addition to the standard unmediated injustices and the uncoordinated mediated injustice in society-wide structures introduced by Young, we now also have an account of injustices that are mediated by collectives.

Could corporations form a goal-orientated collective? I’ve already said that a single corporation could be considered a formal and highly structured goal-orientated collective, but could the aggregate of corporations acting in corporate networks be considered this way? I think they can and often do for short term initiatives. When a group of companies collaborate to lobby government to take a particular action, they form a loose collective with a common goal and take collective action in its pursuit. While the standard form of acting with other corporations is through networks, within these networks, ad hoc collectives would form. It is plausible that corporations could form collectives to commit injustice, such as supporting a repressive regime to suppress uprising, and in such cases Isaacs’ account would apply. This, however, is not the routine way in which corporations interact. In corporate networks corporations do not pursue a common goal, and while they collaborate on some activities, they also compete on others. By my account of corporate networks and corporations’ motivations and behaviours in these networks, as discussed earlier in this chapter, I do not believe the account of goal-orientated collectives captures the way corporations commit injustice.

¹⁰⁴ (Lu, 2017, p. 118)

¹⁰⁵ Note that Lu’s use of the term ‘corporate agent’ here does not refer to the corporation but to a formal, structured agent such as the state.

To summarise this account: Individuals act together to form goal-orientated collectives. Goal-orientated collectives act in pursuit of a joint goal and intend or foresee the consequences of their action. Where these goals are unjust, the consequences of collective action can amount to cumulative harms and collective wrongs, thus producing injustice.

2.5.3. Standard injustice

I've adopted the term 'standard injustice' to represent the traditional view of wrongful harm as an injustice for which we would hold a perpetrator blameworthy. The term is necessary to distinguish this standard view of injustice from mediated, structured conceptions of injustice, discussed above. The primary distinctions between the standard view of injustice and the structured view are that the latter is mediated by social arrangements whereas standard injustice is unmediated. Participants in the processes that bring about structural injustice are not deemed blameworthy (by Young's account) whereas perpetrators of standard injustice (and collective injustice) are. Standard injustice assumes a rather direct interaction between the actor that is causing harm and the harmed party,¹⁰⁶ whereas in structured injustice this direct interaction isn't always present or identifiable.

The standard view of injustice stems from the legal literature, which seeks culpability and blame, assigning liability to perpetrators. These injustices are variously referred to as "interpersonal injustice"¹⁰⁷ or "interactional injustice"¹⁰⁸ by other theorists. As discussed

¹⁰⁶ (Tempels, Blok, & Verweij, 2017, p. 100)

¹⁰⁷ (Aragon & Jaggar, 2018)

¹⁰⁸ (Lu, 2018)

earlier, with such unmediated injustices, we're typically able to identify the perpetrators through traceable causal actions linking them to the injustice suffered by victims, that is, they are identifiable wrongful actions committed by particular agents against particular others,¹⁰⁹ whether coordinated or uncoordinated among multiple agents. This stands in contrast to the account of structural injustice where the wrongful actions are mediated by the social structure and thus not committed by particular agents against particular others. This mode of injustice attracts remedial responsibility ascribed by, what Young terms, *the liability model of responsibility*¹¹⁰ (discussed in Chapter 5).

In comparing the three modes of injustice, an injustice arises in different ways, with standard injustice being generally bilateral, while structural and GOC injustices being mediated by structures and arising by collective action. An example of the structure of standard injustice involving more than one actor would be when actors collaborate with a perpetrator to commit an injustice.¹¹¹ If A plans and commits a bank robbery by himself but gets B to act as a lookout (who knows that A is committing the robbery), and gets C to give him the access codes to the bank's doors (also knowing that A will commit a bank robbery), then these three are acting together in committing this standard injustice, with A the principal agent or perpetrator and B and C his collaborators. This case will be analysed again in Chapter 3 to explore complicity and in Chapter 6 to explore responsibility for complicity.

¹⁰⁹ (Barry & Ferracioli, 2013, p. 250), (Abdel-Nour, 2018, p. 13)

¹¹⁰ (Young I. M., 2011, pp. 97-104)

¹¹¹ Whether this is also an example of a GOC will depend on the circumstances of the accomplices. In a GOC, all participants share the goal and act with intention to advance the pursuit of the goal of the GOC. This isn't necessarily the case when someone is complicit – they may or may not know the goal of the plan, or they may or may not act to advance the goal of the plan, for example, they could be acting as a favour to the principal perpetrator.

2.6. A gap in the account of corporate injustice

In considering the housing insecurity or vulnerability to homelessness that Sandy faces, Young avers that the circumstances in which Sandy finds herself are attributable neither to individual fault nor unjust policy but to the many public and private policies and unintentional actions by numerous people acting according to normal rules and accepted practices.¹¹² How then do all these innocent policies and actions result in the unjust outcome that Sandy faces? Young's explanation is that the unjust outcome arises by social processes that connect a vast array of diffused actions in which no one acts unjustly. I challenge the claim that the injustice Sandy faces arises *primarily* from innocent policies and diffused innocent actions as Young claims. This overlooks the subset of actors – corporations – that by their *behaviour* may not be as blameless as Young suggests. An example of Young overlooking the profound impact of corporations in society is her example of how financial crises arise. Young explains that “*people buy and sell currencies, or commodities, or commodity futures, just trying to do the best for themselves. Sometimes a run on a particular category of good accelerates, heating up the market and eventually causing it to crash, leaving many investors ruined. No one intends this outcome ...*”¹¹³ (my italics). The reality is that activity in modern capital markets is dominated by corporate investors, not individuals as Young suggests. For example, the OECD reported in 2014 that in the UK, only 10% of all public equity is held directly by individuals. Posner et al write that “institutional investors have become the dominant capital market players of our time, displacing dispersed individual investors ...”¹¹⁴ It is commonly reported that financial crises are caused more by corporate mismanagement, banking malpractice, and inadequate regulation and oversight than individuals trading “just trying to do the best for

¹¹² (Young I. M., 2011, pp. 47-48)

¹¹³ (Young I. M., 2011, p. 63)

¹¹⁴ (Posner, Scott Morton, & Weyl, 2017, p. 669)

themselves.”¹¹⁵ Young’s account of structural injustice relies on the actions of “millions of individuals.”¹¹⁶ I have not set out to dispute this account. What I am suggesting is that when considering the actions of powerful agents, such as corporations, operating in the structure of a network, we don’t need millions to act to bring about injustice, only a few. While the mode of structural injustice could account for the contribution corporations make to the social process that lead to injustice, I believe this severely understates corporations’ contributions and complicity in injustice.

It is plausible that corporations could form GOCs to commit injustice, such as supporting a repressive regime to suppress uprising, and if this was the case, Isaacs’ account would apply. However, this is not the routine way in which corporations interact. In networks they do not pursue a common goal, and while they collaborate on some activities, they also compete on others. Isaacs’s account of collectives would also not account for the injustice Sandy faces since it does not result from a once-off collection action but a sustained series of complex actions. Again, I believe this account is inadequate to account for the unique behaviour of corporations in networks.

If a corporation, by its action, has acted alone or in collaboration with others to wrongly bring about harm to an identifiable victim, then we would consider the corporation to have perpetrated a standard injustice. But this says nothing about the routine way in which corporations act. As discussed before, we accept that corporations act wrongly such as in the fraudulent and environmental scandals mentioned earlier. My interest is investigating the injustices that may arise from ordinary routine behaviour rather than sporadic unjust acts.

¹¹⁵ (Kumar & Singh, 2013), (Prager, 2013), (Chan, 2011)

¹¹⁶ (Young I. M., 2011, p. 64)

While corporate atrocities such as fraud, environmental damage and human rights abuses are commonplace, they are not commonplace in the behaviour of every corporation. While many corporate injustices resemble standard injustices, the standard injustice account cannot account for the ongoing nature of networked action and the fact that any injustice that follows is mediated with the network.

My contention is that an account of corporate injustice as either standard, structural or collective injustice is incomplete until we've taken account of the injustices that arise from the unique way corporations act in networks. I conclude that if we rely on these existing accounts of injustice alone, we would miss important aspects of corporate behaviour which contributes to injustice. I argue that by the specific motivations and attributes of networked actions among corporations, severe injustices are committed. Network members commit injustices through a mediated social arrangement, as in Young's account, but unlike Young's account, I will argue (in Chapter 6) they are blameworthy in virtue of their deliberate and foreseeably harmful actions.

2.7. Concluding remarks:

This chapter presented an account of corporate networks and the networked action that corporations perform in networks. The discussion showed the unique way in which corporations act, not as free-standing, atomistic entities but in a complex web of networked relationships that produce outcomes that benefit network participants.

I conducted a review of three prominent modes of injustice to explore whether any of them capture this unique way in which corporations operate. I conclude that while all three modes offer elements that reflect the mode by which corporations potentially commit injustice by their

networked behaviour, none of the three can be adopted wholesale since they miss important aspects of the corporations' uniqueness.

Using the literature discussed in this chapter as my starting point, I will introduce, in Chapter 3, a further extension to the account of mediated injustices for which we can assign responsibility, that of networked injustice. Injustices can be mediated by social processes as argued by Young, by intentional structures in collectives as argued by Isaacs, or by networks as I will argue. These approaches are additive since each identifies additional modes of injustice that the others miss. At different times and under different conditions, agents commit injustices by all three modes. However, I will argue in the next chapter that corporations by the networked action, are prone to routinely committing networked injustice.

Chapter 3: CORPORATIONS AND NETWORKED INJUSTICE

3.1. Introduction

Once we understand the mechanisms by which corporations bring about injustice, we can then more appropriately assign justice responsibility to them and offer guidance on the forms of remedial action required to discharge this responsibility.¹ In Chapter 2 I introduced the idea that corporations rarely act in isolation, that they conduct their operations in corporate networks and that a unique form of action arises in these networks, which I termed networked action. In that chapter I showed that networked action creates opportunities for enhanced corporate profit opportunities which is the main attraction of networks to corporations. In this chapter I will argue that networked action plays a central role in bringing about corporate injustices.

In Chapter 2 I concluded that our existing accounts of injustice do not fully account for the injustices that corporations commit. Drawing on that analysis, I will here develop an account of corporate injustice which I term *networked injustice*, given its origins in corporate networks and the networked nature of the behaviours that bring about the wrongful harms.

I identify two important precursors to the emergence of networked injustice. The first, *harmonisation of corporate behaviours*, follows directly from networked action, by which corporations mimic each other in form and practice, creating norms of behaviour and operating by these norms. The result being that corporations in networks behave in ways that are predictable or anticipated, and thus in ways that can be known by other corporations and those who interact with them. Corporations might consider networked action innocuous and that they

¹ (Aragon & Jaggar, 2018, p. 442)

maintain their independence, but I argue below that they are acting together with far greater synchronisation than they may be aware of or care to acknowledge. I am not considering cartels or collusion, or other forms of explicit illegal or unethical coordination. Harmonisation of behaviours follows the protracted networked action through intimate corporate relationships. Much will turn on this concept.

The second important precursor to networked injustice, this one not unique to networks, is the corporation's *willingness to cause harm* in service of its corporate objective. The claim here is that corporations do not routinely act with harmful intent but that when achievement of corporate objectives are at stake, they are willing to take actions that might be harmful to persons.

Following the discussion of the precursors to networked injustice, I discuss how networked injustice emerges – by *complicity* of network participants with harmful or unjust actions of other participants, and by *contributing* to the transformation of corporate actions that would otherwise be merely negative (or unfavourable), to having unjust outcomes. As discussed in the chapter ahead, complicity arises by facilitating and enabling the harms committed by others, itself a form of contribution to injustice.

It is by this contribution and complicity that I will ground the responsibility for networked injustice in Chapter 6.

I make the simplifying assumption that networked action itself causes no harm, that is, when corporations interact with each other through collaborative or cooperative ventures, no harm to persons is caused. It is more accurate to state that no harm of the type that concerns us here is produced. It is very plausible that during collaborations and cooperative activity, harms are perpetrated. The focus here is on routine harms which emerge when corporations perform routine actions like employ persons or conduct trade transactions. I make this assumption to

avoid distraction from my main account of how networked injustice arises which is by corporate interactions with individual, especially vulnerable persons.²

Given the uniqueness of networked injustice I demonstrate its emergence with two detailed examples, showing how corporations' ordinary behaviour in networks ultimately lead to unjust outcomes for third parties. I apply the concept of networked injustice to Young's example of Sandy, the single mother facing homelessness, and argue that networked injustice offers a richer explanation of Sandy's plight than Young's account of structural injustice.

I will track the emergence of the injustice from the beneficial interactions between corporations in networks all the way through to the wrongful harms that these yield as suffered by persons who interact with corporations as employees or customers. I argue that these injustices are not the work of malevolent corporate executives but the unintentional actions with foreseeable outcomes that result from ordinary corporate behaviour. The chapter closes with the claim that injustice is embedded in corporate operating behaviour, and it closes with a sense of urgency by illustrating the power and ubiquity of corporate networks.

The account of networked injustice is important for three related reasons: first, it demonstrates a mode of injustice that would otherwise be missed if we only rely on the existing literature on modes of injustice, secondly, with this account of injustice we're able to properly identify corporations as the blameworthy agents that would otherwise have been overlooked or let off too lightly, and thirdly, understanding how this injustice arises allows us to theorise the appropriate remedial action required of these newly identified responsibility-bearers. If my argument holds true, that corporations commit injustices in virtue of their participation in

² Note that networks are among corporations. An individual, acting as an individual, will always be outside a corporate network. An individual would be inside the network when employed by a corporation.

corporate networks, then there is indeed an urgent need to develop a theory of responsibility for this injustice as the starting point to rectify the situation.

3.2. Precursors to networked injustice

Considerable intellectual distance needs to be travelled to show that mere networked behaviour by corporations can routinely lead to injustice. This is my task here. I will show that by acting together in networks, corporate interactions with persons becomes problematic. As though ‘weaponised’ or ‘tainted’ by networked action, these interactions with persons outside the network become harm-likely, that is, they have great potential to cause harm, even if not directly or immediately. Without special care, these harm-likely actions become harmful actions leading to the emergence of injustice that is mediated by the corporate network.

At least three factors combine in networks to contribute to unjust outcomes when corporations interact with persons. The fact that corporations are *motivated to pursue their financial corporate objective*, the pursuit of which can be in tension with just behaviour. It follows then that for corporations to successfully pursue their objectives they need to be prepared to act unjustly if needed, what I term a *willingness to harm*. Neither of this pair of factors is unique to corporate networks. What is unique to networks is that networked action leads to *harmonisation of corporate behaviour*. When corporate actions are harmonised, with a backdrop of willingness to harm, I argue harmful outcomes are more likely, even when taken without harmful intent.

3.2.1. Harmonisation of behaviours

I introduced the idea of networked action in Chapter 2, which describes the coordination, cooperation, collaboration and competition with which corporations operate in networks to achieve their individual goals. There I described how corporations cannot operate without certain types of networks (Level 1-type networks) and would be unable to achieve their objectives without others (Level 2-type networks). To describe the way the modern corporation operates, especially relating to inter-organisational relations, is to describe networked action, which is typified by reciprocal patterns of communication and exchange.

In this section I will discuss how, owing to the ongoing and repeated reciprocal interactions in networks, corporations begin to mimic each other in form and practice, creating norms of behaviour and operating by these norms³. The result being that corporations in networks behave in ways that are predictable or anticipated, and thus in ways that can be known by other corporations and those who interact with them. These behaviours are also highly correlated as if corporations are acting with one mind. How this happens and its relevance to networked injustice is discussed here.

Whether relating to individuals or organisations, behaviour in social settings is shaped by interactional influences.⁴ The idea of harmonisation of behaviours is that interactional influences repeated over time result in *like* behaviours among agents. I contend that the frequency, intensity and interdependency of the interactions in corporate networks transform the behaviour of those in the network such that they become more alike over time, not only in their actions but also the cognitive and non-cognitive means of decision-making. I argue that

³ Note that these are not necessarily moral norms; they're sociological or psychological features of human interaction that, while not entirely divorced from morality, are not reasoned moral principles, but sets of accepted behaviours similarly to the way Young (2011) employs the concept.

⁴ (Friedkin, 2001, p. 186)

this harmonisation of behaviour that derives from networked action is the root of network participants' contribution to and complicity with wrongful actions performed by network participants.

Among the explanations for the emergence of behaviour harmonisation in networks are the formation of *network norms* and *imitation* by network members. I will start this section with an analysis of social norms broadly and then turn to norms within corporate networks, followed by corporate imitation, all with the aim of demonstrating that networked action transforms the way corporations act and think which has significant bearing on the unjust outcomes that result from some types of corporate action.

During socialisation, individuals adopt standards of right and wrong that serve as guides for conduct. They monitor their conduct, judge it in relation to their moral standards and the conditions under which it occurs, and regulate their actions accordingly.⁵ A norm exists when a person perceives that a feeling, thought or action is appropriate, optimal, or correct (or inappropriate, suboptimal, or incorrect) for one or more persons in particular circumstances.⁶ While the term has a wide range of meanings and uses, I use the term 'norms' to refer to "regularities of behaviour."⁷ Norms are the unwritten codes and informal understandings that define what we expect of other people and what they expect of us.⁸ Social norms are patterns of behaviour that are self-enforcing within a group: Everyone conforms, everyone is expected to conform, and everyone wants to conform when they expect everyone else to conform. Social norms are often sustained by multiple mechanisms, including a desire to coordinate, fear of

⁵ (White, Bandura , & Bero, 2009, p. 42)

⁶ (Friedkin, 2001, p. 169)

⁷ (Young H. P., 2015, p. 361)

⁸ (Young H. P., 2015, p. 360)

being sanctioned, signalling membership in a group, or simply following the lead of others.⁹ Norms typically evolve without top-down direction through a process of trial and error, experimentation, and adaptation. They illustrate how social order is constructed through interactions of individuals rather than by design.¹⁰

Norms are contingent on context, social group, and historical circumstances. Young cites several examples of behaviours that are normal practice in some societies but would represent serious norm violations in others, such as having an illegitimate child, ignoring a challenge to a duel, binding your daughter's feet, leaving all your property to your eldest son, practicing contraception, keeping a mistress, burping at the end of a meal, or dancing at a funeral.¹¹

Norms can be both the consequence and facilitator of social interactions,¹² and stated stronger, they govern interactions.¹³ They are sustained partially by social pressure, a requirement since norms often prescribe behaviours that run counter to an individual's immediate self-interest, in which case they are sustained by the prospect of social disapproval, ostracism, loss of status, and other forms of social punishment.¹⁴ Someone may want to spit on the sidewalk while walking but will forego his immediate self-interest to avoid social disapproval in a place where spitting in public is frowned upon. Norms tend to persist for long periods, and to respond very sluggishly to changes in external conditions that alter the benefits and costs of adhering to the norm.¹⁵

⁹ (Young H. P., 2015, p. 359)

¹⁰ (Young H. P., 2015, p. 361)

¹¹ (Young H. P., 2015, p. 361)

¹² (Hawkins, Goodman, & Goldstone, 2019, p. 158)

¹³ (Young H. P., 2015, p. 361)

¹⁴ (Young H. P., 2015, p. 361)

¹⁵ (Young H. P., 2015, p. 363)

Norms develop among corporations in much the same way and have similar influences over the behaviour of corporations as agents. Scholars observe that once disparate organisations in the same line of business are structured into an actual field (or network), “powerful forces emerge that lead them to become more similar to one another.”¹⁶ Research shows that following close interactions, rather than a diversity of corporate behaviour, there is “startling homogeneity of organisational forms and practices.”¹⁷ They become “increasingly homogeneous” within given domains and increasingly “organised around rituals of conformity” to wider institutions.¹⁸

That corporations become “similar to one another” in “forms and practices” points to the presence of *harmonisation*, and the “powerful forces” and “rituals of conformity” bringing about this harmonisation would include the norms that prevail in the network and the fact that networked organisations eventually begin to imitate each other, sometimes intentionally, but often without deliberate effort.

A study of corporate networks conducted by Davis et al describes corporate behaviours that are “well-connected” in which “common frames of reference” are developed that “guide the decisions” that participants make, and that corporate leaders form a “unified and powerful class, influencing the actions of each other’s affiliated corporations.”¹⁹ Brass et al report “considerable evidence that imitation follows network ties among organisations.”²⁰ They report that information shared in networks is trusted and “likely to affect behaviour” and that networks affect “diffusion of behaviour norms”²¹ and as network participants come to “learn about others’ tendencies,” diffusion of ideas and behaviours occurs without deliberate effort so that

¹⁶ (DiMaggio & Powell, 1983, p. 148)

¹⁷ (DiMaggio & Powell, 1983, p. 148)

¹⁸ (DiMaggio & Powell, 1983, p. 150)

¹⁹ (Davis, Yoo, & Baker, 2003, p. 309)

²⁰ (Brass, Galaskiewicz, Greve, & Tsai, 2004, p. 805)

²¹ (Brass, Galaskiewicz, Greve, & Tsai, 2004, p. 805)

harmonisation happens without awareness. The similarity of organisations in a network, whether by social, organisational or strategic characteristics, amplifies the diffusion of behaviours and deepens harmonisation.²²

Just as with social norms, norms developed between corporations engaged in protracted networked action regulate corporate behaviour. This regulation of behaviour occurs by social pressure that establishes behavioural expectations. These norms too may be contingent on context whether by industry, such as the dress code of jeans and T-shirt at hi-tech companies, in contrast, to pin-striped suits at investment banks, or by country, such a drinking alcohol during the business day in some European countries, which would be frowned upon elsewhere.

When done deliberately, corporations will imitate others and abide by norms because they serve the corporations' interests, however, imitation may even happen unknowingly and diffuse unintentionally.²³ This creative and restraining influence is not formally designed or enacted – it arises by the repeated and continuous networked action. The position of dependence that arises from networked action, which includes coercive pressures built into the exchange relationships, substantially contribute to the observed isomorphic changes.²⁴ Firms imitate the behaviour of other firms they interact with in networks,²⁵ often giving in to “bandwagon pressures”²⁶ that emerge through the networks' positive feedback loops in which an increase in the number of adopters creates pressure to adopt a behaviour given the fear of appearing different from adopters. These processes are not always enacted mindfully²⁷ with behaviours spreading by social interaction, or processes of contagion.²⁸

²² (Brass, Galaskiewicz, Greve, & Tsai, 2004, p. 805)

²³ (DiMaggio & Powell, 1983, p. 151)

²⁴ (DiMaggio & Powell, 1983, p. 154)

²⁵ (Ozman, 2009, p. 47)

²⁶ (Zou, Xie, Meng, & Yang, 2019, p. 186)

²⁷ (Zou, Xie, Meng, & Yang, 2019, pp. 186-187)

²⁸ (Pinto, Leana, & Pil, 2008, p. 691)

Corporations tend to model themselves after similar organisations in their field that they perceive to be more legitimate or successful.²⁹ Imitated firms serve as a convenient source of practices that the borrowing organisation uses. These imitated behaviours accompany imitated organisational structures (isomorphism), where in the face of the same set of environmental conditions, the behaviour of one corporation begins to resemble that of another. Much like individuals do in society, networked organisations respond to an environment that consists of other organisations responding to their environment, which consists of organisations responding to an environment of organisations' responses.³⁰

The influence of harmonisation can be observed in industry-wide corruption through adherence to industry norms, the “taken for granted assumptions which most describe a cohesive industry's character.”³¹ If an industry culture allows for illegal acts, firms in the industry are more likely to engage in wrongdoing because it is extremely costly for an individual firm to avoid such practices in such an environment. Thus, the more strongly held these norms are – the more cohesive the network – the greater the likelihood that corporations within it will manifest corrupt behaviour.³² Corrupt practices are disseminated throughout an industry or network, either by “individual mobility” where individuals carry the practices from one network participant to another, or by “imitation” among network participants.³³ Industry-level corruption is more likely in mature industries such as oil, automobile and pharmaceutical industries, “where time and stability facilitate dissemination,” that is, where network behaviour is well-entrenched.³⁴ A corporate network can be considered a “social cocoon” which facilitates harmonisation of good and harmful behaviours. The social influence in this tightly knit

²⁹ (DiMaggio & Powell, 1983, p. 152)

³⁰ (DiMaggio & Powell, 1983, p. 149)

³¹ (Pinto, Leana, & Pil, 2008, p. 698)

³² (Pinto, Leana, & Pil, 2008, p. 698)

³³ (Ashforth & Anand, 2003, p. 10)

³⁴ (Ashforth & Anand, 2003, p. 11)

environment normalises deviant behaviours for example, and “changes the attitudes to specific behaviours that would otherwise be repugnant.”³⁵

What emerges then is a picture not of corporate behaviour that is unique to every individual corporation, but behaviour that under certain conditions is common to all corporations in an environment. A network culture forms that of behavioural norms that firms in the network share.³⁶ Following network norms and imitating peers increases harmonisation of behaviours. Contrast this result of networked action with the action in goal-orientated collectives like the Rwandan genocide or the Dresden bombing. Whereas there was no doubt social pressures for each participant to continue acting with others in the group, their actions remained in pursuit of a goal they endorsed individually and held jointly. We are suggesting in a corporate network, corporations end up performing actions owing to network influences even when they share no joint goal with others in the network. It suggests that when we study corporate behaviour, studying singular corporations might be insufficient to understanding or anticipating their behaviour, and that we need to account for the influence that networks have on them. This has significant implications for our assessment of corporate contributions to injustice and what responsibilities we can assign to them to rectify these injustices.

As previously discussed, the value that corporations derive from networks serves as a restraint on within-network behaviour to avoid exclusion from their networks. Network membership generates commitments and obligations to provide assistance to others, on the basis of fundamental normative principles regarding legitimate social conduct – such as reciprocity,

³⁵ (Ashforth & Anand, 2003, p. 26)

³⁶ (Pinto, Leana, & Pil, 2008, p. 698)

balance, proportionality, cooperation, solidarity, and trust – that underlie the network’s shared cultural values. Trust, in particular, becomes a major factor in harmonising the behaviours of network participants.³⁷ Loyalty to the network and its participants therefore plays a meaningful role in corporate behaviour. Behaviour and beliefs become dependent in more or less complex ways on the often-unspoken expectations held about other agents.³⁸ Each corporation influences all others in its network and is, in turn, influenced by all others in the network. These influences both open opportunities and restrain behaviour depending on the situation and the interests of the network participants. Obligations and expectations, norms and sanctions, trust, and authority relations arise through social network relations.³⁹

Harmonisation of actions does not arise because network participants are following top-down instructions or pursuing a common goal. Strategic alliances, one form of networked action, creates *interdependence* between autonomous economic units.⁴⁰ Corporate decision makers are motivated to rely upon interfirm network ties to gather information that can be used to evaluate the desirability of external resources, for example, which senior managers to hire. Interfirm network ties are thought to *influence decision makers* because of the comfort and trust existing between networked firms, which in turn means a greater probability that shared information *will be acted upon*.⁴¹ Through repeated dealings with one another, firms create and reinforce these trust relations.⁴² Corporations are pursuing their own goals but because they are aligned (by general business principles and networked action), when faced with similar situations or facts, they are likely to make similar decisions or display similar biases. They don’t have to

³⁷ (Knoke, 2009, p. 1694)

³⁸ (Hawkins, Goodman, & Goldstone, 2019, p. 158)

³⁹ (Knoke, 2009, p. 1693)

⁴⁰ (Knoke, 2009, p. 1695)

⁴¹ (Williamson & Cable, 2003, p. 350)

⁴² (Knoke, 2009, p. 1695)

collude to bring about this predictable outcome, this harmonisation results in them acting in similar ways. The pursuit of separate goals, mediated by networked action, results in harmonised actions among network participants. But it is not just actions, policies, strategies and behaviours that harmonise. Decision-making processes and even attitudes⁴³ can harmonise between networked corporations by second-order imitation.⁴⁴ As rules and behaviours become “taken for granted through experience and/or social interaction,⁴⁵ decision-making processes may become enacted instinctively.

Networked action forms a unique social interaction of increasing connection between the actions of participants which creates dependencies among participants such that their destinies become increasingly enmeshed. The dilemma we face is that this complexity is good for the corporation, leading to more successful outcomes,⁴⁶ but potentially harmful to those who interact with it. When an individual interacts with a corporation, say as an employee, a prospective employee, or as a customer, that individual is entering a complex web of actions involving not only a single corporation but other corporations that form an extractive network. While the individual’s actions and motivations might be clear and straightforward, the clarity and simplicity is not mirrored by the corporate actor.

What I am suggesting here has resonance with the widely held accounts of injustice arising from structured arrangements. Recall the discussion of structural injustice in Chapter 2. The injustice arises from actions that “most people consider *normal and acceptable*,” that structures that mediate injustice are sustained by “generally *accepted norms, habits or expectations*,” and that causes of injustice are “embedded in *unquestioned norms, habits, and symbols*, in the

⁴³ (Brass, Galaskiewicz, Greve, & Tsai, 2004, p. 807)

⁴⁴ (Westphal, Seidel, & Stewart, 2001, p. 717)

⁴⁵ (Westphal, Seidel, & Stewart, 2001, p. 720)

⁴⁶ (Majchrzak, Jarvenpaa, & Bagherzadeh, 2015, p. 1338)

assumptions underlying institutional rules.” Norms, habits, expectation, assumptions guide and influence behaviour. When the norms, habits, expectations and assumptions of corporations conducting their business in interdependent networks of great value to them become harmonised as we expect, so does their behaviour.

Young seems to describe this idea of harmonisation in her account of social structures, writing that within a structure, the combination of actions affects the conditions of the actions of others, often producing outcomes not intended by any of the participating agents⁴⁷ and that these actions “after decades of repetition ... can be predicted.”⁴⁸

This prediction of patterned behaviours of which Young writes, that arises from repetition, is an important element of harmonisation. Corporations in a network become able to anticipate the actions of their peers with some, though unlikely perfect, accuracy. No doubt, traditional economic and strategic analysis would give insight to how a competitor might act, say to a new product introduction or an unexpected economic downturn or amendment to particular legislation, but this analysis would be significantly enhanced when close relationships exist between corporations of the types that can be developed when they’re in regular contact. When corporations have “common frames of reference” their decisions and actions are likely to be within a predictable range by those close to them.

A result of networked action is that corporations can anticipate the behaviour of others – either by information sharing as is common in networks, or by this harmonisation of corporate behaviours by which certain behaviours become patterned and predictable. By this harmonisation, intentions and plans become increasingly connected and interdependent leading

⁴⁷ (Young I. M., 2011, p. 63)

⁴⁸ (Young I. M., 2011, p. 64)

to their actions being correlated. Put simply, corporate action by those in networks, begin to appear to emanate from ‘one mind.’ While still operating as separate legal and economic entities, when corporations in a network act, they do not act alone, their actions carry with them some force and influence of the network.

Corporations might consider networked action innocuous and that they maintain their independence in their actions, but I suggest they are acting together with far greater connection than they may be aware of or care to acknowledge. The harmonisation of behaviours and the correlated effects of actions follow naturally from the establishment of norms that in turn result from protracted networked action through intimate relationships.

Performed over protracted periods, networked action harmonises corporate behaviour and creates interdependence and correlation between actions, plans and intentions of network participants, so corporations in a network might all decide (separately) to act in similar or identical ways. Networked action produces patterned behaviours among network participants that often appear as though they’re being performed by the same entity. These patterned behaviours are either learned explicitly or adopted unknowingly.

3.2.2. Willingness to harm

In Young’s example of Sandy, the single mother facing homelessness, landlords in their network do not set out to cause Sandy vulnerability to homelessness. Rather, they set out to achieve high rentals to maximise their profits and if it means someone like Sandy suffers in the process, an outcome they may regret, but see their action of locking her out of accommodation as a means to their financial end, they are willing to do so. The harm derives from the corporation’s foresight, not merely that Sandy is disadvantaged in a micro respect by not having

access to this *particular accommodation*, but that it can also foresee the likelihood that, by not having access to this particular accommodation, she may lack access to any accommodation at all. It is this *willingness to harm*, as a means to an end, which seems prevalent in corporate behaviour and built into theories of corporate social responsibility which endorse instrumental social initiatives (as discussed in Chapter 1).

Willingness to harm is an attitude an agent holds by which they are conditionally committed to refraining from causing harm, except where harmful action would advance a goal they pursue. It is an attitude that broadly says ‘I will do whatever it takes’ in pursuit of a goal. Bob might be willing to harm in pursuit of a job promotion at work. When he discovers that it is between him and Ben for the promotion, Bob, who is ordinarily kind to Ben, lies to the boss about Ben’s performance to improve his own chances of getting the promotion. Willingness to harm, as an attitude, manifests a harmful outcome when an obstacle arises that retards progress toward the pursuit of a goal or an opportunity arises to accelerate such progress, that requires harmful action to a person or persons to realise. If Ben stands in the way of Bob’s promotion at work, then Bob bears an attitude of willingness to harm if he is willing to cause harm to Ben in pursuit of his goal of being promoted. Ben might not bear an attitude of willingness to harm – recognising that their boss will choose between him and Bob, he does not defame Bob or lie about his performance.⁴⁹

Research shows that corporate employees are not only willing to cause harm or commit unethical acts to benefit themselves but may even do so on behalf of the corporation or for the benefit of the corporation where they are employed.⁵⁰ Researchers suggest that “employees conduct unethical acts to benefit the organisation with *seemingly little regard for others*”⁵¹ (my

⁴⁹ I don’t want to overstate ‘willingness to harm’ – to some degree it may be consistent with an attitude of unwillingness to harm when the harm is too severe, for example, the landlords might be willing to inflict poverty but not starvation.

⁵⁰ (Ashforth & Anand, 2003), (Pinto, Leana, & Pil, 2008)

⁵¹ (Umphress & Bingham, 2011, p. 622)

italics). Employees who strongly identify with their organisation may feel compelled to disregard ethical standards and disregard the interests of parties outside the organization in favour of behaviours that help the organisation. Individuals who strongly identify with their organisation may disregard their own moral standards in favour of unethical acts that protect or help the organization. When one's social identity within the organisation is increasingly important to the individual, employees may augment their own morality to coincide with the morality of their social in-group.

These behaviours, termed unethical pro-organisational behaviours, are enhanced where employee loyalty to the corporation is high, usually where there are high levels of reciprocal support and commitment.⁵² Unethical pro-organisational behaviours are “actions that are intended to promote the effective functioning of the organisation or its members (e.g., leaders) and violate core societal values, mores, laws, or standards of proper conduct.”⁵³ Individuals are motivated to engage in unethical pro-organisational behaviour because they reciprocate positive social exchange relationships or because they identify strongly with the organisation. High levels of organisational identification may cause employees to conduct unethical acts such as lying to protect the organisation or covering up evidence that could harm the organisation. Through a desire to protect the group's identity, individuals may place the interests of the group above the interests of those who could be harmed by the unethical act.⁵⁴ These behaviours could include acts of commission such as tampering with a manufacturer's expiration date to sell a perishable item, or omission such as failing to fully inform customers about flaws in a product.⁵⁵ These employees hold an attitude of willingness to harm customers, that if presented with the opportunity to do so, will act out this willingness.

⁵² (Luan, Zhao, Wang, & Hu, 2023, p. 123), (Umphress & Bingham, 2011, p. 624) These scholars cite social exchange theory as explaining this behaviour.

⁵³ (Umphress & Bingham, 2011, p. 622)

⁵⁴ (Umphress & Bingham, 2011, p. 625)

⁵⁵ (Umphress & Bingham, 2011, p. 622)

A willingness to harm develops at both the individual and corporate level as this willingness sets into the corporate culture and norms. Reporting on justifications offered by companies involved in harmful practices, White et al reports (in results that are replicated across four industries) that companies offer a range of moral and social justifications claiming that their actions “promote the importance of the industry’s well-being to the national economy, the purported social benefits of the product, dependence on the industry for their livelihood of workers, farmers, retailers, and related industries.”⁵⁶ Corporations lay people off from their jobs, leading to harm to families and communities, or employ people under horrendous conditions, or cut corners on employee safety, to save costs. Corporations will destroy ancestral monuments and burial grounds to gain access to minerals in the ground.⁵⁷ Corporations will lie about products – safety (such as the Ford Pinto case), emissions (such as the Volkswagen diesel car case), addictiveness (such as the case of opioids and tobacco) – to maximise sales. While there may be corporate executives who act with complete disregard for others, my suggestion is that in most cases these are not conscious malevolent acts but acts that stem from the principles upon which corporations are run, the way executives are incentivised and even how business schools train students. Interactions with individuals are often regarded as a means to an end – the end being profit.

The principle of utilitarianism runs deep in these contexts, where actions are justified on the grounds that, while they may cause harm to some, they bring greatest benefit to the many. Some people lose their jobs, to save many other jobs. Some people work in miserable conditions, to ensure many others can have the products they need at affordable prices. Some people lose their cultural treasures, so many others can have the minerals they need. Many harms, I suggest arise, not with harmful intent, but because corporations operate with an ethos

⁵⁶ (White, Bandura , & Bero, 2009, p. 48)

⁵⁷ (Wahlquist, 2020)

of willingness to harm. This ethos find harm to persons regrettable but justified in the pursuit of profit.

Willingness to harm is often a norm in corporate networks. Like other norms, it is an accepted behaviour by corporations, and thus erases a restraint against harm we would have hoped resides within corporations as social institutions. Willingness to harm becomes normalised or embedded in corporations such that it is more or less taken for granted and perpetuated. This occurs by three mutually reinforcing processes, where an initial corrupt decision or act becomes embedded in structures and processes and thereby routinised, where self-serving ideologies develop to justify and perhaps even valorise corruption, and where naive newcomers are induced to view corruption as permissible if not desirable.⁵⁸ Employees continue this behaviour, aided by neutralisation or moral disengagement, the process by which the moral content of an unethical action is masked or overlooked which allows employees to engage in unethical acts without considering the ethical implications of their actions.⁵⁹ Psychologists explain that moral disengagement “removes the restraint of self-censure from harmful practices.”⁶⁰ Through a range of practices, corporate managers are able to sleep peacefully despite the intentional harms they commit or enable in their organisations.

Even moral disengagement can become harmonised as “collective moral disengagement,” which is “an emergent group-level property arising from the interactive, coordinative, and synergistic group dynamics.”⁶¹

⁵⁸ (Ashforth & Anand, 2003) This research focuses on corporate corruption. I consider corruption an example of corporations’ willingness to harm.

⁵⁹ (Umphress & Bingham, 2011, p. 622), (White, Bandura, & Bero, 2009)

⁶⁰ (White, Bandura, & Bero, 2009, p. 41)

⁶¹ (White, Bandura, & Bero, 2009, p. 43)

Under the standard model of injustice, agents act with intent to harm or with foresight of the harms that will result from their actions, a similar situation with injustice that arises from goal-orientated collectives, whereas accounts of structural injustice assert that agents act without harmful intention or foresight of the harms that might arise from their actions. The situation is more nuanced with networked injustice where I've argued that agents do not act with harmful intent but have a willingness to harm.

As I discuss in the remainder of this chapter, when corporate willingness to harm in pursuit of profit, combines with harmonisation of corporate behaviours, we have the building blocks of injustices that are unique to corporations.

3.3. Emergence of networked injustice

By their participation in corporate networks, where they've performed networked actions and developed intimate corporate relationships, corporations invest in the development of capabilities and business opportunities. Cashing in on these investments requires engagement with the market, whether customers, distributors, partners or potential employees. Such interactions present the possibility of unjust outcomes. I sometimes refer to these interactions as harm-likely actions because they present the possibility of harm arising from them. Networked action, currently deemed innocuous and beneficial, sits at the root of the emergence of networked injustice.

Networked injustice can be *intra*-network when corporations interact with each other, or *extra*-network when corporations interact with persons outside their network. The injustices that Sandy faces as a customer or potential employee are extra-network versions of networked injustice whereas the injustices faced by sweatshop workers are intra-network versions of

networked injustice since the workers are employed by commercial enterprises in a corporate network. I consider it an extra-network networked injustice if a prospective employee is refused employment for wrongfully discriminatory reasons, and an intra-network networked injustice if a current employee is fired for the very same reason (perhaps they are discovered to have the trait that is discriminated against, only after having started to work for the corporation). In both cases the injustices have their roots in the corporate network and networked action. For simplicity of presenting the development of my theory, I will select only one of these versions and will select the more demanding version, extra-network networked injustices, where networked corporations interact with third parties. By this view, networked injustice arises when corporations interact with persons outside the corporate network. This selection is apt since I aim to demonstrate that my account of networked injustice better explains the injustice that Young's fictional character, Sandy faces, when we consider Sandy's efforts to find affordable housing and suitable employment, both of which arise as extra-network interactions with corporations.

A potential recruit is outside the network until she is employed by a corporation in the network. Individual customers and suppliers are outside the network, although corporate customers or suppliers could be in or out of the network. I recognise the limitation of this approach because it relies on definitions of boundaries of corporations, which can be hard to pin down, and boundaries of corporate networks which are even harder. Corporations as employers can and do perpetrate injustices against employees, but for my purpose, employees are considered part of the corporation and thus inside the network. One could argue that employees are not as vulnerable to networked injustice as those outside the network since they have some, if small, influence on corporate behaviour whether by their individual or collective influence through unions, say.

Thus far in our analysis, networked action has led to no harm being done nor any injustice to be caused. But something important has happened within the corporate network, the behaviours and attitudes of corporations in networks become harmonised to a lesser or greater extent, as discussed above. The impact of this harmonisation arises when corporations take harm-likely action, that is, interaction with persons outside their network, especially vulnerable persons. When corporate willingness to harm, in pursuit of profit, combines with harmonisation of corporate behaviours, we have the building blocks of injustices that are unique to corporations.

Harmonisation of corporate behaviours and corporations' *willingness to harm* in pursuit of profit, as discussed above, combine to form a causal sequence that transforms innocent networked actions and ordinary business actions into wrongful harms which I identify as injustices. I term this causal sequence an *action transformation causal sequence* (ATCS). What I will do here is explain how this causal sequence is formed and how it produces a wrongful harm. In developing this account, I will also explicate that I take the wrongful harm, or injustice, to be the closing off of options to victims such that they are forced into harmful positions or to accept harmful offers.

In the account of structural injustice (discussed in Chapter 2), actions without harmful intent combine to produce an unjust outcome. How can this be? This transformation, Young tells us, is mediated by social structures and their composite social processes.⁶² The structured nature of the injustice arises from the plurality of actors that interact in a network of processes of cooperation and competition,⁶³ which reads a lot like our account of networked injustice. The claim is that *something* happens when agents act together that stands to possibly transform innocent actions to have unintended harmful outcomes. I contend that similarly, ordinary business actions that might have negative (unfavourable) effects, but not necessarily harmful

⁶² (Young I. M., 2011, pp. 43-74)

⁶³ (Tempels, Blok, & Verweij, 2017, p. 100)

effects on persons, like raising the price of a product or service, can similarly be transformed into actions with harmful or unjust effects? This is the impact of the action transformation causal sequence, or ATCS.

Suppose Sandy applies to Corporation C for a job. Corporation C offers her a job but at a salary lower what it would offer a male recruit for the same job. The lower offer is for no other reason than Sandy's gender. We would say, all else being equal, that Corporation C acts wrongly towards Sandy in offering her the low salary for the reason of her gender. We would judge C to harm her by offering her less than a fair salary,⁶⁴ which acts against her economic interests and over time puts her at an economic disadvantage to men. Call this Case 1.

Suppose that Sandy rejects Corporation C's offer and instead accepts Corporation D's higher offer. D does not discriminate on gender, paying female and male employees the same pay for the same job. Sandy is now employed at a fair salary. Call this Case 2.

What has happened in Case 2 is that Sandy has an alternative option so is able to avoid the harm that Corporation C sought to inflict on her. Since no corporation has cornered the market on employment opportunities in her area, and because of this competitive environment she can shop around to find the best deal for her labour. By joining Corporation D, instead of C, she avoids harm and in fact C commits no harm (unless it continues to make its unfair offer until someone accepts it). We have no need to assign justice responsibility to either corporation since no injustice has been committed, although we will be troubled by C's willingness to harm, an important attitude that will surface again below.

⁶⁴ Fair salary in this context would be one equal to that paid to men unless there are good reasons for the differential.

Now consider what happens in a corporate network. Because of their networked action, the behaviour of Corporations C and D have become harmonised such that they behave mostly identically in dealing with events. C has a fairly good idea that if Sandy went to D to apply for the job it has offered her, that D would make a very similar offer to the one it made. Knowing with reasonable expectation how D will act gives C confidence in its offer. If Sandy chooses to approach D, she will discover that D would offer her no more than what C has. Or perhaps, already knowing from experience or word-of-mouth, that corporations such as C and D act in the same way, she expects that D would make a similar offer so does not even apply to D, instead she reluctantly accepts C's low offer. Call this Case 3.

What changed between Cases 2 and 3? Corporation C has behaved no differently – it has made an unfair offer to Sandy. The only change that has occurred is in D's behaviour – from offering the recruit a fair salary to offering her the going rate for a female worker in such a job or what has become accepted for a female worker in such a job. D has behaved as other network participants reasonably expected it would.

Why might we consider it problematic that these corporations are offering Sandy the market rate for female workers for a job? Aren't market rates fair? The situation is problematic because there are two market rates – one for men and one for women. If gender difference plays no role in the ability to perform the job or the level of productivity, then this pay differential is wrong. There's no reason to believe that men are more productive at being a CEO, an accountant or a checkout teller in a supermarket than women. Where gender pay discrimination is rife among the corporate network participants, the chances are that the market rate for females being offered is lower than that for males. We would consider this a case of gender pay discrimination if, for the job under consideration, the market rate of pay for a female employee is lower than

that of a male employee for no other reason than the gender of the employees.⁶⁵ In other words, this would be discrimination if women are paid less than men in virtue of being women, even when doing the same job as well as men. An action that contributes to women suffering such discrimination can properly be considered harmful and indeed wrong.

Sadly, this is not a ludicrous illustration. According to the World Bank, in approximately sixty percent of the countries that it analysed there are no laws prohibiting employers from paying women less than men for work of equal value and thus it is no surprise that gender pay inequalities are prevalent in these countries.⁶⁶ Its most recent research reports that nearly 2.4 billion women of working age worldwide are still not afforded equal economic opportunities. In only fourteen economies worldwide are women on equal legal standing with men across all areas.⁶⁷ Even where countries have laws against gender discrimination or laws that mandate equal pay for work of equal value across gender, women continue to be paid less than men. Angola is an example, where despite a law that mandates equal pay, women earn only half that of men for similar work.⁶⁸ So whether it is legal or not, gender-based pay discrimination exists in most societies around the world.

How would this discriminatory market rate have come about, or more broadly, these discriminatory employment terms? This is where harmonisation plays a significant role. Market rates arise by combination of market forces and what corporations are willing to pay. If all corporations are only prepared to pay the lower rate for a female employee, then this will set a low wage for female employees. Market wages may be determined by observing what others are paying and adjusting your rate accordingly, or by sharing information through

⁶⁵ (Lippert-Rasmussen, 2014, p. 30)

⁶⁶ (World Bank, 2013), The World Bank database contains the question, “Does the law mandate equal remuneration for men and women for work of equal value?” and gives a “Yes” or “No” answer for each country.

⁶⁷ (World Bank, 2023)

⁶⁸ (WEF, 2020, p. 50)

industry researchers who publish reports. This market rate might reflect the “worldview and standards of appropriate action” that corporate leaders come to share through harmonisation.⁶⁹

By the harmonisation of their attitudes, decision processes and behaviours, network participants may come to an understanding that includes discriminatory behaviour and thus what to pay women for this particular job or type of job. If it becomes accepted practice among those in the network to discriminate against women on pay, then all network participants are likely to discriminate against women on pay.

Even if D wanted to depart from the expected behaviour, it is likely to encounter ostracism from fellow network participants. Since it values the network relationships and would not want to be seen to be behaving counter to the accepted network norms, it will likely conform to expectations. The change in D’s behaviour from Case 2 to 3 has its roots in D’s participation in the network with C. If my claim about corporate behaviour harmonisation is correct, D’s behaviour will be repeated by every other company in the network, thus we could claim they all play a role in the unjust outcome, because they all play a role, or are willing to play a role, in forcing Sandy to accept an unfairly low wage offer.

We might consider Corporation C to have committed a standard injustice by its direct discriminatory behaviour, but we know that Corporation D has had *something* to do with the harmful outcome suffered by Sandy, in being left with no choice but to accept the discriminatory offer. By D acting similarly to C or being reasonably expected to do so, D contributes to conditions in which Sandy lacks reasonable alternatives to accepting discriminatory wage offers. Corporation C harms her but D has played a role in bringing about the harm. If C is the principal agent in the wrongdoing, and every other corporation in the

⁶⁹ (Davis, Yoo, & Baker, 2003, p. 308)

network plays a role deriving from harmonisation of behaviours, then the other corporations could be considered *complicit* in the injustice C has brought about.⁷⁰

An immediate objection might be that it is C's discriminatory action that harms Sandy not any of the other corporations. The other corporations might object that they have not employed Sandy, so how could they possibly have contributed to the harm she suffers at C's hands? But this isn't entirely true – as I've mentioned, the other corporations are not as innocent as they claim. They might not have intentionally harmed Sandy, but they have contributed to the causal sequence that brought about Sandy's harm.

Even if C's offer was not discriminatory in any way, just simply a low offer. We would still expect there to be some degree of harmonisation such that if Sandy rejected C's low offer, the other corporations would not offer her any meaningfully different. My claim is that this would not be due to market forces only, but also because of the network effect. The result is that Sandy is more likely to accept it because she knows that if she goes to any other corporation in the network, they will make her a similar offer. If this wasn't the case, if Sandy knew the other corporations would not act in a similar way, she would reject C's offer. It is only because of her reasonable expectation of the others' behaviour that she accepts the harmful offer. The reasonable expected behaviour of the other corporations makes the harm more likely to occur and thus contributes to it. Sandy's reasonable expectation would be confirmed if she did in fact go apply for a job at the other corporations, because then she would have the experience of the other corporations acting in similar or identical ways to C.

Still, the other corporations could act contrary to network expectations. They could act in one of two ways. First, they could act competitively, perhaps offering Sandy just a little more than C does, just to employ her. Of course, this would still be harmful to Sandy if it remains less

⁷⁰ I will define and discuss complicity in detail in Chapter 6.

than what a male recruit would be paid. So secondly, other corporations could pay Sandy on the same pay scale as men. I suggest that with both these options, network norms stand as constraints. The corporations will be reluctant to bear a higher cost than their peers because this would make them economically uncompetitive, but a similarly powerful reason is that they would not want to be seen to be departing from expected behaviour. If C behaves in a discriminatory way, it is most likely that this behaviour is explicitly or tacitly endorsed, or if not endorsed, it is condoned for fear of being seen to be the odd one out, the downside of which is to be frozen out of valuable economic opportunities in the network.

What has occurred in the example above, is that harmonisation of corporate behaviours and corporations' willingness to harm to pursue their own interests, have combined to transform ordinary corporate actions into harmful actions. Barring gender pay discrimination, if offering a low salary was the corporation's means of keeping its costs down, this would ordinarily be acceptable behaviour. This would not be wrongfully harmful to Sandy if the low salary didn't bring about suffering or if she had alternative job options where she could earn a higher salary. If the salary is too low, this situation is catastrophic for Sandy because it seems her job options have been closed off since all companies offer her the same low pay. To her, it is as though the companies are all acting in unison with intent to harm her, even though there is no such intent.

There is an additional element of harm that comes to the vulnerable like Sandy from this harmful causal sequence. It is best captured by the idea of correlation of actions, where actions that appear unrelated in fact turn out to be connected to have a cumulatively harmful effect. A corporate action like raising the rent for someone renting a flat for example, though unfavourable, would not ordinarily be considered harmful. But the cumulative effect of many

negative actions bearing down on the same person could possibly cause harm, more so when these actions are correlated. Actions can be said to be correlated when a “correspondence or relationship” exists between them⁷¹ or they are “mutually or intimately related.”⁷²

Consider the example of US college footballer, Jalen Watts-Jackson, who broke his hip while celebrating the scoring of a touch-down.⁷³ In celebrating the goal, the scorer’s teammates piled on top of him, as is common in many team sports, breaking his hip in the process. None of his team mates presumably intended to break his hip or injure him in any way. Each single act of jumping onto him wouldn’t have caused the injury, but the combined effect of twenty to thirty players jumping on him did. Each action of jumping on the scorer could be considered harmful since they could potentially cause harm – certainly with much greater probability than less risky celebrations like giving each other a ‘high-five.’ An innocent and common-place action of celebrating a goal, turned into a harm, much like, although with meaningful differences, the way Young describes the emergence of structural injustice.

The quantity of players piling on top of the scorer has a significant bearing on the harmful outcome – it is unlikely he would be injured, or injured as badly, had only one or two players piled on him. But I suggest there is also some interaction between each of the actions that too contribute – perhaps one player caused the scorer to twist his body and the following player then landed on his hip, perhaps the speed at which two players ran before piling on him combined with the weight of the other players to add just that extra force to cause the injury, or the angle at which players landed on him following running alongside each other as they dove on top of each other and on top of him. These various ways in which actions are executed, and their interactions, most likely combined with the sheer number of actions to cause the harm.

⁷¹ (Garrett, 1956, p. 106)

⁷² www.oed.com

⁷³ (Chenoweth, 2015)

It is what Young suggests happens in social structures as well. Individual agents act in certain ways influenced by norms, rules and their goals, and when numerous actions take place, their volume and complex interactions can possibly result in a harmful outcome. I suggest a similar transformation of actions happens through corporate networks.

Just like the college football goal celebration in which innocent, harm-likely actions by players piling onto a goal scorer leads to a harmful outcome for the scorer, so mere negative (harm-likely) actions taken by networked corporations can result in harm when they interact with persons outside their network. The type of risky or harm-likely action I have in mind here, what I will call a negative action, would include raising the price of a product or service, or reducing the quantity hours of paid work for workers, or restricting access to particular services such as closing a pharmacy earlier than usual or limiting electricity supply to only a few hours a day. Any corporate action that may be unfavourable or inconvenient but not harmful per se could be considered a negative action. It is negative because it is not what the recipient would have wanted, but if the recipient can comfortably afford the higher price, doesn't need the extra income, doesn't need a pharmacy after hours or can do without electricity, then such negative actions are not harmful. Another way these negative actions are not harmful is when individuals have access to alternatives. So, if any of the examples of corporate action mentioned above would be an adverse set back to their interests but they could go somewhere else to meet their needs, then again these negative actions would not be harmful. So, if the person finds an alternative supplier of the product or service at a lower price, or the person can get another job where they are employed full-time, or there is another pharmacy that stays open till late, or they can change electricity supplier, then none of these negative actions become harmful.

I believe what happens with harmonisation of corporate behaviours is that in many instances, even though there may appear to be alternatives, these are severely limited or become non-existent. The actions of each college footballer piling on fellow footballers are correlated in that there is a relationship between the actions – they're all been taken at the same place, at the same time and all to celebrate a goal. Similarly, the actions by the landlords, bankers, property agents and so on, are correlated by leading to the single outcome of Sandy not being able to find affordable housing, especially when combined with the fact that she can't find higher paying employment either.

Consider Sandy's situation again. She interacts with corporations as a person outside their corporate network, either as a customer or a potential employee. Each landlord (presumably participants in a network of landlords) Sandy approaches for an apartment has raised the rent. This is not necessarily a harmful action on its own but is a negative (or harm-likely) action because it is unfavourable to Sandy. Each bank she approaches wants a deposit before she can purchase a flat. Each retailer she interviews with for a job, offers her a low salary. Each of these actions separately might seem ordinary and even acceptable, but they are also correlated, since there is a relationship between the actions which all bear down on Sandy to lead to the outcome where she cannot afford a place to live.

By the networked view of business, the landlords, banks and retailers form networks by which they practice similar norms, cooperate and collaborate as they act in their own interest. In the pursuit of their own interests, they make decisions that impact on agents outside their networks. From Sandy's standpoint, she does not experience a random set of actions by unrelated actors, but a highly correlated set of actions by a powerful group of actors who have a significant impact on the kind of life she can live. Everywhere she turns for alternative solutions she finds none, because the participants of the network, in the service of their related interests and by the

harmonisation of their behaviour, have the correlated impact of nudging her toward homelessness.

Young writes that the processes that account for Sandy's lower income also help account for her housing insecurity.⁷⁴ By my account, this points to the fact that, though separate actors contribute to low earnings and high rentals, these actions are correlated, and from Sandy's perspective, contribute to her vulnerability.

Goff employs the fact of correlated action to explain how "correlated errors in judgments" can have a discriminatory effect when companies recruit employees, particularly women.⁷⁵ When numerous employers misunderstand the CV of a highly qualified applicant, often due to biases, Goff argues they are making errors in judgement because they would decline this good applicant. This would be unproblematic for the applicant if she could simply go to the next employer, but if the bias is pervasive, the "errors in judgment about her are nonindependent, that is to say, correlated with the errors in judgment of other employers."⁷⁶ Goff makes the point that what matters is not that the employers all have precisely the same reasons for making their mistakes but that there is a correlation in their mistaken judgments.⁷⁷ In this way, Goff argues, "employers discriminate against women because they make nonindependent errors in judgment that have harmful effects, undermining women's equality of opportunity for employment."⁷⁸ That separate actors, acting seemingly independently, can take actions that correlate to bring harm to a person, is a key element of how networked injustice arises.

⁷⁴ (Young I. M., 2011, p. 48)

⁷⁵ (Goff, 2016, p. 558)

⁷⁶ (Goff, 2016, p. 559). By including this quote, I am not asserting that correlation assumes dependence. I take correlation to indicate a relationship between two variables that does not rely on dependence between the variables or imply any dependence between the variables. The main point here is that pervasive bias among employers could lead to decisions that bear some relation with each other.

⁷⁷ (Goff, 2016, pp. 560, note 14)

⁷⁸ (Goff, 2016, p. 565)

With corporations' actions mimicking each other in predictable patterns, and their actions correlated, individuals experience multiple corporate actors as acting as one, as though they're interacting with a monopoly or monopsony.

A monopoly is a sole provider of a service or product, while a monopsony is a sole purchaser of a service or product.⁷⁹ An example of a monopsony would be a lone food grocer in an area as the only buyer of vegetables from many local farmers, or a mining company that is the only employer in a remote town. With many sellers (vegetables or labour) and only one buyer, the latter wields significant power over the former, able to dictate prices and other conditions of trade or employment. Monopolies and monopsonies are problematic because of the inequality of bargaining power they create. The general view among scholars is that under monopolies, economic good suffers but also that people suffer,⁸⁰ that monopolies have the power to oppress the public with unreasonable prices.⁸¹ They are non-competitive, being the only provider or purchaser, and thus can dictate all commercial terms such as prices and operational conditions. The worry about them is the moral harm they can cause given their unfettered power.

The harm-likely or harmful situation arises because corporations effectively act as one, as if they have the bargaining power of monopolies or monopsonies because third parties have no choice but to abide by the terms the networked corporation sets. Even if a networked corporation acts in good faith, they bear incredible sway over the external party beyond their own power and influence. The external party could approach other suppliers or buyers and appeal to their competitive instinct, but by the account of harmonisation, these companies won't behave too differently. The stronger the network ties, the stronger the force of

⁷⁹ (Boal & Ransom, 1997, p. 86), For a recent study of monopsony in the labour market see *Monopsony in Motion: Imperfect Competition in Labor Markets* (2003) by Alan Manning

⁸⁰ (DeMarco, 2001, p. 151)

⁸¹ (Reed, 1916, p. 262). I will take this view at face value given the widely accepted view that monopolies hold power that can be socially problematic.

harmonisation, the less likely the external party would find a way out of his situation. This inescapability provides the force of the harm he suffers.

Returning to Case 1 and Case 2 presented earlier in this chapter, in Case 2, Sandy avoids being harmed by Corporation C by accepting a fairly paid job at Corporation D. The harm to her arises when she has no alternatives, which is the situation that follows corporate behaviour harmonisation. With no better option open to her, Sandy accepts the low offer which materialises her harm. It is the same case with Goff's example presented earlier in this chapter, the fact that all employers carry the same bias thus closing off employment options to the recruit is what realises the discrimination she suffers. There's a trauma, I believe, suffered by individuals who cannot escape a net of negative or unfavourable actions. Networked action that leads to harmonisation effectively transforms the negative actions into harms through the inescapability it creates.

To avoid these problems associated with monopolies and monopsonies, societies either introduce competition and limit the relative size of each market participant (particular through anti-trust laws) or societies regulate the monopoly or monopsony by setting prices and operational conditions. In this way, citizens are protected from the certain harm that such entities would cause. What I am suggesting is that by networked action, corporations each act with quasi-monopolistic or quasi-monopsonistic power and influence yet are not regulated against deploying such power and influence. Our legal and ethical theories chide single agents as monopolies or monopsonies for good reason, and I suggest corporate networks should also receive similar attention. The harm that Sandy faces is that she is dealing with a quasi-monopoly or quasi-monopsony every time she tries to find a better deal on a flat or a better

salary. If monopolies and monopsonies are morally problematic, then it is evident that Sandy's faces moral harm.

Much like Young's account of structural injustice, even when corporations act without harmful intent (unlike Young's account, I do not assume this to always be the case), harmonisation can lead to harmful outcomes. Consistent with the account just presented, Young writes that "structured social action and interaction often have collective results that no one intends, results that may even be counter to the best intentions of the actors."⁸²

As discussed above, the repeated complex interactions in corporate networks (networked action) leads to the harmonisation of corporate behaviour whereby corporations act near-identically in similar situations. Harmonisation results from corporations acting according to network norms and expectations. The effect of this harmonised behaviour is that when one corporation performs a negative action towards an individual, all corporations are likely to do the same, or the person reasonably expects that all corporations will do the same. When all corporations act identically, these small negative actions pile up, and because the actions are correlated, become harmful. The victim's experience is as though they are dealing with a monopoly or monopsony which dictates terms and closes off options. This process transforms mere negative actions into harms by the volume of repetitions when all corporations act identically and the correlation of these actions that lead to a single harmful outcome for the individual. The person is harmed by the unfavourable terms under which it is compelled to interact with the corporation and their inability to escape these corporations.

⁸² (Young I. M., 2006, pp. 113-114)

3.4. Account of networked injustice

To synthesise the account of networked injustice, I will address what the *injustice* is and what makes this injustice *networked*.

Starting with the *networked* element of networked injustice. Networked injustice has its roots in corporate networks, the default social arrangement in which corporations conduct their operations. As introduced above, the injustice emerges from the causal sequence that transforms innocent networked actions and ordinary business actions into wrongful harms following the combination of the harmonisation of corporate behaviours and corporations' willingness to harm in pursuit of profit. I termed this causal sequence an *action transformation causal sequence* (ATCS). The injustice is mediated by the network, resulting from corporations acting together in complex ways, but it does not result from collective actions since these corporations are not all working towards a single, joint goal but their individual goals.

Turning now to the *injustice* that develops from networked action of networked corporations. As discussed in Chapter 2, I take an injustice to be a *wrongful harm* committed by one or more agents against one or more other agents. We harm someone when their interests have been affected adversely by our actions. We act wrongly when we breach a duty or moral principle with no valid justification or excuse. So not all harms are wrong. The wrongful that results from ATCS bearing down on individuals is that they are effectively forced into harmful situations (such as homelessness) or forced into accepting harmful offers (such as unacceptably low pay) by having their options closed off.

Networked injustice is the wrongful harm suffered by individuals who interact with corporations who are effectively forced into harmful situations or into accepting harmful offers by having their options closed off. Networked injustice traps individuals in a net of harmful

corporate action. The extensive reach of corporate networks makes their influence inescapable to most individuals (this is discussed later in this chapter).

Networked injustice shares attributes with structural, collective and standard injustice but is distinct from all three. While complicity and causal contribution to injustice would be accounted for by the standard model of injustice, both complicity and contribution are mediated by corporate networks which is a feature of structural and collective injustice. These latter two modes of injustice are mediated by permanent society-wide social structures and temporary, loosely arranged collective structures respectively, often without identifiable participants, whereas networked injustice is mediated by resilient networks between identifiable agents. Both these modes of injustice arise by collective action whereas networked injustice arises by the complex lattice of actions termed networked action which is neither individual action nor collective action. While standard injustice can account for agents acting together to commit injustice, it cannot account for the ongoing nature of such interactions that occur in networks.

On their own, the network participants would not be able to commit the unique injustice that arises from corporate networks while every corporation has the option (in tension with their corporate objective) to change their behaviour to avoid contributing to the wrongful harm, and they have the option to change the way networks operate. In a similar vein to which structural injustice arises from the volume of actions and the complexity with which these actions interact with each other and victims, transforming innocent actions into harmful actions or actions that produce harmful outcomes, so do the interactions among corporations interact in complex ways transform ordinary actions into producing harmful outcomes.

While it is possible that non-corporate actors could commit networked injustice, I believe the process by which networked injustice arises entails conditions fairly unique to corporations. In any event, networked action and the resulting injustice is foundational to how corporations

function. I therefore identify corporate injustice as networked injustice. Corporate injustice is rooted in corporate networks and networked action.

In Chapter 6 I will develop the argument for corporate justice responsibility, which is the responsibility borne by corporations for networked injustice.⁸³

3.5. Corporate injustice in action

In Chapter 2 I stated that Young's account of the justice that Sandy faces misses or understates the role corporations play in bringing about the injustice Sandy faces. I now want to substantiate this claim by showing that an account of networked injustice, or corporate injustice, may offer a better explanation of Sandy's situation, which will allow us, in Chapter 6, to assign justice responsibility to the corporations that brought about the injustice. I will offer an end-to-end account, still fictional like Young's account, but drawing on the arguments developed so far. This exercise will serve as a demonstration of my account of corporate injustice, showing corporate injustice in action when the corporation acts as an employer and a service provider.

A recap of Young's account of Sandy's plight

Sandy is a low-skilled single mother of two who, through no fault of her own, faces the bleak prospect of being homeless. She is being evicted from her apartment because a developer has bought the building and wants to redevelop it. She cannot afford any other adequate

⁸³ I have developed the account of networked injustice using corporations as the actors, but similar accounts could be developed for smaller firms or even single business owners who operate in business networks, provided the conditions prevail as discussed here.

accommodation close to work. Even if she rents an apartment that she can afford she faces the obstacle of needing to put down three months' rent as a security deposit which she doesn't have. So, she and her two children face the prospect of homelessness.

Young identifies the injustice that Sandy faces as the web of actions taken by others, without harmful intent, that deprive her of options and stifle opportunities for her to live a decent life. The actions and practices such as the landlord's decision to sell the building, the requirement for three months security deposit, a gender-segregated labour market, the spatial planning of the city that situates affordable apartments far from the city centre, and so on, these are the social processes which impinge upon Sandy's ability to achieve even the most basic requirement of adequate accommodation. All those actors involved in bringing about the situation where Sandy must vacate her home but cannot find an appropriate alternative that she can afford, including the myriad individuals buying and selling, or leasing apartments, contribute to the structural injustice she suffers. Sandy suffers a structural injustice, Young argues, because the wrong she endures is "distinct from wrongs traceable to specific individual actions or policies."⁸⁴

While government policy and general consumer behaviour contribute to Sandy's vulnerability, her low income and the high cost of housing are the two most significant macro-factors that influence her vulnerability to homelessness.^{85,86} In both these cases, corporations play a significant role in Sandy's plight since both her employment and provision of housing is

⁸⁴ (Young I. M., 2011)

⁸⁵ (Lee, Tyler, & Wright, 2010, p. 509), (Homeless Link)

⁸⁶ Micro-factors would relate to individual behaviours or circumstances such as drug abuse, low education, victims of domestic abuse and so on.

provided by corporate actors. These facts already contradict Young's claim that Sandy's plight cannot be traced back to "specific individual actions or policies."

Many people face the situation of earning incomes too low to afford the high rents or mortgages required by landlords and banks, but these are not due to economic and policy forces alone. Referencing Gilderbloom and Appelbaum, Young writes that to understand the housing market, we also need to understand the "practices, relationships, and interests of many institutional actors."⁸⁷ Prominent among these actors are corporations, who strongly influence wages and likewise, the supply and pricing of housing, as well as the conditions and pricing of housing finance.

When powerful actors like corporations act individually in relation to vulnerable people, we would already be concerned that the power imbalance might lead to potential harm. This concern is heightened when these powerful corporations coordinate their activities as they do in networks, which leads to harmonisation of their behaviour. Young acknowledges the illusion of fair market competition in housing markets, as in most others, given the "serious asymmetries of power between landlords and tenants."⁸⁸ It is understood that "injustice has always survived because of its support by the powerful,"⁸⁹ however, in this case the powerful are not only supporting the injustice, they also play a role in committing the injustice. Furthermore, with the asymmetric power that corporate landlords possess often affords them the opportunities to commit other injustices such as discriminate against tenants on the grounds of social group membership, for example.

⁸⁷ (Young I. M., 2011, pp. 48-49)

⁸⁸ (Young I. M., 2011, p. 51)

⁸⁹ (Dorling, 2010, p. 10)

The corporation as employer

Corporate networks: Sandy works for a retailer in a retail mall. Retailers likely form part of numerous corporate networks across Level 1 to 3. Their foundational Level 1 networks would relate to trading relationships with suppliers, distributors and financiers, while their Level 2 strategic networks would likely relate to retail industry initiatives relating to imports, technology, warehousing and so on. The retailer might join Level 3 networks where they attend industry-wide conferences and seminars, have regional business meetings or belong to social associations such as churches and sports clubs.

Networked action: Sandy's employer would likely collaborate with other retailers to develop industry codes, cooperate in lobbying government over import tariffs and coordinate their activities with regard to industry research and vocational training centres for workers. Retailers would be encouraged to collaborate at every turn, even across industry sectors, which would result in joint ventures such as retail stores at petrol stations, or banking machines inside retail stores. Information streams across the networks either informally or in industry and market research reports. Over time this networked action fosters strong relationships between the numerous other organisations that Sandy's employer networks with. The corporations are all focused on their own commercial objectives but derive benefit from the networks and the networked action so will act to preserve these relationships and sustain the networks.

Harmonisation: Sandy's employer and its peers begin to understand each other, and though they compete, they also engage in mutually beneficial networked action. Over time, the corporations and commercial enterprises in these networks begin to develop norms of business behaviour and share common outlooks on business practices, the economy, politics and culture. Their behaviours and intentions begin to harmonise producing predictable patterns of behaviour, not dictated by anyone, but simply in the course of interaction. This harmonisation

is further enabled by the corporations in these networks sharing board members and professional service providers such as auditors, management consultants and banks.

Harm: Now imagine that, in an effort to solve her housing crisis, Sandy approaches her employer for a pay increase. Given the harmonisation that results from networked action, any interaction between a corporation and a third party, especially a vulnerable person like Sandy, is a harm-likely action – no harm is necessarily done but the potential for harm is high. We know that harm-likely action becomes harmful action when corporate network participants take similar harm-likely action, or when they are reasonably expected to do so. How might Sandy's request for a higher wage go from harm-likely to harmful? This could happen in one of two ways. Sandy could put in the request for a higher wage and receive the response that she is being paid a fair wage since she is being paid the market wage or perhaps even slightly higher. Knowing that this wage will not be high enough for her to afford a suitable apartment for her and her two children, Sandy approaches other employers in her area but each would offer her no more than her current employer. She approaches corporations in the region in other industries but there too her prospects are no better.

Sandy has encountered the situation where networked corporations are so well harmonised that pay information has been shared or decided upon such that every employer abides by it. When all network participants follow a practice, such as paying women less than men for the same job, it becomes widespread as the norm, which means women cannot escape this practice. Even if one employer wanted to pay Sandy more, they fear they might upset other companies for being an outlier and possibility disrupting the wage scales in the area. The employers' actions and decisions are correlated because they are interdependent, and all serve to heap misery on Sandy as she goes from job interview to job interview. She has experienced a cumulative harm since all other employers have acted along the lines of her employer, compounding the correlated harmful effects. Even though she is dealing with numerous separate entities, it feels

to her as though they are all conspiring against her and as though she is dealing with just one company since they all speak the same language and offer similar bad news. It feels to her like she is dealing with a quasi-monopsony where there is only one employer, and she is competing with a myriad other for jobs. After repeated experiences of the job market, Sandy stops looking because she begins to expect that everyone will give her the same answer, and in fact her boss and friends tell her this. She encounters a situation where her options for a higher salary are closed off. Her experience is as if she is only dealing with one company; she feels the concentrated power and influence of all companies in the area.

Sandy might find herself in the all-too-common situation of being discriminated against based on her gender. Perhaps men are paid a higher wage for doing the same job. The fact that gender pay discrimination exists around the world implies that corporations, as employers, are not merely encountering discrimination in the societies where they operate, they are contributing to it by paying women less than men even when women do the same job as men and deliver equal value. Norms and harmonised behaviours based on networked relations ensure that corporations reinforce discriminatory practices. When a woman finds that she is excluded from a role or opportunity at a company or being paid less than a man for doing the same job, she cannot simply go to another company for better opportunities. Even where discrimination is illegal, she is likely to find a similar experience at other companies owing to their harmonised behaviours. The compounded impact of these correlated harms means that women face systematic exclusion from economic opportunities.

Injustice: Sandy finds herself in a situation of deprivation or discrimination at the hands of corporate action. This injustice might not necessarily arise from harmful intent, but the pursuit of corporate objectives mediated by networks. Her employment options are closed off by the harmonisation of the corporations she approaches for work, forcing her to accept a job offer that leaves her in a state of deprivation.

Tilly considers a situation to be exploitative when powerful, connected agents deploy resources from which they draw significantly increased returns by coordinating the effort of outsiders, whom they exclude from the full value added by that effort.⁹⁰ We don't have to accept Tilly's definition, but it is instructive that it refers to 'connected' agents and 'coordinating effort' which sounds a lot like what happens in a network. It certainly suggests that networks may be candidates for an injustice such as exploitation especially when 'powerful' agents are involved. States may institute discriminatory policies or do not police those already in place that rule out discrimination, as a way to keep labour costs down (albeit only for women) to attract foreign direct investment or multinational corporations into certain labour-intensive industries such as manufacturing, mining and agriculture. Attracted to these low labour costs, corporations establish their operations in such societies for the low labour costs, the very driver of the injustice meted against women. It complies with these social norms and pays its women employees less than men for performing the same job with equal value. The result is that women work as hard as men, produce as much as them, but get paid less. This is straightforwardly unjust. To discriminate *against* someone is "to treat her disadvantageously relative to others because she has or is believed to have some particular feature that those others do not have. In short, discrimination against someone simply is disadvantageous differential treatment."⁹¹ In this case the "particular feature" is the gender *woman*, and the "disadvantageous differential treatment" is that women are paid less than men. Being systematically paid less than men means that women have less spending power and lower savings, limiting their economic options and social opportunities relative to men. Goff similarly argues that the correlated actions that arise when corporations act together, exacerbates market

⁹⁰ (Tilly, 1999, p. 128)

⁹¹ (Lippert-Rasmussen, 2014, p. 16)

distortions and that the compounding of corporate biases can lead to discriminatory outcomes for women.⁹²

The corporation as service provider

I will follow the same approach as above, tracing the emergence of networked injustice from corporate networks, this time considering the corporation not as an employer but as a trader or service provider. I will consider the case of Sandy as before to demonstrate the injustice individuals may suffer resulting from corporate networks. The landlords in Sandy's area are selling access to rental accommodation. We will see that trade is a harm-likely action. Landlords in the US, where Sandy lives, are often corporatised. Pew Research reports that for-profit businesses of various sorts own close to half of the total rental units in the US, and it would not be inconceivable that this portion is higher in particular cities.⁹³ The same research reports that a staggering two-thirds of properties with twenty-five or more units are owned by for-profit businesses. This gives an indication of the concentration of power and influence over the lives of renters that the small number of property-owning corporations have.

Corporate network: A wide range of businesses would likely form corporate networks that ultimately have some impact on Sandy. Landlords often belong to landlord organisations and participate in informal landlord networks, but a wider set of actors would also be networked such as property developers, construction companies, property-owning companies, banks and other large companies, perhaps even the retailer that employs Sandy. The corporations in these

⁹² (Goff, 2016, p. 578)

⁹³ (Desilver, 2021)

networks would each be pursuing their own objectives but find benefit in being connected with others.

Networked action: Provision of housing is a complex business so networked action is likely to arise in all forms whether collaborations around new property developments, cooperating to advocate for new zoning laws or coordinating rental increases. Information sharing is likely to be extensive among peers and along the supply chain from developers all the way to builders and landlords. The landlords in Sandy's city might coordinate their actions tenant requirements such as upfront security deposits and eviction conditions and would influence each other in terms of levels of maintenance and presentation of buildings.

Harmonisation: After extended periods of networked action and intimate mutually beneficial commercial relationships, network participants unconsciously begin to operate similarly and develop an understanding among themselves of how they will cooperate and compete. Norms of doing business and common outlooks develop such that intentions and behaviours become harmonised – they're not identical but follow similar patterns. As with the retailers, this harmonisation is further enabled by the corporations in these networks sharing board members and professional service providers such as auditors, management consultants and banks.

Young states that Sandy's vulnerability is "predictable and explainable"⁹⁴ – I agree, but argue it is so because of the predictable behaviour of corporations. The landlords begin to harmonise around rental norms that only partly respond to supply and demand. They often "cooperate with or pressure one another to maintain an average rent level higher than would be likely in a truly competitive market."⁹⁵ Even if one of the landlords in Sandy's community wants to lower the rent so that she can afford to live there, they might refrain from doing so because of the impact this might have on the housing pricing in the area to the detriment of their peers. When

⁹⁴ (Young I. M., 2011, p. 47)

⁹⁵ (Young I. M., 2011, p. 51)

corporations become overly embedded in their networks, they become risk averse.⁹⁶ Risking the wrath of the network is not something they would want to do so instead act in a way that maintains their standing in the property networks.

Harm: With these dynamics happening in the background, I argue that any interaction with persons outside these networks is a harm-likely action given the vast and influential web of actors involved whose behaviours are harmonised. When Sandy approaches a landlord looking for an apartment she can afford, she walks into this web of networked action and harmonised behaviours. How might landlords' harm-likely interactions with Sandy, in her search for affordable housing, cause her harm? Finding that the asking rental of the first landlord is too high, Sandy approaches other landlords in her area. When Sandy goes to the next landlord, she will find that he too has raised the rent, denying her a place to stay, not because he intends to harm her but, because of his networked relations, he either chooses or is compelled to raise his rent. Every landlord Sandy goes to will deny her a place to stay for a similar reason that she can't afford to pay at the level they have set the rent. The combined and cumulative effect of these interdependent actions imposes an unfair burden on Sandy and lock her out of the housing market. These seemingly innocent actions toward her turn out to be correlated, and so are the harmful effects they create. When Sandy interacts across the network to try to find a flat to rent, these correlated harmful effects are compounded.

A concern might arise here that I am referring to price-fixing or price collusion where landlords have come together to agree prices for rental apartments. This is not the case. As with other facets of corporate behaviour and business decisions, price-setting too can become harmonised. Economic sociologists have shown that social relationships shape market prices and that markets can sometimes also be "purely socially constructed, in the sense that prices can vary

⁹⁶ (Brass, Galaskiewicz, Greve, & Tsai, 2004, p. 803)

irrespective of the economic value embedded in the exchange.”⁹⁷ Coalitional behaviour among friends, socially salient groups such as minorities, and networked corporations, keen to maintain the favour of fellow network participants can influence price-setting outside of the usual economic market mechanism.⁹⁸ I contend that in networks, companies might transgress norms, including pricing norms, to maximise short term profit, but this will affect their long term network relationships and their long-term economic prospects.

In Sandy’s case, by their networked action and exchanges of information, landlords’ behaviours have become harmonised, such that faced with the same opportunities or challenges, the landlords all behave similarly. Eventually, exasperated and despondent, Sandy gives up trying to find a suitable home, with homelessness her only option.

Young acknowledges that there are “serious asymmetries of power between landlords and tenants” which hamper fair operation of the rental market.⁹⁹ This asymmetry is fertile ground for potential injustices because renters are often among the most vulnerable in society – for example in the US, three-fifths of people in the lowest income quartile rent their homes.¹⁰⁰ The effect of the correlated activity among property companies where they rely on similar information, are driven by similar interests and operate by harmonised behaviours, is as though Sandy is dealing with a monopoly, a sole supplier of rental housing that sets the price and terms. Eventually Sandy and many like her get to the point where they suffer combined-power harms by corporate networks – she might accept an unfair rental or a home that is grossly unsuitable for her family, only because she reasonably expects that all landlords will treat her the same way.

⁹⁷ (Ody-Brasier & Fernandez-Mateo, 2017), (Ody-Brasier & Vermeulen, 2014)

⁹⁸ (Ody-Brasier & Fernandez-Mateo, 2017)

⁹⁹ (Young I. M., 2011, pp. 48-49)

¹⁰⁰ (Desilver, 2021)

This account again show how harm-likely action becomes harmful when corporate network participants take similar harm-likely action, or when they are reasonably expected to do so.

Injustice: The landlord who puts Sandy out of her apartment or who insists on a rental she can't afford has not necessarily acted wrongly towards her. But as part of a series of repeated and patterned rejections and knocks to her dignity, propel her into a state of deprivation which is wrong. Together the landlords and other networked corporations have brought about a situation where Sandy is forced into the harmful position of homelessness because her options for affordable housing have been closed off. The injustice has not arisen by one action, or the actions of one actor, but by a combination of actions and background factors.¹⁰¹ The landlords and networked corporations create the conditions and perpetuate the network that makes rental housing unaffordable to Sandy.

Young describes how Sandy cannot find an apartment she can afford and attributes this to structural factors, which certainly do contribute, but if landlords know that there are low vacancies in the area and that other landlords are all increasing their rents, it gives them considerable power over tenants when negotiating. Furthermore, corporate landlords can absorb certain levels of vacancies so are happy to walk away from a tenant, whereas for a tenant this could be devastating. This is a key aspect of networked injustice, that the network facilitates and enables the actions by its participants that when coordinated produce the injustice. Given the extensive information and market insight they possess, actors in the network can foresee the harm that results from their actions, since they would expect that a segment of apartment seekers will not be able to afford the rentals. The landlords in their network do not set out to cause Sandy vulnerability to homelessness. Rather, they act intentionally in pursuit of their economic interests by acting to achieve high rentals and if it

¹⁰¹ (Young I. M., 2011), (Goodin & Barry, 2021)

means someone like Sandy suffers in the process, an outcome they may regret, they are willing to let this happen, nonetheless.

These two examples show that corporate injustice is rooted in corporate networks and networked action. The injustice that Sandy suffers is mediated by the networks to which landlords and retailers belong and results from their networked action. It does not derive from one landlord acting unfairly but the whole network of landlords acting in their networked and harmonised way. This is how wage rates or apartment rental prices are set, and which vulnerable people like Sandy cannot escape.

Young's account that injustice mysteriously arises from innocent behaviour significantly underplays the powerful and influential role corporations play in our societies. I am not disregarding the role played by public policies and macroeconomic forces by focusing on corporations, but I think depicting the production of injustice as a thick fog of minor actions by a multitude of innocuous actors misrepresents how these injustices actually arise – by the clear policies and networked behaviour of major economic players in society, who mostly act within the laws and rules that they help set.

Young recognises the impact of influential actors when she writes “investment policies contribute to the structural processes that cause Sandy's plight” but then backs down from identifying the powerful actors by writing that “but none can be singled out as the major cause”

¹⁰² I disagree with Young's portrayal of the wrong that has befallen Sandy as “attributable neither to individual fault nor to specifically unjust policy.”¹⁰³ This overlooks the powerful and highly coordinated corporate network whose participants act in highly self-serving harmonised

¹⁰² (Young I. M., 2011, p. 47)

¹⁰³ (Young I. M., 2011, p. 47)

ways thus disregarding the harms done to tenants like Sandy. Young writes that “the *sources* of the generalised circumstance of being vulnerable to homelessness are multiple, large scale, and relatively long term.”¹⁰⁴ (my italics). I agree with this depiction, but this broad description of the sources hides some very narrow interests. Young acknowledges the dynamics of markets but is silent on the central role played by corporations in the unequal distributions that arise from markets, even as she acknowledges for example, the influence financial markets have on housing markets “from which speculators and developers benefit the most.”¹⁰⁵ Similarly, she laments the processes that account for poor incomes that contribute to injustice but does not point to the central role played by corporations in determining wages. The injustice that Sandy faces is mediated not (only) by society-wide structures as Young argues, but by the networked action among corporations.

3.6. Injustice embedded in corporate operating behaviour

Corporate networked injustice manifests in various ways. Exploitative networks usually devalue humans by trading in people, forcing people to work under dangerous or arduous conditions or not paying workers a fair wage. Injustice can manifest by restricting access to essential products or services either by not making them available to certain groups or pricing them to be unaffordable to certain groups. Examples would be housing in some societies where there is undersupply of affordable housing for the poor or pharmaceuticals like vaccines or antiretrovirals that are either not distributed in certain markets or priced out of reach of those who need them. Unjust outcomes often manifest through corporate operational behaviour that

¹⁰⁴ (Young I. M., 2011, p. 47)

¹⁰⁵ (Young I. M., 2011, p. 49)

result in pollution or degradation of natural resources or direct impacts of the health of local communities. A growing problem is the injustice of corruption networks where public resources are syphoned off to the unfair benefit of private entities at the expense of citizens denied services owing to lack of funding. The macro-effect of such networks is that they distort the distribution of those resources that people need to live decent lives, they promote inequality, can cause people to be trapped in poverty and other forms of suffering, and at the extreme, cause people to lose their lives.

Farmer writes that “we cannot avoid looking at power and connections if we hope to understand, and thus prevent, human rights abuses.”¹⁰⁶ It is exactly this combination – power and network connections – that is relevant to our study of corporate networked injustice. As discussed in Chapter 1, the commercial, profit-driven corporation is a powerful and influential agent, capable of marshalling extensive resources toward achieving its objectives. It should come as no surprise that it can also marshal these capabilities to bring about unjust outcomes. But its power is compounded by its participation in complex networks through which powerful actions are networked. The threat to outsiders from corporate networks is not isolated because corporate networks are not isolated, instead spreading across every modern society. Networked action poses a risk of harm to any person outside an extractive corporate network and thereby poses significant risk to society.

Committing networked injustice is built into corporate behaviour

Any type of agent can choose to coordinate their actions in a network that contributes to producing an injustice. I contend that networked action in corporate networks is built into the

¹⁰⁶ (Farmer, 2003)

corporate logic – it is the way they ordinarily operate. Corporations cannot act in isolation. And so it is constitutive of the corporation that it is extensively involved in networked action, and when this networked action produces injustice, corporations are constitutively involved in networked injustice.

Given their corporate objective and organisational logic, operating in networks is the only way corporations can feasibly operate and meet their objectives. Earlier in this chapter we discussed my claim that corporations are de facto participants in Level 1 (foundational) networks, and that the modern corporation cannot succeed without Level 2 (strategic) networks. Networks of these kinds are intrinsic to doing business. Corporations are therefore always operating in some form of a network, in fact, numerous networks at any one time. Since networked action in corporate networks sits at the root of harm-likely action and networked injustice, by their constitutive participation in networks, corporations foundationally and constitutively stand in positions of committing networked injustice.

Networked action is a necessary condition of corporate operations, and therefore so is harm-likely action. Corporations perform these actions as part of their everyday routines. The distinguishing factor of a corporation as perpetrator is that its constitutive aims dictate certain behaviours and so we can be sure that these behaviours will continue since it is the very nature of current profit-maximising activities.

We may ask why corporations would continue with this behaviour if it is known to lead to unjust outcomes. The simple answer is that networked action is fundamental to the achievement of corporate goals. This requires that corporations act to maintain network relationships and behave in a way that sustains the network. Tacit agreement develops among participants to abide by certain norms and behaviours, even creating obligations to each other. The

interdependence of networked action serves to regulate the behaviour of network participants such that no one will risk being excluded and may even forego self-interest at times for the sake of the network. As I mentioned earlier, even if one of the landlords in Sandy's community wanted to lower the rent they charged her, so that she could afford to live there, they might refrain from doing so because of the impact this might have on its peers (for example igniting a process where rentals begin to fall) and the impact on their standing in the network because undercutting others is frowned upon. So the landlord ends up with a vacant property, choosing to earn no rent rather than upset the network. It is likely that the stronger the network relationships and more significant they are to the enablement of corporate goals, the more loyalty will matter, and in contrast to the perception of cut-throat competition, corporations often they take fellow network participants into account in their decision-making.¹⁰⁷ The result is that there is likely to be greater loyalty to fellow network participants than to any victims of harmful network action.

I have argued that committing networked injustice is built into corporate behaviour. If this is true, then it serves as grounds for assigning justice responsibility to corporations but also means that a central plank of remedial action will require a change to the acceptable norms of corporate operations and behaviour.

The ubiquity and power of corporate networks

The seemingly narrow focus on corporate networks should not be construed as a narrow concern about justice, quite the opposite. Given the ubiquity and power of corporate networks, the injustice committed by corporations and mediated by networks is extensive and reaches every corner of society, with, as stated earlier, some scholars considering networks to dominate

¹⁰⁷ (Davis, Yoo, & Baker, 2003, p. 308)

the economies of many countries. The resilience and growth of corporate networks are enabled by the fact that they are stable and sustained by the concentration of ownership and leadership of corporations, making them resilient to major changes in corporate governance.¹⁰⁸

Part of what enables corporate networks to be sustained and become increasingly ubiquitous is explained by corporate elites which can be regarded as networks in themselves,¹⁰⁹ which are manifest and enabled by a network of shared corporate directors. It is reported that in Germany, corporation ownership and board director networks are highly concentrated within the same industry, that is, potential competitors are associated with one another.¹¹⁰ Similarly in the US, where the level of connectivity among the several hundred largest corporations and their several thousand directors is remarkably consistent over time.¹¹¹ Davis et al find that overlapping board memberships has proven to be a potent medium for the spread of corporate practices and structures and that alignment and coordination to form a power elite is an emergent property of networks qua networks, requiring no coordinating mechanism or a conspiracy among bankers or anyone else. Such alignment of plans, behaviours and intentions emerge out of the structural tendency toward concentration of powerful institutions.¹¹²

These descriptions of corporate elites bear similarity to the description of hoarding networks described earlier. While I have chosen to focus on extractive networks, this discussion demonstrates the link between networks that hoard opportunities and networks that extract opportunities. Where these networks intersect, we have networks that hoard extractive opportunities, further sharpening the impact of the injustices that follow.

¹⁰⁸ (Davis, Yoo, & Baker, 2003, p. 301)

¹⁰⁹ (Rumyantseva & Tretyak, 2003, p. 6)

¹¹⁰ (Windolf & Beyer, 1996, p. 205)

¹¹¹ (Davis, Yoo, & Baker, 2003, p. 301)

¹¹² (Davis, Yoo, & Baker, 2003, p. 308)

Powerful networks bring about conditions that enable sweatshop labour, labour practices under oppressive political regimes such as apartheid South Africa, collective market power to drive down prices received by small or low-income producers, corrupt business and political networks, business recruiting, promotion and compensation networks that favour one gender or race over another and institutional arrangements that block access to life-saving medication to certain groups. All such networks benefit its corporate participants and transfer some unfair burden onto victims.

By this argument that powerful networks with built-in logic to create conditions for corporate injustice are everywhere, I believe I've made a case for the urgent need to theorise and develop ways of changing how corporations interact with persons. Developing an account of responsibility for this injustice and theorising the requirements to discharge this responsibility – the topics of the next two chapters – will help us complete this task.

3.7. Concluding remarks

Young explained that injustices suffered by vulnerable persons arise due to blameless actors following social norms in social processes. She termed these structural injustices and developed a theory by which everyone who participates in the social processes that yield structural injustice bears a responsibility to transform the norms and social processes by which they act. On Young's view the social processes mediate or facilitate the production of injustice. She draws a distinction between these mediated structural injustices and unmediated injustices for which the standard liability model is sufficient to assign responsibility.

As I've argued, Young misses something important in her account since there are other forms of mediated behaviour, such as networked action, that could also, or perhaps better, explain the injustice suffered by vulnerable persons, especially when corporations are involved, which is the case in the examples Young cites. Among the benefits of Young's structural account of injustice is that it offers insight into injustices that are not easily traceable to intentional wrongdoing by individual agents.

The networked account of injustice adds to our understanding of injustice by enabling the tracking of wrongdoing to corporations who might otherwise not be identified as perpetrators of wrongful action. Something morally significant occurs when powerful social actors interact with the vulnerable in society. This matters even more when these powerful actors coordinate their activity in corporate networks. These facts give rise to our concern over networked injustice. The concept of networked injustice not only offers a more complete identification of injustice, in addition to standard, structural and goal-orientated collective injustice, it also offers unique insight into the nature of the injustices committed by corporations. Networked injustice is central to the theory of corporate justice responsibility because it is the mode by which corporate injustices most routinely arise.

While extolling the merits of networked action for corporations, economists and management theorists overlook the impacts this powerful form of action has on those who encounter participants of a network and its network peers. The premise tends to be that corporate action is good for society and so anything that can advance corporation action and its effectiveness and efficiency, must also be good for society. As I've discussed in Chapter 1, the assumption of corporate moral neutrality is a problematic yet pervasive one among many scholars.

It is evident that corporations have rational justification for operating in networks – the networked action among peers generates benefit that furthers the corporate objectives of all

network participants. While the study of corporate networks focuses exclusively on the benefits and impacts on corporations, I have turned our attention to the harmful impacts networked action can have on persons and society more broadly. Sometimes these impacts are by-products of commercial activity but mostly they are the means by which corporations pursue their commercial goals. I've argued that corporate behaviours and plans become harmonised thus creating the conditions for potential harms when corporations interact with individuals, especially vulnerable individuals, outside their networks. I separated out actions that make the network function and offer benefits to participants, and the effects that follow these actions which can cause harm to those outside the network. The potentially harmful interactions towards individuals are not by design but derive from what sits behind the seeming innocent interaction, the powerful and complex web of networked actions. Networked injustice arises not by individual corporations acting unjustly, but results from the actions and effects of these actions that are unique to the way corporations behave in networks.

Networks can't wrong people, only agents can act wrongly towards other agents. But networks and structures can facilitate and enable wrong being done. In contrast to the account of structural injustice where the wrongful actions are not committed by particular agents against particular others, with networked injustice, particular agents do indeed commit injustice against particular others, the network is the arrangement that facilitates this perpetration. The mediating role of structures and social arrangements serves to obscure the role of the agents involved in the ensuing injustices which is why it has been important to understand the nature of injustice as we have just done.¹¹³

¹¹³ (Goodin & Barry, 2021, p. 340)

As the world currently stands, and given their reach and influence, society cannot escape harms that are produced by corporations, yet we do not hold corporations fully responsible for these harms. Part of this incomplete accountability is our incomplete understanding of the modes by which corporations commit injustice. Our existing theories of responsibility for justice don't pick out the corporation as bearer of responsibility for injustice, particularly those injustices that corporations themselves routinely commit. We need the concept of networked injustice to help us identify corporate injustices. Only then, with the concept of networked injustice and the responsibility that follows, can we theorise solutions to the responsibility gap for corporate injustice.

I need to ultimately present the argument for justice responsibility borne by corporations for networked injustice. Before I do that however, I need to make the case that the corporation is indeed the type of agent to which we can assign moral responsibility, that is, that the corporation is a moral agent. And secondly, I'll need to present an account of justice responsibility. These tasks are undertaken in the next two chapters, before I develop the argument for corporate justice responsibility in Chapter 6.

Chapter 4: CORPORATE MORAL AGENCY

4.1. Introduction

In Chapter 5 I will define justice responsibility as the moral responsibility we hope to assign to corporations. This raises the question of whether the corporation is the type of actor to which we can assign moral responsibility at all. An action is right or wrong if caused by a *moral agent*, but neither right nor wrong if caused by other kinds of agents.¹ To assign moral responsibility to the corporation then, we would need to show that it is a *moral agent*.

It is argued that moral agents are able to foresee, understand and intend the outcomes of what they do or do not do.² Moral agency entails capacities for deliberating over possible courses of action and their consequences and acting on the basis of this deliberation.³ These requirements of moral agency lead us to typically assign moral responsibility only to individual human beings.⁴ But even then, not to all humans since severely mentally ill adults and young children would not possess the full capacities as described above, and so while we would consider them agents, we would not consider them moral agents in either prescribing or evaluating their actions.⁵

Theorists regularly make the assumption that the corporation is a moral agent.⁶ It is self-evident to some – structural features of organisations (such as corporations) “make them the clearest collective candidates for moral agency,”⁷ and certainly convenient to enable other arguments

¹ (Steiner, 1973, p. 263)

² (Erskine, 2003, p. 7)

³ (Erskine, 2003, p. 6)

⁴ (French, 1984, p. vii)

⁵ (Erskine, 2003, p. 6)

⁶ (Caney, 2013), (O'Neill, 2001)

⁷ (Isaacs, 2011, p. 31)

about corporations – “The assumption that business firms are moral agents in their own right helps to underwrite arguments for more demanding standards of business firms ...”⁸ Despite the claim that it is now widely accepted that corporations can be held morally responsible for their actions,⁹ the inherently complex and contested issue of corporate moral agency has aroused heated debate, particularly in the business ethics literature but also more broadly in the philosophy and management.¹⁰

French writes that ascriptions of moral responsibility to groups, organisations or corporate bodies are typically considered nonsensical or reducible to statements about individual human beings.¹¹ The challenge is to provide a convincing argument that *some of the things a corporation does are intended by the corporation itself*, counter to the reductionist claim that its actions are always reducible to or are a shorthand way of talking about the intentions and actions of individual humans who happen to comprise, say, its management or its board of directors.¹²

The concept of corporate moral agency entails that corporations can be the proper bearers of moral responsibilities in a manner that is distinct from their human members.¹³ Proponents argue that corporations are groups that have joint intentions and take group action, and that since, under certain conditions, groups are agents and moral agents, corporations are moral agents (as long as the said conditions hold). Opponents of corporate moral agency argue that the corporation is not and cannot be a moral agent. Rather than a group, they argue, the corporation is a collection of individuals who have individual intentions and take individual

⁸ (Hsieh N.-h. , 2017, p. 200)

⁹ (Wettstein, 2009, p. 150)

¹⁰ (Velasquez, 2003), (Moore, 1999), (Sepinwall, 2016), (Rønnegard, 2013), (Toft, 2020)

¹¹ (French, 1984, p. vii)

¹² (Cooper C. L., 2014, p. 1)

¹³ (Rønnegard, 2013, p. 77)

action. There is no joint intention, and only individuals within a corporation have moral agency, not the corporation itself.

The debate is not whether corporations bear moral responsibility but where in the corporation this responsibility is located – at the corporate (or group) level or at the individual employee level. The debate is thus often presented as one between collectivists (proponents of corporate moral agency) and individualists (opponents) who challenge the ideas that the corporation has intentions and group action abilities, claiming that intentional action resides only with individuals.

In Chapter 2 and 3, in presenting the corporate network as consisting of numerous corporations, I adopted an individualist stance, insisting that the network was not a group agent, merely a social arrangement that mediated networked action among corporations. I also spoke of the *individual* corporation and treated the corporation as a *single agent*. This was an appropriate position given the reality of networks. However, with regard to the corporation itself, relating to the questions of its group agency and moral agency, I will adopt a collectivist position, given my understanding of the corporation, a position I will defend in this chapter, and argue that we are not mistaken in our endeavour to assign a moral responsibility to the corporation; and that indeed the corporation possesses moral agency, making it fit to be assigned moral responsibility.

Space does not allow me to repeat the extensive debates on this topic. These have been well summarised by Sepinwall¹⁴ and Moore¹⁵ who present the debates as essentially around corporations' capacity for group intentionality and group action, essential to attributing moral responsibility.¹⁶ Instead, I will draw on the relevant literature in making and defending my

¹⁴ (Sepinwall, 2016)

¹⁵ (Moore, 1999)

¹⁶ (Talbert, 2019)

argument. In defending corporate moral agency, I will enrich the debate by arguing that this view finds greater force when we consider the constituents of corporations not merely as ‘individuals’ as is common in the literature, but as employees. The intentions and actions of an employee, someone who has deliberately chosen to work at a specific corporation and who is committed to the success of the corporation, are meaningfully different, I believe, to the intentions and actions of a generic ‘individual.’

The ability to act as a moral agent presupposes the ability to act as an agent in the first place, so this is where I will start on the path to arguing for corporate moral agency.¹⁷ I will structure my argument as follows. I start with an account of groups and argue that corporations bear the attributes of groups including the capacity for group action. These groups, I argue, can form group intentions that direct their actions, thus forming group agents. Finally, I argue that corporations, as group agents, bear moral agency in virtue of their capacity for group intentions, intentional action and moral judgements.

I have already presented accounts of the attributes and behaviour of corporations in Chapter 1 to 3, and will draw on these accounts as needed.

4.2. The corporation as a group

In this section I argue that the corporation possesses the attributes of a group, and that it performs group action. This lays the groundwork for arguing that the corporation is a group agent, from which I will build the argument for moral agency.

¹⁷ (Erskine, 2003, p. 64)

4.2.1. Groups

In simplified terms, a group is an aggregate of agents that act together. When individual agents gather together they can perform actions they would not be able to do on their own, like moving a grand piano, and they can get each other, or lead each other, to behave in ways that none would engage in if they were acting alone,¹⁸ such as one teenager egging on another to throw stones at a building's windows, something he would not have done without the peer pressure. As I will use the term, to qualify as a group, rather than a mere aggregate or collection, there must be a basis for thinking of it as the same entity over time by its beliefs and desires, even if they do evolve, and even as membership changes due to departures or new additions.¹⁹

To illustrate, we could draw a distinction between two collections of plastic bag polluters. The first collection consists of people who dispose of plastic bags carelessly so that they end up in the ocean to harm turtles. A second (hopefully hypothetical) collection of people, the Anti-Turtle League, which has been operating for generations, plan and coordinate their actions to go out into the ocean regularly, in areas populated by turtles, to saturate the area with plastic bags to harm the turtles who ingest the plastic bags or become entangled in them. Would either of these collections qualify as a group, that is, do either have enduring beliefs and desires regarding harm to turtles, and enduring members who hold and act upon these beliefs and desires over time? We would certainly discount the first collection who are not acting by any beliefs or desires regarding the welfare of turtles and mostly like litter only infrequently and erratically. However, we may indeed conclude that the second collection qualifies as a group

¹⁸ (Velasquez, 2003, pp. 543-544)

¹⁹ (List & Pettit, 2013, p. 32), (French, 1984, p. 13)

– they have organised themselves around harming turtles by which they coordinate their actions and been operating for many years. Members presumably join the Anti-Turtle League because they share beliefs and desires to harm turtles. Even as membership has changed over the years, we would have sufficient basis to consider them a group given the endurance of its members, who hold and act upon the group beliefs and desires.

Consider these factors for the corporation. A corporation employs individuals to act together in a wide range of roles, from directors of the board to executives and managers, as well as different levels of administrative and operational staff. As discussed in our plastic bag polluter example, to qualify as a group there must be a basis for thinking of it as the same entity over time by its beliefs and desires, even if they do evolve, and even as membership changes due to departures or new additions. It is reasonable to observe that the corporation meets these requirements. The corporation is not a mere collection of people – it is a state-protected formal entity, operated by contracted parties who typically share some common goal relating to its operations, and remain in the corporation’s employ for multiple years. Some people remain in the employment of the same company all their lives. Companies have staff turnover, but the company continues, even when influential leaders or founders leave.²⁰

The changes that corporations undergo are usually gradual and often imperceptible. For example, we continue to consider Intel, Hewlett Packard and Apple as innovative technology companies, even though their employees have turned over numerous times since their founding and their founders have moved on. Large global companies like Barclays, BP and General Motors have been around for over a century and continue their lines of business of banking, oil and motor vehicles despite changes to personnel and market conditions. We would expect that

²⁰ (Velasquez, 2003, p. 541)

their core missions have not changed much even though the operational plans to achieve these plans have most likely changed.

Following Butt's depiction of society, I consider corporations 'historically continuous bodies,' by which successive generations of the corporation do not begin when the previous one ends, instead the generations overlap.²¹ It is unlikely that one incarnation of the corporation (shareholders, employees, assets, brands, intellectual property, and so on) ended on one day and a new incarnation started on the next. It is more likely that these overlapped over time as employees, say, left the corporation and new employees joined, or as old shareholders sold their shares and new shareholders bought. The financial and intellectual assets of the corporation would no doubt have been carried on through the generations and modified gradually as needed. Company brands are often built over many decades – the strength of brands like Coca-Cola or McDonalds can be attributed to spending on advertising over many decades as well as thousands of employees who deliver products and service that reinforce the brands. This allows us to conceive of the corporation too as a historically 'continuous body' connecting the current corporation to the old one.

Corporations are usually explicit about their objectives as for-profit commercial entities, and typically make their specific beliefs publicly and internally known through advertisements, websites, annual reports, speeches, corporate gatherings and so on where their values, vision and mission statements, strategies and goals are communicated. So it is reasonable to expect that employees have awareness of the organisation's beliefs and desires, and its culture, and some affinity for these, over and above their jobs being merely contractual relationships. I am suggesting that corporations are not merely organised crowds of people, they are groups by the

²¹ (Butt, 2006, p. 357)

definition offered above, and that they have an identity that does not reduce to a mere sum of their employees.²²

4.2.2. Group action

The idea of group action suggests that the group performs actions. How is this different to referring to *members* of a group who have acted?

A group acts through its members, but group actions are not simply collections of individual actions.²³ We say the Anti-Turtle League polluters acted, we do not refer to each of the individuals in the group. To say the group has acted, is to say that members of the group have acted as members of the group, not as individuals, in furtherance of the group's mission. Group agents, in taking group action, act through their members in such a way that they simulate the performance of individual agents²⁴ and produce the group's desired outcomes. They follow procedures that enable them to pursue group goals.

What about the corporation? Following the discussion above, as a group, a corporation acts through its employees but the corporate action is not simply the aggregation of individual employee actions. 'Something' happens when agents act together that produces a corporate action. What this 'something' is needs to be unravelled. To say the corporation has acted, is to say that employees of the corporation have acted in furtherance of the corporate mission or goals. Velasquez, one of corporate moral agency staunchest opponents, objects to the depiction of the corporation as a group and the idea of corporate group action when he writes that "the

²² (French, 1984, p. 32)

²³ (Isaacs, 2011, p. 24)

²⁴ (Pettit, 2007, p. 172)

corporate organisation acts only if, and to the extent that, its individual members bring about those actions. If the members of the organisation do nothing, then the corporate organisation does nothing. Every organisational act, therefore, including those that cannot be predicated of its individual members ... is nevertheless causally produced by the organisation's members."²⁵

I am suggesting that when the corporation's members act with other corporation members, in pursuit of the corporation's goals, that this is a corporate action. The employees have not acted in their personal capacity, rather, they have acted as representatives of the corporation.

Corporate employees go out to sell to customers, procure inputs, work machines and produce financial accounts – these are actions that collectively amount to the actions of the corporation. It is a truism that the corporation's only method of achieving its desires or goals is through its employees, that is, the activation of the individuals who occupy its various positions.²⁶ As an action that implements the corporate policy, it is proper to describe such an act as done for corporate reasons or for corporate purposes and so as an action of the corporation.²⁷ When action is taken by employees in the corporation's name, this is done for the satisfaction of the corporation's desires and according to its beliefs.²⁸

An important aspect of group action, that separates it from individual actions, is that individual members of the group intentionally do their part in promoting a joint outcome or engaging in the joint activity.²⁹ When agents act with others in groups, their actions are not entirely guided by their individual goals and their intentions, they are also guided by the goals and intention of the collective. Kutz introduces the notion of participatory intention, the intention to act as part of a group.³⁰ When the actions of individuals acting upon participatory intentions are suitably

²⁵ (Velasquez, 2003, p. 543)

²⁶ (Sepinwall, 2016, p. 3), (French, 1984, p. 45)

²⁷ (French, 1984, p. 44)

²⁸ (List & Pettit, 2013, p. 32)

²⁹ (Kutz, 2007, p. 69)

³⁰ (Kutz, 2007, p. 67)

combined, the group of which they are a part can be said to have acted.³¹ This is the ‘something’ I referred to above, that creates a group action out of the actions of individuals, that is not merely the aggregation of individual actions.

We have said that the group acts through its members, or that members act on behalf of the group. Given the causal relationship between group functions and individual functions, control over the final act is shared between the group and individual such that we can claim that the group has control as well as the individual. French supports this approach stating that there may be a number of different layers of description of a single event at which intentional agents appear on the moral scene or, simply, intentionality and morality are not limited to only one level of description.³² The point here is that even though employees are the ultimate executors of the corporation’s plans they do not act on their own, rather they are authorised through the corporation’s authority, governance and planning structures to act. Similarly, employees by their contractual employment and participation in corporate processes, ‘license’ the corporation to act on their behalf.³³

Wettstein describes a change that takes place when institutional agendas are under the full control of neither owners for managers. He points to agendas being “ingrained as imperatives in their structure and nature.”³⁴ The UK Conservative Party may be to blame for Liz Truss’s election to Prime Minister, but individual Tories may not be, since they presumably voted as they were expected. In Chapter 3 I described the process of harmonisation between corporations in a network, by which their behaviours followed norms and expectations and that in time, their behaviours and decision-making processes begin to mimic each other. I believe a similar process occurs inside corporations, where beliefs and outlooks of individuals harmonise

³¹ (Kutz, 2007, p. 67)

³² (French, 1984)

³³ (List & Pettit, 2013, p. 35)

³⁴ (Wettstein, 2009, p. 151)

with each other such that they no longer reflect *only* what the individuals believe but is infused with this harmonised set of beliefs creating a set of beliefs beyond themselves.

What follows from Velasquez's claim is that since corporations can act only through their human constituents, proves that corporations are not agents.³⁵ He objects to the claim that corporate organisations are causally responsible for some acts or events, asserting that there is no collective action in corporations, only actions by employees.³⁶ By the process just described, and from what is still to come, I argue that corporations are indeed taking group action when their employees act according to the strategies and policies of the corporation, when they act according to their organisational roles and when they act in pursuit of corporate goals.

4.3. The corporation as a group agent

To attempt to assign moral responsibility to the corporation by virtue of it being a group agent, we will need to satisfy ourselves that moral agency is something that can be possessed by groups at all. As List & Pettit show, given the account of a group agent, there isn't much intellectual distance to travel from showing that these conditions are necessary and sufficient to hold an ordinary agent morally responsible, to showing that they also suffice to hold a group agent responsible.³⁷

In general terms, an agent is an entity with the capacity to act, and agency denotes the exercise or manifestation of this functional capacity, in the performance of intentional actions.³⁸ Agency

³⁵ (Velasquez, 2003)

³⁶ (Velasquez, 2003, p. 542)

³⁷ (List & Pettit, 2013, pp. 158-165)

³⁸ (Schlosser, 2019), (Erskine, 2003, p. 51)

entails observing the world, having desires about the world, processing information and acting upon the world in pursuit of those desires.³⁹

List & Pettit define an agent as a system that possesses three features, namely *representational states*, *motivational states* and *a capacity to process them and to act on their basis*.⁴⁰

Representational states depict *how things are* in the environment while motivational states specify how the system *requires things to be* in the environment. An agent has the capacity to process its representational state ('how things are') and motivational state ('how things are required or desired to be') to identify any differential between the two and take suitable action to eliminate the differential such that the environment matches its motivating specification.

For example, a boy may see a bowl of broccoli on the table in front of him (representational state) and desire that the bowl not be in front of him (motivational state). He can process that what he observes, a bowl of broccoli, is not what he desires, for the broccoli not to be in front of him, and so acts to reconcile the two states by pushing the bowl of broccoli off the table. We would say that the boy has exercised his agency.

An entity is an agent when it maintains certain purposes, forms reliable representations of its environment, and acts reliably to satisfy its purposes according to those representations. Pettit summarises the requirements for an agent thus: "It must exemplify a unified epistemic vision and a coherent practical agenda."⁴¹

The definition of agency presents a challenge for us to claim that the corporation is an agent. The challenge is to demonstrate that the corporation has a 'unified epistemic vision' and 'a coherent practical agenda' when it typically employs thousands of people, sometimes hundreds of thousands, spread across locations, many across countries, in multiple lines of business in

³⁹ (Erskine, 2003, p. 51)

⁴⁰ (List & Pettit, 2013, p. 20)

⁴¹ (Orts & Smith, 2017, p. 17)

different industries. Employees would hold different positions, are at different levels of seniority, often speak different languages, and so on. This challenge is overcome when we conceive the corporation as a special kind of agent, a group agent. A group agent is a group of individual agents that together exhibit the features and capacities of an individual agent.⁴² This is how we began describing the corporation in the previous section. A group agent performs group action.

As a challenge to proponents of corporate moral agency, Velasquez rejects the idea that corporations are group agents. His claim is that agency requires “intention, as well as causality,”⁴³ and that what I’m referring to as group agents possess neither.

To challenge Velasquez’s position, we would need to show that under the right conditions, when a collection of individuals act together in a group, they can exhibit the features and capacities of an individual agent, that is, that they have the capacity for intentions not as individuals but as a group, and that they can perform intentional actions, again not as individuals, but as a group. Only then could we conceive of the group as a group agent. We’d need to establish that the group can observe the world, have desires about the world, and process information in acting upon the world. While group members may share beliefs and desires, group agency would require some form of group or joint intention.⁴⁴

In this section I take up Velasquez’s challenge to discuss the requirements for the corporation to be classified a group agent, namely that it is capable of group intention, also called collective or joint intention, and that it is capable of intentional group action.

⁴² (Pettit, 2007), (List & Pettit, 2013)

⁴³ (Velasquez, 2003, p. 543)

⁴⁴ (List & Pettit, 2013)

4.3.1. Group intention

We've said that groups like corporations act through their members. Can this group, comprised of individuals acting together, have a joint intention? We started answering this question in the previous section when analysing group action. I wrote that when agents act with others in groups, their actions are not entirely guided by their goals and their intentions, they are also guided by the group's goals and group's intention. But is this a group or joint intention?

Velasquez is sceptical. He objects to the claim that corporations have intentions.⁴⁵ For him, the problem lay in the notion of an intention as a belief or desire complex, which makes sense only within the context of a single mind.⁴⁶ But scholars have argued that the unique nature of group action and corporate operations approximate this 'single mind' in the form of group intention.

Joint intent or group intention is the ordinary, instrumental individual intentions whose subject is the individual agent and whose object is a collective act or outcome. I intend that we will dance the tango.⁴⁷

Returning to our example of the plastic polluters, while the outcome of the actions of both collections of polluters may be identical, the harm to turtles, we would not consider both collections as acting with joint intent. In the first collection, the individuals act without coordination, and, while negligent, do not intend to harm any turtles. In contrast, the second collection acts with what appears to be intent to harm turtles, and so this latter collection, which we've already establish qualifies as a group, could be considered to act with joint intent.

⁴⁵ (Velasquez, 2003, p. 542)

⁴⁶ (Sepinwall, 2016, p. 7)

⁴⁷ (Kutz, 2007, p. 96)

List & Pettit offers a useful way of assessing joint intent.⁴⁸ A group jointly intends to pursue a particular outcome if *four conditions* are met. Firstly, they have a *shared goal* where each member intends that the group, together promotes the given goal. Our group of plastic bag polluters, the Anti-Turtle League, seem to share the rather perverse goal of harming turtles as motivation for their dumping of plastic bags. The second condition for group joint intent is that members each intend to make an *individual contribution* by performing their part of a coordinated effort or plan. As members of an organisation, each plastic polluter, it would be fair to assume, plays their part in accumulating the plastic bags, traveling out into the waters and tipping the plastic overboard, or some other role to contribute to the functioning of the organisation in pursuit of their shared goal. In contrast to the first collection of people who are acting randomly, this group acts according to a plan. Thirdly, there is *interdependence* within the group where each member forms their intentions at least partly because of believing that the others form such intentions too. And fourthly, there is *common awareness* within the group of each believing that the first three conditions are met, each believing that others believe this, and so on. Through their planning meetings, follow-up discussions and sets of actions, the group would have developed this interdependence and common awareness.

Could the corporation meet these requirements of group intention? Opponents of corporate moral agency think not, claiming that “[t]he intentions that we attribute to groups are metaphorical, based on analogies to the literal intentions we attribute to humans”⁴⁹ Working through List & Pettit’s four conditions (introduced in the previous paragraph) for a group to be considered to jointly intend to pursue a particular outcome, shows that the corporation can meet the requirements of group intention without relying on human metaphors and analogies.

⁴⁸ (List & Pettit, 2013, p. 33)

⁴⁹ (Velasquez, 2003, p. 546)

Shared goal: We could claim that a corporation's employees share its goals if each member intends that the organisation, together promotes its goals, which is indeed the case. Corporations have numerous goals, but the overarching goal would inevitably be economic such as to generate maximum profits or to maximise shareholder value. Corporations might state their goals in broad terms such as to grow profits by a certain percentage or increase revenues by some multiple every five years. Even when stating goals in less economic and more market-focused terms such as to be the leading provider of their services or customer's provider of choice, these are selected because their achievement would advance the corporation's economic goal. Whatever these goals are, they are reinforced internally through constant communication since they are embedded, whether explicitly or implicitly, in statements of corporate policy.⁵⁰ This ensures that everyone at the firm is aware of its goals, beliefs and desires and the rules that govern the organisation.

Employees have a vested interest in the economic success of the corporation because this ensures that they get paid and have continued employment. Employees can have a sense of ownership of corporate goals when they're involved in the strategy planning process, as I've described, and since they draw social status from being associated with a successful company. Employees hold greater commitment to company goals the closer the goals are to the work they do, so team and department goals will hold greater affinity than a multinational corporation's global objectives. These local and global goals would ordinarily be aligned however, given the planning processes and the decision-making structures within corporations. It is quite plausible that employees are indifferent to the headquarters goals of the corporation and are doing their jobs not in support of corporate goals but to further their own interest in employment and income. I believe what is more likely though, is that corporate goals are cascaded down through organisations – corporate goals are broken down into component divisional goals which are

⁵⁰ (French, 1984)

further cascaded down to regional goals, departmental goals and eventual team goals toward which lower-level employees would work and that they share with others. So their corporate goal might be to be the leading supplier to the mining industry, something of no interest say to workers in a small division in a small town, their goal of producing one thousand bearings a month that meet international quality standards, something that motivates the factory workers, may contribute to the corporate goal. In this way, all employees do in fact share the corporate goals but indirectly, through their most proximate goals.

Isaacs cautions that employees do not need to share any big picture commitment to the overall goals of the collective.⁵¹ Her account of joint intent relies on individual contributory action to the collective goal.

In environments where employees and employers have open choice, the process of self-selection, where companies choose employees who share their values, and employees do likewise, ensure greater goal alignment. As company goals, beliefs and desires change, this self-selection might lead some employees to depart and others to join which brings even greater alignment. I don't want to overstate this, but to some degree we can impute that continued employment at a corporation offers some indication that employees share the goals of their employer.

Individual contribution: The second condition to assess whether corporations have joint intent is whether corporate employee make individual contributions by performing their part of a coordinated effort or plan. This is an explicit condition of employment, that every employee fulfil their job requirements and meet performance targets. Overall company plans are deconstructed and cascaded throughout the organisation so that every division, department and team knows what they have to do to contribute to the overall corporate plan, but ultimately,

⁵¹ (Isaacs, 2011, p. 31)

this is reduced to the individual employee's performance requirements. Whichever strategic or operational direction the corporation adopts, every employee understands that they will be required to contribute individually to that effort, however large or small. As mentioned above, even if employees do not see their work tied to corporate goals or mission in anyway, they would inevitably be motivated by a goal or mission more directly applicable to their work, which would be the basis of their performance measure. Their individual contributions to this smaller effort, would add up to individual contributions to the overall corporation's actions.

Interdependence: The interdependence condition is met within a corporation where each employee forms their intentions at least partly because of believing that their colleagues form such intentions too. This process happens as a result of people working closely together, sharing ideas, learning from and influencing each other. Managers are skilled at building coherence in their departments such that employees do not operate in a vacuum; the managerial objective is usually for staff to function as a unit which significantly aids the interdependence of their intentions.

Common awareness: Common awareness occurs within corporations when each employee believes that every other employee shares their most proximate goals – essential for them to successfully deliver on their targets – and that there may be some, if distant, affinity to the overall corporate goals, and that they are committed to making their individual contributions to achieve these goals. Common intentions are developed through constant cooperation and collaboration within and across teams, departments, divisions and so on. Corporations dedicate effort to internal communications which produce emails, notices and corporate magazines to build awareness and coherence. Managers regularly hold meetings to communicate corporate messaging in the interest of ensuring awareness. Just as distinct corporate cultures develop with time as employees form bonds of understanding around implicit and explicit prompts, so group intentions develop such that employees could be said to be thinking with one mind. Common

knowledge provides some cognitive linkage between employees – they are aware of the intentions of others as coworkers in a joint endeavour.⁵²

This analysis suggests that, by List & Pettit’s account of corporate employees sharing goals, making their individual contributions to corporate goals, where employee intentions are interdependent, and having common awareness of their colleagues and their intentions, we could consider employees of a corporation to have joint intent. Another account of the formation of joint intent is what French calls the *corporate internal decision structure* (CID structure) through which all corporation’s employees are engaged and organised to draw experience from various levels of the corporation into a decision-making and ratification process,⁵³ and which functions as its locus of intention.⁵⁴ By this internal process, group intentions from which group agency derives, are not simply aggregations of individual intentions.⁵⁵

In reference to CID structure, “there is nothing about procedures and policies that can enable them to transform a metaphorical intention into a real one. Procedures and policies, however simple or complex, cannot create group mental states nor group minds in any literal sense”⁵⁶

According to French, through its CID structure, the corporation possesses and exercises intentionality. This intentionality is observed by the prior cause of corporate actions which is some desire combined with the belief that the object of the desire will be achieved by the action undertaken.⁵⁷ This kind of intentionality involves the use of deliberation (undertaken by members in the corporate structure) and the use of reasons (contained in corporate policy).⁵⁸

Corporations have reasons because they have interests in doing those things that are likely to

⁵² (Isaacs, 2011, p. 42)

⁵³ (French, 1984, p. 41)

⁵⁴ (Sepinwall, 2016, p. 4)

⁵⁵ (Isaacs, 2011, p. 24)

⁵⁶ (Velasquez, 2003, p. 546)

⁵⁷ (French, 1984, p. 40)

⁵⁸ (Donaldson, 1982, p. 21)

result in the realisation of their established corporate goals, regardless of the transient self-interest of directors or managers.⁵⁹

The corporate policy can be seen as a set of principles and a rule of conduct that limit and direct individual actions and behaviour.⁶⁰ Hence corporate policy decisions made by individuals represent choices made for and in the name of the corporation.

French has argued that by the formal structures and rules-based decision-making that guides actions, CID structures, corporations satisfy the conditions of being intentional actors.⁶¹ These structures yield a level of intentional action that is distinct from the intentional actions of the individuals who perform their organisation roles.⁶² French identifies two elements in CID structures, namely, an *organisational or responsibility flowchart* that delineates stations and levels within the corporate power structure, and *rules* that reveal how to recognise decisions that are corporate ones and not simply personal decisions of the humans who occupy the positions identified on the flowchart.⁶³ When operative and properly activated, the CID structure accomplishes a subordination and synthesis of the intentions of the acts of employees into a corporate decision⁶⁴ in support of our claim that the corporation is a group agent.

These structures yield a level of intentional action that is distinct from the intentional action of the individuals who perform their organisational roles. The corporation's actions flow from its intentions. French's account of agency rests on the capacity by the corporation for intentional action through its CID structures. This intentionality places it in responsibility relationships with other parties and grounds the ascription of moral responsibility.⁶⁵

⁵⁹ (French, 1984, p. 45)

⁶⁰ (Wettstein, 2009, p. 151)

⁶¹ (Cooper C. L., 2014, p. 1)

⁶² (Isaacs, 2011, p. 29)

⁶³ (Cooper C. L., 2014, p. 1), (French, 1984, p. 41)

⁶⁴ (French, 1984, p. 41)

⁶⁵ (French, 1984, p. 38)

As discussed in Chapter 1, corporations have sophisticated systems and processes for gathering, analysing and reporting external and internal information to inform decisions. Market intelligence is gathered externally continually through customer feedback and market research, and internal information is gathered and shared through technology-based management information systems and regular meetings. The types of information varies greatly including financial, statistical, operational, produce-related, competitor, regulatory, and so on, the precise nature of which will depend on the type of business.

The corporation can form internal and external assessments of the state of play through its sophisticated and extensive information management capability through which it can collect relevant internal and external information, process it appropriately and share it internally to the right people to inform their decisions or actions. This way a corporation can know when staff morale is down or that customers are dissatisfied with a certain product or that it is losing market share to a competitor. This is not only a form of intelligence-gathering but also monitoring the effectiveness of plans that are being executed by the organisation. Through its management reports and meetings, this information is compared to its targets and ambitions (interests and desires of how things should be) and decision-making protocols would be followed to guide remedial action would be executed by the relevant employees. These targets and ambitions which guide all activity in the organisation would have been developed through the regular strategic planning processes that would substantially involve most of those in the organisation as plans, targets and information was bubbled upward via strategy workshops and department planning sessions, the outputs of which are reported upwards. The corporation builds its decision and plans off observations, which is subjected to its formalised information processing and decision-making capacities to guide its actions. The strategy and operating plans guide execution, and the monitoring capacity collects and sends feedback to decision-makers over whether these plans are delivering against the corporation's motivational state,

that is, its targets, goals and ambitions. This constant flow of information that derives from and shared with all parts of the organisation and determines desired actions upon which all employees in turn act, satisfies the requirements for agency, at least in a minimal sense and according to the conditions discussed earlier.

The entire enterprise of the corporation is ultimately geared towards execution but what gets executed starts in the strategic planning process which is the explicit internal process to develop options for resource allocation. The strategy and operational plans focus on allocation of non-financial resources while the budgets capture the allocation of financial resources. While final resource allocations are made by the board and senior executives of the corporation, the strategic process often involves most employees as departments develop their strategies, which get synthesised in business unit and functional strategies that make their way into the divisional and finally the corporate-level strategy. French writes that every corporation creates a general set of relatively transparent policies that informs its decisions and actions. Such policies are clearly knowable by both employees and those with whom it interacts. These policies are necessary for the attribution of intentionality to corporations and so for the identification of the actions of corporate actors as corporate.

Individuals at all levels in the corporation are called upon to make decisions in the corporation's name in the course of their work. Decision criteria and decision-making methods are usually communicated formally through training or informally on the job. However, there are numerous decisions that are made collectively through meetings and workshops. Throughout the strategy planning process for example, which runs from the bottom all the way to the top of the organisation, decisions are made around the strategic direction and around particular opportunities or in response to threats. Corporations usually have pre-determined processes and requirements for different types of decisions. Certain decisions, acquisitions or investments that exceed a particular size, require board approval and submissions to the board for their

approval have particular requirements and need to follow a pre-designed process. This logic cascades all the way down the corporation.

Decision-making, like the strategic planning process, is guided by company values, vision and mission which are shared throughout the organisation and by which every employee is expected to abide. This extensive process contributes to the formation of shared intentions across the corporation. Arnold describes Michael Bratman's view that most of our intentional actions will stem from deliberation and reflection prior to the time of action, that is, from planning.⁶⁶

Corporations are capable of reflectively endorsing corporate intentions. Through these internal processes described, corporations can evaluate past decisions and existing plans, of determining whether those intentions ought to remain in place, or whether they should be modified or eliminated in favour of alternative intentions, are capable of the requisite reflective endorsement and are properly understood as moral agents.⁶⁷

Still, both Arnold and Sepinwall raise a concern that given the large numbers of individuals that make up a corporation, any corporate intention will almost surely not be shared by each member of the corporation.⁶⁸ It is a valid concern, but it does depend on how much each employee needs to know. It ought to be enough for employees to know, or at least have good grounds for believing, that fellow workers embrace the collective goal, see themselves in relation to fellow employees and act with the intention of doing their part.⁶⁹ Corporate employees tend to talk of "we" in reference to their employer or fellow employees, in terms like what "we" have achieved or what "we" are planning. There certainly is a collective sense of shared commitment to the group. To know how to act, employees must have knowledge of how they are expected to act. If employees demonstrate ignorance of corporate policies or

⁶⁶ (Arnold, 2006, p. 284)

⁶⁷ (Arnold, 2006, p. 291)

⁶⁸ (Arnold, 2006, p. 288), (Sepinwall, 2016, p. 7)

⁶⁹ (Isaacs, 2011, p. 44)

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.⁷⁰ Group agency does not require that every member of the group has executed an action for it to be considered a corporate act. Given its CID structure, an executive making a decision that commits the corporation to an action is also the corporation deciding to take that action.⁷¹

This section has argued that corporations are capable of group intention or forming joint intent. I've argued that the corporation is a group, that it performs group action and that it has the capacity to form group intentions. We have one more hurdle to clear before claiming that the corporation is a group agent – showing that it can perform intentional group actions. Once we clear this hurdle, we'd be in a position to argue that corporations are moral agents.

4.3.2. Intentional group action

We have established that groups can take action, which we termed group action. We've also established that groups can form intentions to take action, which we termed group intention. An action taken by a group guided by a group intention to take this action, is an *intentional group action*. An aggregate of individuals with the capacity to perform a group intentional act is a moral agent. In this section of the chapter, I will expand on this account and synthesise the argument that corporations can perform intentional group actions.

⁷⁰ (Arnold, 2006, p. 289)

⁷¹ (French, 1984, p. 45)

A group action is one taken through the members of a group in such a way that they simulate the performance of an individual agent to produce the group's desired outcome. In a group action, individual members of the group intentionally do their part in promoting a joint outcome. Individual players in a rugby team coordinate their actions and cooperate through passing the ball to each other to achieve the team objective of scoring. Their weaving, running and passing combine in effect as though the team was a single player who ran with the ball across the field to score. Corporations perform group actions when they act through their employees, who each intentionally perform their jobs in pursuit of corporate goals (interwoven with personal goals to varying degrees). Employee jobs and internal corporate procedures are designed to facilitate this group action.

A group intention is formed when individual members of a group intend to act in pursuit of the group goal with the expectation that others in the group will also act with this intention. A rugby team forms a group intention to score when individual members of the team intend to play their part, whether running, tackling, kicking or passing, to enable the team to score, in the expectation that their team mates too have the intention to act to play their part. Similarly, a corporation forms a group intention where individual employees go to work each day with the intention to perform their roles as part of a larger group in pursuit of their employer's goals and do so with the expectation that their colleagues have the intentions as well, to perform their roles in pursuit of the corporation's goals.

When a team of rugby players, with the intention to play their part in pursuit of the team's objective to score, expecting that their teammates share this intention (group intention), performs their intended actions of playing their part in range of actions taken by team mates to enable the team to score (group action), the team has taken an intentional group action. An *intentional group action* is a group action performed with group intention. It occurs when members of a group act upon their intention to act in pursuit of the group goal while colleagues

also act in fulfilment of the expectation by other group members that they would do so, that is, that they too would act upon their intentions to act in pursuit of the group goal.

It is plausible that this description of intentional group action describes the way corporate employees behave such that the corporation takes intentional group action. Within a corporation, employees form intentions to act and then act upon these intentions. Their actions are geared toward playing their roles, along with fellow colleagues, in the wider corporate effort to achieve the corporate goals. Their intentions are that these actions are in support of the corporate goals, and they expect that their colleagues too have formed intentions to act in pursuit of the corporate goals. When they execute these intended actions in concert with their colleagues, they have together performed an intentional group action. Note, that in contrast to much of the literature, I am deliberately referring to ‘employees’ not mere ‘individuals’ when discussing corporate intentional group action. As I argue below, it is a stronger argument that individual intentions transform into a corporate intention when we understand these individuals to be employees.

The formation of group intention and the performance of intentional group action finds support in Kutz’s account that when suitably combined, individuals acting upon participatory intentions achieve jointly intentional action, and the group of which they are a part can be said to have acted. Individuals act with the intention of contributing to the collective outcome or group goal.⁷² It could be said that the corporation’s “collective intentional structure ... gives rise to collective intention and collective action. Their intentional structures qualify them as moral agents insofar as the structures enable them to act intentionally.”⁷³

French writes that the corporation’s group agency is a way of justifying redescriptions of events from the individual human to the corporate intentional type. The human act and the corporate

⁷² (Kutz, 2007, p. 67)

⁷³ (Isaacs, 2011, p. 28)

act certainly have different properties. They also have different causal ancestries, even though they are causally inseparable,⁷⁴ which bears similarity to the idea of shared control over an act argued by List & Pettit above. The people working at the corporation have reasons for their actions and intentionality, and so may be properly held responsible for their behaviour, depending on the circumstances. But the corporation itself also has reasons which are separate from those of the individual employees.

Whereas much of the corporate moral agency debate centres on collective versus individual responsibility, Isaacs argues that those who participate in a collective injustice can be held morally responsible at both the collective and individual level.⁷⁵ The intentional structures of goal-orientated collectives, of which the corporation is an example, qualify them as moral agents insofar as the structures enable them to act intentionally,⁷⁶ while individual agents who participate in collective wrongdoing (a wrongdoing committed by the collective) are blameworthy for so participating.⁷⁷ Goal-orientated collectives can be held collectively morally responsible for their actions, with their moral agency being derived from the mechanisms by which collective intentions are developed and exercised, what Isaacs terms their “collective intentional structure.”⁷⁸ Collective intention is a “state of affairs consisting of a complex of appropriately constrained individual intentions, the relationships between them and to the joint goal,”⁷⁹ where the joint goal is the end at which the collective aims, for example the death of all Tutsis in Rwanda or the maximisation of profit in the case of the corporation. Viewed this way, collective intention has independent standing, thus able to ground collective responsibility.

⁷⁴ (French, 1984)

⁷⁵ (Isaacs, 2011)

⁷⁶ (Isaacs, 2011, p. 27)

⁷⁷ (Isaacs, 2011, p. 18)

⁷⁸ (Isaacs, 2011, p. 5)

⁷⁹ (Isaacs, 2011, p. 36)

I don't go as far as claiming corporate personhood as French did initially, and as List & Pettit appear to argue. I believe demonstrating agency does not require demonstrating personhood. Mulgan presents a useful typology of four positions in the debate which are useful here:⁸⁰

Individualism: Corporate groups are not agents of any kind. The only agents are individuals human beings (and perhaps some other animals). All talk of corporate agency or personhood is metaphorical. Although we hold corporate groups 'responsible' for legal or compensatory purposes, corporate groups themselves cannot bear genuine moral responsibility. It makes no sense to literally blame a corporate group.

Minimal collectivism: Some corporate groups are independent agents who act in the world, but none are moral agents or moral persons.

Moderate collectivism: Some corporate groups are moral agents, but none are fully fledged moral persons. Corporate groups enjoy some rights (e.g., property, contract) and can be held responsible for their actions. But they do not enjoy human rights.

Extreme collectivism: Some corporate groups are both moral agents and moral persons. They have the same moral status as human beings and enjoy analogous rights.

I support the third position, that of moderate collectivism which does not require that the corporation be considered a person. Opponents of corporate moral agency portray proponents' claim that corporate intentions are more than the aggregation of individual intentions as a claim that the corporation "has properties that cannot be attributed to any of its individual members." This, they say, does not prove that the corporation "is a distinct real individual entity,"⁸¹ required for moral agency. I don't believe the argument for corporate moral agency rests on the

⁸⁰ (Mulgan, 2019, p. 903)

⁸¹ (Velasquez, 2003, p. 541)

idea of the corporation being a “distinct real individual entity” which sounds a lot like Mulgan’s account of extreme collectivism. We can sometimes describe events as corporate and done for corporate reasons that are qualitatively different from whatever personal reasons component members may have for doing what they do.⁸² By this argument, since an entity that can act for its own reasons is an intentional agent, and a corporation can act for its own reasons, we can conclude that corporations are intentional actors.⁸³

Corporations have moral agency “in virtue of their collective intentional structure that gives rise to collective intention and collective action. Their intentional structure qualifies them as moral agents insofar as the structures enable them to act intentionally.”⁸⁴ Corporations have structures in which the organisational roles and authority structures are outlined and the organisation’s policy – including its mission and goals; as well as procedures for making organisational decisions and for the organisation taking action – is articulated.”⁸⁵

4.4. The corporation as a group agent with moral agency

To say that an agent is a moral agent is to say that at the time of the action or decision under question, this agent had the capacity to both understand and respond to ethical reasoning, in other words to comprehend moral norms and construct actions accordingly, also known as moral competence.⁸⁶ Such an agent would be a coherent decision-maker⁸⁷ able to distinguish between one course of action and another. Donaldson writes that to qualify as a moral agent, a

⁸² (French, 1984, p. 47)

⁸³ (Sepinwall, 2016, p. 7)

⁸⁴ (Isaacs, 2011, p. 27)

⁸⁵ (Isaacs, 2011, p. 29)

⁸⁶ (Erskine, 2003, p. 20)

⁸⁷ (Erskine, 2003, p. 77)

corporation would need to “embody a process of moral decision-making.”⁸⁸ At a minimum this would entail the capacity to *use moral reasons* in decision-making, and the capacity of the decision-making process *to control* not only overt corporate acts, but also the structure of policies and rules. Moral reasons are necessary to raise the corporation above the level of a mere machine. Corporations can employ reasons of a sort, and this is shown by the fact that they can be morally accountable. That is, with the proper internal structure, corporations, like humans, can be liable to give an account of their behaviour where the account stipulates which moral reasons prompted their behaviour. For a corporation to be a moral agent, it must also be capable of controlling the structure of its policies and rules, that is, control must extend to the maintenance of the corporation's decision-making machinery.⁸⁹

We would deem a moral agent to be capable of genuine rational intentional (or voluntary) actions which entails possessing the sophisticated deliberative capacities necessary to allow them to make reasoned decisions about courses of action, to understand their actions and the probable outcomes of their actions.⁹⁰ To say that an entity is an intentional rational agent is to say that it motivates itself because it has reasons for doing so, and those reasons typically reflect its desires, wants, interests and goals. It is rational in that it seeks to maximise the satisfaction of its motivations at minimal cost.⁹¹

The questions to answer then is whether corporations have the capacity to make moral judgements. Donaldson presents (it is not a position he defends) what he terms the ‘Structural Restraint’ which suggests that corporations do not have the capacity for moral judgements because they are not structured to have this capacity, instead, they are structured only to achieve specific goals, which would be orientated towards maximising profit.⁹² By this view, the

⁸⁸ (Donaldson, 1982, p. 30)

⁸⁹ (Donaldson, 1982, p. 30)

⁹⁰ (Erskine, 2003, p. 6), (Cooper C. L., 2014, p. 1)

⁹¹ (Cooper C. L., 2014, p. 1)

⁹² (Donaldson, 1982, p. 22)

corporation fails to qualify as a moral agent, because it does not include moral considerations as fundamental factors in its decision-making. This seems unlikely. Just because corporations have a profit motive does not mean that profit is all they are able to think about and work towards. Even Friedman, widely quoted as an opponent of corporate moral responsibilities, spoke of wider considerations than profit. According to him, the corporation's responsibility is to "to make as much money as possible" *but* with the important condition that profit is to be maximised "while conforming to the basic rules of the society, both those embodied in law and those embodied in ethical custom."⁹³ Because corporations must act primarily to achieve a specified set of goals, does not mean they cannot act on the basis of moral norms or indeed have as one of its goals the goal of adhering to moral norms.⁹⁴

Philosophers typically deem it necessary that moral agents possess consciousness, an 'inner life', rationality, sentience, intentionality and self-awareness; the capacity to transcend mere feelings and passions; the ability to act on the basis of altruism; and the capacity for remorse and empathy.⁹⁵ Such requirements may lead one to be tempted to immediately disqualify the corporation as a possessor of moral agency. We have two possible solutions. The first is that we may not need *unified* consciousness of an agent, that is, it may be enough that there are conscious actors within the corporation who make conscious decisions in relation to coordinated goals. Or second, it may be argued that consciousness is not a necessary feature of moral agency, but rather that deliberative capacity is, a capacity that we may be able to demonstrate within corporations' ability to access and process information. This would demonstrate that the corporation possesses judgmental capacity such that it is able to see what was at stake⁹⁶ in the normatively significant options it faces.

⁹³ (Friedman, 1970)

⁹⁴ (Donaldson, 1982, p. 24)

⁹⁵ (Erskine, 2003, p. 6)

⁹⁶ (Pettit, 2007, p. 174)

To make normative judgements about the options it faces, the corporation would need an understanding of the relative value of the options it faces⁹⁷ or the possible impacts, good or bad, on parties who could be impacted. Access to the right information for such moral choices is a challenge faced by individuals as much as group agents. We've shown that the corporation has access to information through its information management and monitoring capabilities, so we could argue that the corporation has greater access to evidence than individual employees as long as relevant evidence is funnelled into the right decision-making streams within the corporation.

Wettstein argues that corporate understanding and knowledge of the moral nature of their actions are often more elaborate than that of individuals because they have superior capabilities of gathering and processing the information necessary to understand the full consequences of their actions.⁹⁸ Corporations are capable “not only of acting intentionally but also of knowing the moral nature of their actions.”⁹⁹

The corporation possess the capacity to understand evidence and form normative judgments by following its internal decision-making process which entails including the relevant decisions in the corporate agenda and following whatever steps are prescribed in its organisational structure for evaluating it. Through the strategy and business planning process, employees make propositions that are considered, as well as through the regular management meetings that bubble up to the final decision-making forums, that function as their locus of intention,¹⁰⁰ which could be at all levels through the organisation. Not every decision goes to the executive committee or the board. Meetings are convened, quorum is ensured, an agenda is circulated beforehand, to which participants can contribute, relevant evidential documents are either

⁹⁷ (List & Pettit, 2013, p. 158)

⁹⁸ (Wettstein, 2009, p. 152)

⁹⁹ (Wettstein, 2009, p. 152)

¹⁰⁰ (Sepinwall, 2016, p. 3)

circulated beforehand or presented at the meetings. At these meetings, there is usually a period of discussion and debate and then formal decision-making, the outcomes of which are documented. Decision-criteria used would depend on the issue at hand but could include which option poses the least risk to the corporation, or which option would generate the most profit, that is, decisions about what is good or bad for the corporation, or these could be decisions about what could be good or bad for the environment, say. These processes are repeated at regular intervals – monthly for management meetings and executive committee meetings, quarterly for board meetings and annual for strategy setting processes, so information about normative propositions and evidence is flowing constantly, being updated and revised, rejected or endorsed. Given this constancy, it is reasonable to expect that most relevant evidence and propositions end up in the decision-making process.

Concerns over corporations' capacity to reflect on the moral dimensions of the acts it is considering, and an ability to conform its acts to the results of this reflection can be allayed because moral deliberation is undertaken by the corporation's individual members on its behalf. Sepinwall raises the concern over "whether moral deliberation can be outsourced in this way."¹⁰¹ The concern is that an individual who deliberates for themselves and judges that the act they are contemplating pursuing is wrong will likely experience anticipatory guilt, which may suffice to deter them from going forward. But the person who deliberates on behalf of someone else may not have to carry out the act under consideration themselves, and so they may well be more likely to sign off on a wrong. In this way, the fragmentation that this model of moral judgment entails might facilitate wrongdoing. My view is that the concern is allayed by the fact that corporate employees are mostly required not to deliberate on these matters by themselves. Sure, there are instances where in the heat of a sales call or a manufacturing process where individuals may be called upon to make snap moral decisions. But for the most part, moral

¹⁰¹ (Sepinwall, 2016, pp. 7-8)

deliberation happens with others in the organisation, often involving extensive analysis and discussion, as well as broad communication and revision based on feedback. Some argue that the very process of strategic planning can be said to involve ethical reflection and can thus be considered moral deliberation.¹⁰²

This describes the judgemental capacity of the agent to make moral judgements or understand and respond to ethical reasoning. If an agent was denied the understanding or evidence required for making these judgments, there can be no basis for holding the agent fully responsible. In such a case, “genuine incomprehension or unavoidable ignorance is a perfectly good excuse when something bad is done.”¹⁰³

The argument I’ve made has relied on a functionalist approach whereby we look to the capabilities of corporations, and if the performance of corporations can satisfy conditions for being a moral agent, it follows that it is possible for the corporation to be a moral agent.¹⁰⁴

Among the objections to the functionalist approach relates to the deliberation it assumes corporations are capable of, whether corporations are sufficiently capable of assessing and responding to feedback from stakeholders,¹⁰⁵ however actual corporate practice suggests otherwise. Performance monitoring and measurement occurs constantly within the corporation, again at every organisational unit from the overall entity all the way down to the individual. Importantly, execution effectiveness is monitored to provide feedback to decision-makers and planners, and to make operational adjustments. Regular management, executive and board meetings are held to monitor regulatory compliance but mainly to track progress against plans

¹⁰² (Behnam & Rasche, 2009)

¹⁰³ (List & Pettit, 2013, p. 155)

¹⁰⁴ (Toft, 2020, p. 60)

¹⁰⁵ (Toft, 2020, p. 62)

and budgets. These monitoring engagements feed information back into the organisation to inform any course-corrections or to inform future plans.

Executives would typically regard right or good action for the corporation as those actions that maximise profit, so faced with two options they would go with the one that offers greater profit and will consider this the right choice. Corporations are organised to pursue financial and other objectives to which their members are committed. In pursuing these objectives, choices must be made among many options around courses of action to follow. Among the set of options would invariably be normatively significant options such as whether to release a product even though testing has shown some probability of failure which could cause customers serious injury, or whether not to declare income from a transaction to avoid income tax, or whether to pay a bribe to gain access to a contract. In its social and political roles, the corporation is presented with options that present moral choices, especially when put in tension with its economic interests. Not much more is required to show that the first condition for moral agency is met by the corporation while the remaining two conditions will require significantly greater argument.

Throughout this and earlier chapters we have shown that the corporation possesses information gathering and processing, as well as decision-making capabilities. These capabilities allow it to understand the possible impacts or implications of its actions and make decisions over which actions to pursue. The structure, members and workings of such corporate decision-making mechanisms offers support for believing that corporations can make moral judgements.

We do not require corporations to have “perfectly functioning moral decision-making processes. Few humans would qualify by such standards. Corporations need not have perfect moral control; a reasonable amount will do.”¹⁰⁶

I take the corporation to be a moral agent fit to be assigned moral responsibility. As moral agents, corporations are members of the moral community and, in virtue of this membership, there are normative constraints on what, morally speaking, they may permissibly do.¹⁰⁷

4.5. An enriched argument: Employees, not mere individuals

One of the premises of corporate moral agency that frequently comes under attack by opponents is the argument that individual intentions combine to form group intentions. I suggest that this debate can be swung further in favour of proponents of corporate moral agency if we more accurately account for the human constituents of corporations as *employees* rather than generic ‘individuals’ which is common practice. Considering employees as a special case of individual, supports the plausibility that individual intentions, in the form of corporate employee intentions, combine to form corporate intentions.

An employee can be considered anyone who exchanges labour for payment in a contractual employment relationship with the corporation, including board members, executives, managers and staff. The category of employee would exclude subcontractors on service contracts and temporary workers.

Employees evaluate company values to find an employer whose values resonate with theirs. Employees evaluate corporate values relating to aspects such as environmental sustainability,

¹⁰⁶ (Donaldson, 1982, p. 30)

¹⁰⁷ (Isaacs, 2011, p. 15)

and diversity and inclusion with regarding to gender, race and ethnicity. But values, intentions and goals are shaped iteratively – the individuals shape the collective, and the collective shapes the individuals. Often, because employees care about an issue, the corporation adopts it, such as supporting a charity, or changing a harmful corporate practice. The dividing line between the corporation and its employees becomes extremely blurry to becoming absent.

Employees internalise corporate goals and values and link their intentions to these goals and values. An employee is different to someone who joins a group to throw stones at the windows of an old building. The stone-throwers might all share the goal of vandalising the building, and intentionally act by hurling stones, to meet their goal. Much more is wrapped up in the employee-corporation relationship than in this group, or arguably any other group, a person joins. In the modern society, a person's livelihood and lifestyle is tied to their employment. At work they find meaning and shape their identity. In Chapter 1 I mentioned that in most modern societies, people judge their achievements and personal worth by their positions in a corporation, and the social stature of the corporation of their employment.

Like all individuals have numerous goals or objectives that drive their behaviour, we can conceive of an employee as having two sets of goals – personal goals such as career progression, income and recognition among colleagues, and corporate goals such as beating the competition, being customers' preferred choice and delivering real value, for example. Social identity theory takes this argument even further by positing that “part of an individual's self-concept derives from membership with a social group. From this perspective, individuals develop highly salient social identities specific to the social domains they occupy; a person has not one ‘personal self’ but rather *several selves* that correspond to identification with membership in different groups”¹⁰⁸ (my italics). One significant such organisational

¹⁰⁸ (Umphress & Bingham, 2011, p. 625)

identification is with an employer. Organisational identification “enables individuals to both embody and support their organisation.”¹⁰⁹ Employees who strongly identify with their organisation internalise the organisation’s values and work-related practices, as well as successes and failures, as their own.

As discussed in Chapter 3, employees so embody corporate identity and success as their own, that some are even willing to perform unethical acts in the interest of the corporation. In such cases, “employees may augment their own morality to coincide with the morality of their social in-group” such as colleagues at work.¹¹⁰

I contend that the intentions and actions of an employee, someone who has deliberately chosen to work at a specific corporation or who is committed to the success of the corporation, are meaningfully different to the intentions and actions of a generic ‘individual.’ Employee mental states are of a special kind – they are predisposed toward furthering the interests of the corporation, and predisposed toward cooperation and collaboration with colleagues because this is what organised work entails. Some people deliberately avoid working for large corporations because they could not subscribe to devoting their lives to support impersonal, abstract corporate goals. Yet many do. Around the world people deliberately join corporations, and often specific corporations (where they have choices), and dedicate their lives to these organisations, to the point of foregoing all else – families, their outside interests, even their health.

As an employee an individual adopts a new persona, the persona of corporate employee. This persona is a collective persona which forms the corporation’s intentions. This work persona is

¹⁰⁹ (Umphress & Bingham, 2011, p. 625)

¹¹⁰ (Umphress & Bingham, 2011, p. 625)

often unrecognisable outside work – the employee thinks, behaves, has different priorities than the individual outside of work.

Employees develop corporate-focused intentions that are not straightforwardly individual intentions. These are intentions to act in pursuit of their corporation's goals, which they share and have contributed to developing. These intentions are formed in the knowledge that their colleagues also share the corporate goals and have contributed to developing them, and in the expectation that these colleagues have formed intentions to act in pursuit of these goals. Employees subject themselves to leadership from others in the organisation as a way of organising their behaviour, even to the point of shaping the moral principles by peers and superiors. There is an ethos that says: "What is right in the corporation is what the guy above you wants from you. That's what morality is in the corporation."¹¹¹ Everyone has a real or perceived "guy above them" by which they modify their ethical principles and their intentions. Even when an employee resents a particular instruction from a superior, they might support the overall direction of the collective effort.

Sceptics of this view might suggest that this commitment to the corporation is driven by personal interest – after all, employees' jobs depend on their compliance with work rules and that they mostly collaborate with colleagues merely to keep their jobs. I do not deny this. I acknowledged earlier that there are two sets of related goals that employees embody – personal and corporate. They cannot be cleanly divorced.

Employees form a special relationship with the corporation based on their employment. Each of these employees has the capacity for intentional action and moral judgement. This collection of employees, given their corporate context, combine in a unique way to simulate the intentional actions and moral judgement of an individual. This is different to simply having all

¹¹¹ (Jackall, 2010, p. 4)

the employees pool their individual actions, individual intentions and individual moral judgements. The requirement for corporate moral agency is that these individual actions, intentions and moral judgements of employees combine in a unique way such that they are no longer the individual actions, intentions and moral judgements of individuals, nor a mere sum of individual actions, intentions and moral judgments of these employees, but they are the corporation's actions, the corporation's intentions and the corporation's moral judgements.

I argue that the 'unique way' in which these separate individual actions, intentions and moral judgements 'combine' to form corporation actions, intentions and moral judgements derives from a set of corporate processes, the employee-corporation relationship and employee attitudes which are common in form to large, formalised organisations such as corporations, but also government departments, universities, NGOs and similar organisations, but unique in content to commercial corporations, particularly around the drive to competitively generate profit. These have been discussed at length in this chapter already. *Corporate processes* are centred around the internal decision processes and corporate actions relating to gathering and processing input, decision-making, planning, communication, coordination and organisational, to mention a few. The *employee-corporation relationship* is a contractual relationship, requiring action in the corporation's interests but through which great loyalty can be developed, a form of tribalism where employees are prepared to commit themselves significantly to the purposes of the corporation. *Employee attitude* toward their collective at work is significantly stronger in favour of the corporation than almost any collective a person can belong to. Employees bear intention to do their jobs, intention to work with others, in pursuit of corporate goals.

Employee personal intentions intersect with the intentions of other employees within corporate processes and with input from corporate artefacts, such as the corporate brand, legacy or mission, such that a group intention is formed that no individual holds entirely. Corporate

intention becomes inseparable from employee intentions – they are formed under special conditions in the facilitated corporation-employee collective relationship.

A common stumbling block in the corporate moral agency debate centres on whether individual intentions can form corporate intentions. As I've tried to demonstrate, we are more likely to conceive of corporate intentions emerging from individual intentions when these individuals are properly conceived of as employees.

4.6. Concluding remarks

The corporate moral agency debate is not about whether business activities lead to injustice. The debate, as I've entered it, is over the identity of the perpetrators of the injustice and thus the identity of the agents to whom we assign responsibility to rectify the injustice. The individualists argue that the corporation is not an agent and so cannot be assigned any responsibility, only that corporate employees are moral agents fit to be assigned moral responsibility. They argue that corporate employees, never the corporations, commit injustice and therefore justice responsibility should be assigned to corporate employees individually in virtue of their perpetration of injustice and their moral agency, rather than to the corporation.

The collectivists argue that the corporation is indeed a moral agent, fit to be assigned moral responsibility. They argue that corporations perform intentional actions, guided by moral judgements, through their employees and thus commit injustices for which they should be held responsible in virtue of being perpetrators of the injustices and their moral agency. We have shown that the corporation possess agency by its nature as a group agent. Corporations operate

through their employees in such a way that they simulate the performance of individual agents. Because of its attributes and decision-making structure, the corporation can perform intentional acts based on observing the world, having desires about the world and taking suitable action to change the world in pursuit of these desires.

Even the staunchest critic of any claims that corporations bear moral or social responsibilities, Friedman, admits that “A corporation is an artificial person and, in this sense, may have artificial responsibilities”¹¹² It seems the main questions isn’t whether corporations have moral responsibilities but just what the content and nature of these responsibilities are. Donaldson writes that even if unconvinced by accounts of corporate moral agency we cannot assume that corporations are “never moral agents of any kind.”¹¹³

I have argued that by its possession of the capacities for group intentions, intentional group action and group moral judgements, the corporation is fit to be assigned moral responsibility.

While I rejected the collectivist account in relation to corporate networks, I’ve argued here for a collectivist account of the corporation. The corporation is a moral agent in its own right and when acting with other corporations in a network, nothing about this agency changes, neither does the network assume moral agency as argued in Chapter 2 and 3.

One of Donaldson’s critiques of corporate moral responsibility is, as he states, the view that “anything which can behave intentionally is an agent, and that anything which is an agent is a moral agent.”¹¹⁴ I have avoided this pitfall. By taking a systematic approach I’ve tried to avoid sweeping assumptions. I think a systematic approach leaves one open to more critique because it reveals the vulnerabilities in the argument rather than concealing them beneath platitudes. It was not my intention to solve the longstanding debate over corporate moral agency and I

¹¹² (Friedman, 1970)

¹¹³ (Donaldson, 1982, p. 23)

¹¹⁴ (Donaldson, 1982, p. 22)

certainly have not. I think I have done enough to make the case that corporations are the type of agents fit to assigned responsibility on moral grounds. I am not assuming that because the corporation is fit to be assigned justice responsibility that we can simply assign it. Given the stringency of justice responsibility and the fragility of corporate moral agency we will a solid grounding for this ascription. In Chapter 5, I look to existing models of responsibility for justice for guidance to develop a model for corporate justice responsibility, which I then develop in Chapter 6.

If I have failed in my effort to develop a convincing argument that corporations bear moral responsibility at the group level, all is not lost, because we can still hold corporate executives responsible for their actions in representing the corporation.¹¹⁵ On this point there does appear to be wide agreement.

¹¹⁵ (Hsieh N.-h. , 2013, p. 12)

Chapter 5: MODELS OF RESPONSIBILITY FOR INJUSTICE

5.1. Introduction

I am not developing a theory of justice but a theory of *responsibility* for justice, or more directly, a theory of responsibility for *injustice*. My aim is that the theory will hold (in the main) independent of the theory of justice one adopts. This chapter lays important groundwork for the development of the theory of corporate justice responsibility. In Chapters 1 and 2, I identified two important gaps that this thesis hopes to fill. I identified the need for an account of the responsibility for corporate injustice and then a gap in the account of corporate injustice itself, particularly the mechanism or mode by which these injustices arise, which I've now developed as networked injustice in Chapter 3. Before we can develop an account of responsibility for corporate injustice, we need an account of *responsibility* as well as an account of *justice responsibility*, the responsibility for justice (or for injustice). This will be the first task of this chapter.

The second task of this chapter is to analyse three existing models of responsibility for injustice relating to the modes of injustice discussed in Chapter 2, namely, structural, goal-orientated collective (GOC) and standard injustice. I will start with a discussion of the social connection model of responsibility for justice, developed by Young, which assigns responsibility for structural injustice. This is followed by the model of responsibility developed by Isaacs which assigns responsibility for injustice perpetrated by goal-orientated collectives. And finally, I will review the liability model of responsibility for justice which assigns responsibility for standard injustice. Just as I did in Chapter 2, in studying the three models of responsibility, I will assess whether any of the models are suitable to account for the responsibility for networked injustice,

and if not, as it turns out to be the case, draw input from them for the development of a new model of responsibility.

5.2. Responsibility

As important as the concept of responsibility¹ is, philosophers are unable to agree on a definition of what it means to hold an agent responsible,² leading Ladd to describe responsibility a “weasel word” since it has a number of different meanings and consequently ascriptions of responsibility have a number of different implications and consequences, many of them inconsistent with each other.³ Miller writes that “few concepts in moral and political philosophy are as slippery as that of responsibility”⁴ which suggests that if I am going to use the concept I will need to give a clear account of how I intend using it, which is what I do at the start of the chapter, specifying my interest in prospective moral responsibility.

To ensure that appropriate agents act to alleviate an injustice we must identify them and assign the appropriate responsibility. Most observers of a bad situation would assert that *some actor* is morally required to provide the resources or take the actions necessary to address the situation, but few would feel particularly *responsible* to work towards their enactment.⁵ Unless we define and allocate responsibilities to agents, the practical impact of our theorising principles of justice will necessarily be small.⁶

¹ While some theorists draw a distinction between ‘duty’, ‘obligation’ and ‘responsibility,’ others use these terms synonymously (Zimmerman, 2013, p. 1483), which I will also do.

² (Miller, 2001, p. 455), (Matravers, 2013, p. 12), (Erskine, 2003, p. 7)

³ (Ladd, 1982, p. 58)

⁴ (Miller, 2001, p. 455)

⁵ (Barry C. , 2003, p. 218)

⁶ (Wettstein, 2009, p. 9)

The term ‘responsibility’ could describe an attitude or behaviour, for example: he handles his money responsibly, meaning he spends wisely, or she is a responsible driver, meaning that she drives carefully and follows the rules of the road. I will *not* employ ‘responsibility’ in this descriptive way, instead employing the term in the way it works to organise social relations between people, and between people and institutions.⁷

Reference to responsibility could mean that an agent bears responsibility *for having done* something or *for having brought about* a certain state of affairs. We could say Bob is responsible *for* having moved the box (action) or Mary is responsible *for* the mess in the kitchen (state of affairs). Both these cases are examples of what is termed *retrospective* or *backward-looking* responsibility.⁸ We observe that the box has been moved or that the kitchen is a mess, and we look back to determine to whom we might attribute these acts or outcomes. With retrospective responsibility we are offering an *ex post facto* or *after the event* assessment. The situation has already occurred, and we identify an agent who bears responsibility for this situation, whether by acts of commission or omission.

We can distinguish between attributive and substantive responsibility.⁹ Substantive responsibility concerns liabilities and benefits for which individuals can be held to account, whereas attributive responsibility involves identifying some feature of agents that represent the grounds of those ascriptions of substantive responsibility.¹⁰ Bob may be *attributively* responsible for having moved the box but we are saying nothing yet about whether Bob deserves blame or praise for this action, that is, we are not saying anything about whether

⁷ (Noorman, 2020)

⁸ (Williams, 2018, p. 84), (Erskine, 2003, p. 8), (Zsolnai, 2000, p. 71)

⁹ (Scanlon, 1998)

¹⁰ (Elford, 2018, p. 1206)

moving the box is a good or bad thing. Even if moving the box is a bad thing, at this stage we are not assigning blame to Bob because he may have good reasons for having moved the box. Claiming that an agent bears attributive responsibility for an action or outcome “is merely to claim that this action is attributable to him in the sense required for it to be a *basis* of moral assessment.”¹¹ The claim here is merely that the agent *performed the action* (he did it) without claiming anything about the praiseworthiness or blameworthiness of the action or the agent. Claiming that an agent bears attributive responsibility for an action “does not make any claim about the duties or obligations of that person or others.”¹²

We can hold an agent *substantively* responsible for an outcome “only if those substantive responsibilities are connected in the right way with things for which persons are attributively responsible, usually thought to mean their responsible choices.”¹³ In contrast to bearing responsibility for having done something, an agent could be substantively responsible *to do* something or *to bring about* a certain state of affairs. We would say that Bob bears substantive responsibility *to move* (take an action) the box or Mary is substantively responsible *to ensure* that the kitchen is clean (bring about a state of affairs) given their attributive responsibility (e.g., Bob moved the box) and their responsible choices relating to their actions.

The remedial actions required of Bob and Mary could also be considered to derive from a *prospective* or *forward-looking* responsibility.¹⁴ With prospective responsibility, we are offering an *ex-ante* or *before the event* judgement of actions the agent *ought* to perform given certain conditions. It is a claim about what an agent is required (or not required) *to do* or *bring about*.¹⁵ We could observe a bad situation such as a messy kitchen and ascribe to Mary the

¹¹ (Scanlon, 2006, p. 77)

¹² (Scanlon, 2006, p. 77)

¹³ (Elford, 2018, p. 1206)

¹⁴ (Williams, 2018, p. 84), (Erskine, 2003, p. 8), (Zsolnai, 2000, p. 71), (Ladd, 1982, p. 60)

¹⁵ (Scanlon, 1998, p. 248), (Noorman, 2020)

prospective responsibility to bring about a good situation or state of affairs such as a clean kitchen.

An agent could be retrospectively responsible for what he did or failed to do, in discharging his prospective responsibilities.¹⁶ For example, if it is Mary's prospective responsibility to ensure that the kitchen is clean and she messes up the kitchen or does not prevent others from messing in the kitchen, she would be held retrospectively responsible for the mess. When we ask: who is responsible for the messy kitchen? We would answer, Mary. Even if we ignore Mary's original prospective responsibility, messing the kitchen may cause Mary to be held prospectively responsible to clean it, that is, the responsibility *to do* or *to bring about* may derive from the responsibility *for having done* or *for not having done*. But responsibility *to do* may also derive from elsewhere, such as relations between agents. In addition, multiple persons can be responsible in different ways for the same thing – for example, Mary could be prospectively and retrospectively responsible, but someone else could be attributively responsible for messing up the kitchen

My primary point of arrival in this thesis is *prospective responsibility*, that is, the responsibility by corporations *to do* (perform) an action or *to bring about* a state of affairs, especially to act to make right or prevent bad situations. I'm ultimately looking to assign prospective responsibility to the corporation, to take action to address injustice and to refrain from perpetrating injustice. This prospective responsibility to alleviate injustice will derive from corporations' attributive responsibility for having contributed to or been complicit in bringing about the injustice. However, in pursuit of this endpoint, much of the thesis involves identifying

¹⁶ (Zimmerman, 2013, p. 1488), (Duff, 1998)

the basis on which we can hold corporations attributively responsible for the perpetration of injustice in order to establish that the corporation bears prospective responsibility duties.

For now, the formulation of prospective responsibility takes the form:

X bears responsibility to do q

where *X* identifies the agent or responsibility-bearer, and *q* represents the action (or omission) that *X* ought to take. This formulation of responsibility is situated in the context where a bad situation has arisen in society and we want someone to act to remedy the bad situation, or we anticipate that a bad situation may arise, and we want someone to act to prevent that bad situation from arising. When we say an agent bears responsibility to act, we do so normatively and take it to mean that the agent ought to act or as Young states, “To say that an agent is responsible is to say that they are blameworthy for an act or its outcome,”¹⁷ an approach she does not fully endorse in her work.

In an effort to further clarify my use of the concept of responsibility, I will briefly discuss conceptions of responsibility used by theorists and then state how I will employ the term. We sometimes refer to *role responsibility*, which is a responsibility or duty that attaches to an agent because of the role they perform in society, for example, parent, professor or fireman. This responsibility entails having particular actions or outcomes assigned to an agent as part of their job¹⁸ and would not typically apply to those who don’t have this job. Professional ethics would be included here such as those that bind doctors, nurses, lawyers, financial auditors and so forth, and which guide actions for situations in which these professionals are likely to find themselves. Some general elements of these codes of ethics might be common to all professions or even be part of general morality but much of it is unique to the role. Parents bear role

¹⁷ (Young I. M., 2011, p. 97)

¹⁸ (Tognazzini, 2013, pp. 4592-4593)

responsibility for the welfare of their children in a way that non-parents do not. A challenge that role responsibility faces is that we cannot always settle who has which responsibilities simply by examining their roles since duties can arise from multiple sources and not just from formal roles.¹⁹ We can also question whether roles are justified and whether the allocation of duties is appropriate. While corporations certainly play a role in society, a role by which it can make significant impact on justice and injustice, I will see to establish responsibility more generally and then apply it to the corporation rather than focus on the corporation's role per se.

Social responsibility is a notion commonly associated with the corporation as 'corporate social responsibility' or 'corporate citizenship' to refer to the extra-commercial role that corporations ought to play in society, that is, the responsibilities corporations might have to society beyond those to shareholders and other economic participants in their business.²⁰ I discussed this concept in Chapter 1 where I showed that while this concept has been useful in pointing to a broader set of obligations borne by corporations than ordinarily assumed, it does not go far enough in delineating these obligations especially when it comes to matters of justice.

Another sense of responsibility is *legal responsibility*, which is borne by every citizen or agent to obey the laws that apply to them. I wrote this in a descriptive sense in which the law ascribes responsibility, rather than a moral claim that citizens in fact have a moral responsibility to obey the laws. Certain laws might bear relevance depending on roles played in society, for example, company law would be relevant to those in business and child-care legislation would be relevant to parents and care workers. Contravening a law renders an agent subject to legal sanction which is enforceable by the state.²¹ Political and moral theorists draw heavily on arguments and concepts associated with legal responsibility, which I will do as well, but will

¹⁹ (Vincent, 2011, p. 17)

²⁰ (Melé, 2009)

²¹ (Tognazzini, 2013, pp. 4592-4593)

not conceive of responsibility in terms of adherence or compliance with the law alone, but a broader requirement based on existing and new ethical principles.

The following four senses of responsibility will be relied on in developing my idea of responsibility. The first is *causal responsibility* whereby we say an agent is causally responsible for an outcome (or state of affairs) when an agent's action has a causal relationship with the outcome, that is, the outcome is causally linked to the agent's action. In so doing, we highlight the causal role played by the agent in the genesis of that state of affairs.²² Bearing causal responsibility is to have an outcome attributed to the movements of your body, that is, it is your doing²³ or more broadly, causal responsibility arises when one event or state causes another.²⁴ In the example described above, Bob is causally responsible for moving the box since it is his action, his bodily movement, that caused the change in location of the box. Causality gives us the facts of the situation but *not necessarily* who is at fault, worthy of blame (or praise) or from whom we should request or demand compensation. Miller draws a distinction between causal responsibility and *outcome responsibility*, where the former relates to "why something happened" and the latter relates to whether "a particular agent can be credited or debited with a particular outcome,"²⁵ which I take to mean that we can attribute to the agent the consequences of their action. In seeking to bring about good or better situations where there are bad situations, we care about outcomes. In our retrospective accounts that inform the content of prospective responsibility, we will want to know who can be debited for the bad outcomes that we seek to remedy, and so will ask who bears outcome responsibility, because these agents might be the ones picked out as bearers of prospective responsibility. A third sense of responsibility that will feature prominently is *remedial responsibility*. When considering a state of affairs to be in need of remedy, we ask whose responsibility it is, if anybody's, to put

²² (Miller, 2001, p. 455)

²³ (Tognazzini, 2013, pp. 4592-4593)

²⁴ (Zimmerman, 2015, p. 47)

²⁵ (Miller, 2007, p. 87), (Miller, 2001, p. 455)

the state of affairs right.²⁶ This is a core aspect as how responsibility will be used in the thesis. When we talk of the prospective responsibility to act, we will mostly be talking about the responsibility to remedy an injustice, that is, we will assign remedial responsibility to an agent to remedy injustice.

Finally, and most importantly, I will take responsibility to be a *moral responsibility* where we judge an agent to be blameworthy or praiseworthy for an action or outcome.²⁷ Scepticism aside, moral responsibility is the responsibility for an outcome or action for which an agent could be held blameworthy or praiseworthy. Moral responsibility differs from many other types of responsibility in that it forms a *judgement* or *appraisal* of an actor for his conduct, actions or the situations he has brought about.²⁸ If it is Mary's moral responsibility to keep the kitchen clean to ensure a disease-free environment for others in the shared accommodation, and she fails to do this either by acting messily herself or allowing the kitchen to fall into a messy state, we would hold her blameworthy for the dirty kitchen and we would hold her to blame if anyone fell ill owing to unsanitary conditions in the kitchen.

This is the responsibility we bear for our own actions and decisions.²⁹ Being morally responsible is closely connected to the appropriateness of responses of certain kinds from others (and from oneself).³⁰ Assigning prospective moral responsibility to an agent would attach the expectation that the agents act, that is, the agent ought to act as prescribed.

While not always, causal responsibility frequently accompanies moral responsibility. Usually, if I am blameworthy for something, then my actions caused it³¹ or I allowed it to happen, say by my inaction. While if I caused something, I may not be blameworthy for it if I am justified

²⁶ (Miller, 2007, p. 99)

²⁷ (Scanlon, 2010, p. 604), (Isaacs, 2011, p. 13)

²⁸ (Miller, 2001, p. 456)

²⁹ (Miller, 2007, p. 82)

³⁰ (Clarke, McKenna, & Smith, 2015, p. 2)

³¹ (Isaacs, 2011, p. 13)

in my action (or inaction) or have a valid excuse. If while walking down the street I tripped and bumped into another pedestrian, causing her to fall and injure herself. I have caused her to be injured but I would not be deemed blameworthy because the injury was caused accidentally.

Having reviewed the prominent uses of the notion of responsibility, we're in the position to offer greater clarity to how responsibility will be used in the thesis. When I say an agent bears responsibility, firstly, it is a responsibility to act or to bring about a state of affairs. This is a prospective responsibility relating to what is to be done which may include both remedial and preventative elements. I have in mind a moral responsibility which compels the agent to act such that failure to act would render the agent blameworthy.

To say *X bears responsibility to do q*, per my original formulation of the responsibility statement is thus to say that *X bears a prospective moral responsibility to do q*.

Prospective moral responsibility

Considerations of moral responsibility are most commonly backward-looking in seeking to attribute fault or blame to an agent for an action or situation that has already occurred. While some theorists, notably Sher,³² argue otherwise, I am taking blameworthiness for transgression to entail retrospective moral responsibility. Assigning blame to the agent may ground a claim that the agent bears a responsibility to set things right – this is a prospective responsibility. My main concern is identifying the agent(s) who we can hold morally responsible on a prospective basis.

Lu describes well our objective when she writes, “To hold an agent accountable ... is to assign blameworthiness or praise to an agent (usually for his or her actions or omissions), with a view

³² (Sher, 2006, pp. 66-70)

to assessing the appropriateness of punishing or rewarding the agent, or some other measure that would be effective in regulating an agent's conduct."³³ We obviously can't regulate past conduct, so implicit in assigning prospective responsibility is the attempt to regulate future conduct.

Prospective moral responsibility is forward-looking. It points to action that the responsibility-bearer "simply has to do"³⁴ – an action that we would consider the agent obligated to perform. This responsibility can be assigned to an agent because a morally bad situation has arisen, and the agent can be judged to bear responsibility. In this thesis, I will seek to assign prospective moral responsibility to the corporation to act to rectify injustice, especially those where it has failed to discharge its retrospective responsibilities, such as failing to refrain from being complicit in arrangements that bring about injustice.

Karp writes that the prospective-retrospective distinction has an important epistemic element to it. We may categorise responsibility as prospective "if one can know before the fact that an agent will be responsible for something that might happen in the future."³⁵ It might seem odd at first to hold an agent morally responsible for something that has not yet happened. What prospective moral responsibility does is assign a contingent responsibility to an agent, that if a particular state of affairs arises, it would be their responsibility to respond. In my earlier kitchen example, prospective responsibility to keep the kitchen clean and sanitary has been assigned to Mary. She might not have to do anything if the kitchen stays clean, but if the situation did arise where the kitchen reduced to an unsanitary state, the responsibility to clean the kitchen would fall to Mary. A point to note is that since multiple parties use the kitchen, the responsibility

³³ (Lu, 2017, p. 104)

³⁴ (Karp, 2015, p. 152)

³⁵ (Karp, 2015, p. 153)

which we assign to Mary does not absolve other users of their responsibilities to act with respect and consideration for each other.

As already mentioned, to draw the distinction between retrospective and prospective responsibility does not imply that any kind of responsibility must be either one or the other, with no relationship between them. Situations are often such that we require an understanding of each kind to inform our understanding of the other. Furthermore, I understand a reciprocal relationship to exist between responsibility for bringing about an injustice and responsibility for acting to bring about its rectification, following Reiman who writes that “moral responsibility for rectifying injustice implies guilt for causing (or continuing to cause) injustice. And guilt for injustice is the necessary condition of moral responsibility to rectify it.”

There are two important distinctions to make to further clarify what prospective moral responsibility entails. These clarifications are important in ascribing responsibility to an agent. The first distinction we need is to clarify whether the agent is responsible to *produce a desired outcome* (state of affairs) or to *perform a prescribed action* that contributes to a desired outcome. I term this the *scope* of the responsibility. If defined as a prescribed action, responsibility has been discharged once the action is performed, whereas defined as a desired outcome, fulfilment of the responsibility requires the achievement of the desired state of affairs. In the example above, we have said that Mary bears responsibility to produce the desired outcome of a clean kitchen. This suggests that Mary must do whatever it takes to ensure that the kitchen is clean. Mary fails in her responsibility if the kitchen is unsanitary. The implications for Mary are quite different if we define the scope of Mary’s responsibility as performing a prescribed action, say, to sweep the kitchen floors. Sweeping the kitchen floors contributes to the cleanliness of the kitchen but does not ensure that the entire kitchen is clean. We would hold Mary retrospectively responsible if the floors have not been swept but would

not hold her similarly responsible for the state of the entire kitchen. This distinction will be significant when we discuss injustice and the scope of responsibility borne by an agent. Taking actions to contribute to alleviating an injustice are distinct from ensuring that the injustice is remedied. Our ultimate goal is indeed to ensure that we rid society of the injustice, and merely holding an agent responsible for a contributing action seems inadequate, but this needs to be considered against what eliminating the injustice entails and the demandingness thereof. In most situations, numerous agents share the responsibility to remedy an injustice and so how that responsibility is shared becomes important. This could mean that we revert to ascribing actions to the agents, but it could also mean that we ascribe narrower scopes of responsibility for the outcome.

The second distinction was mentioned briefly before and relates to the *objective* of the prospective responsibility, whether to *remedy* the bad situation or *prevent* it. There may be a temptation to equate retrospective responsibility with remedy and prospective responsibility with prevention, but this would be a mistake. Assigning prospective responsibility to remedy a bad situation suggests that the agent needs to perform certain actions to contribute to the remedy of the bad situation or act to ensure that a good situation arises. The bad situation has already happened but the action for which we are holding the agent responsible is yet to be taken. As described earlier, this is remedial responsibility. Assigning responsibility to an agent to prevent a particular outcome requires prospective action to ensure that a bad situation does not occur in future or to take actions to contribute to making right the bad situation. This could be considered a *prevention responsibility*. For Mary to discharge her prevention responsibility she could perform a set of actions that would contribute to keeping the kitchen clean such as hanging posters on the walls and making daily announcements of kitchen rules or she could patrol the kitchen every few hours. Or perhaps she could change how the kitchen is used or

even outsource cooking so that cooked food is delivered to the house such that the kitchen is never used for cooking. But note that Mary will fail to fulfil her responsibility if she fails to take appropriate preventive action, regardless of whether the kitchen is actually used. Stated more generally, an agent has failed to fulfil their prevention responsibility if they fail to take appropriate preventive action, regardless of whether the bad situation or bad events actually comes to pass.³⁶

We've described prospective moral responsibility to respond to a bad situation that has already occurred (remedy) and in anticipation of a bad situation that hasn't yet occurred, that is, 'before the event' (prevention), the goal being to ensure that it doesn't occur. We could also assign a contingent responsibility to respond to a 'before the event' bad situation if it does occur. So we could have three objectives for assigning responsibility which will differ depending on whether or not the bad situation has already occurred. If it has occurred, we will assign remedial responsibility. If the bad situation (for example messy kitchen) has not occurred but it is reasonably anticipated that it could, we either assign prevention responsibility to ensure that it doesn't occur, or remedial responsibility if it does occur as anticipated, a contingent remedial responsibility. Such a responsibility says to Mary that there is nothing to do now because the kitchen is clean but if the kitchen does end up in a messy state, it is and will continue to be her responsibility to clean it.

³⁶ (Karp, 2015, p. 155)

5.3. Justice responsibility

Young writes that “the very judgement that there is injustice implies some kind of responsibility ... and entails the claim that something should be done to rectify it.”³⁷ Miller similarly states that “justice is a matter of obligation for the agent dispensing it.”³⁸ Both theorists express justice and injustice as entailing a responsibility borne by some agent.

Responsibility is here considered not for a generic ‘bad situation’ but for injustice which leads to defining *justice responsibility* as the prospective responsibility to alleviate or rectify injustice. According to Barry, responsibilities of justice could be of three kinds.³⁹ They could concern the goals, values and ideals that agents should pursue or that a social order ought to be designed to achieve. Or they could concern the particular social arrangements that can realise these aims. Or lastly, responsibilities of justice could concern the allocation of responsibilities to promote, secure or defend the aims and social arrangements of justice. It is this third sense of responsibility of justice that we’ll be concerned with here, that is, seeking to allocate prospective moral responsibility to agents to promote justice or rectify injustice.

Responsibility provides moral reasons for taking certain action. We are concerned here with the responsibility to act to bring about a desired outcome, where the desired outcome is to rectify injustice or secure justice. At the start of this chapter, we formulated responsibility as: *X bears responsibility to do q*, where *X* identifies the agent or responsibility-bearer, and *q*

³⁷ (Young I. M., 2011, p. 95)

³⁸ (Miller, 2021)

³⁹ (Barry C. , 2003, p. 224)

represents the action that X ought to take to address the bad situation of concern. We have specified the responsibility as prospective moral responsibility, so our formulation would read that an agent bears prospective moral responsibility to make good a bad situation. We are now defining the ‘bad situation’ as an injustice and specifying q to be the set of actions that rectify or reduce injustice. Our formulation for responsibility can thus be restated as: an agent bears prospective moral responsibility to advance justice by refraining from perpetrating injustice and taking actions that rectifies or prevents injustice. It is this formulation of responsibility that I term justice responsibility. Justice responsibility is the responsibility an agent bears for injustice. Being responsible ‘for justice’ can also be read as being responsible ‘for injustice’ in the prospective sense, that is, being responsible to perform actions that rectify the injustice or contribute to the rectification.

An agent that bears justice responsibility, bears a prospective moral responsibility to perform those actions that eradicate or rectify the injustice for which this responsibility is assigned. We would assign this responsibility to an agent for an injustice that has already happened and remained unremedied, an injustice whose effects we expect will endure into the future or for an injustice that has not yet occurred but one that we anticipate might. To be responsible for injustice then is to bear prospective responsibility to advance justice by bringing about a more just outcome or bringing about an outcome that is less unjust, or more broadly, making society *more just* or *less unjust*.

Agents bear numerous responsibilities that come with the requirement to perform a myriad of actions. When we assign a responsibility to an agent to act it is not as if that agent is sitting idle without any other demands placed on them. Deciding to act to alleviate a bad situation inevitably comes with trade-offs where one action will need to be performed before another

action can, and sometimes this means that because these two actions have been performed a third action has to be foregone. Agents would follow various ways of making these trade-off decisions based on factors such as their objectives, commitments, available resources and so on. Following Rawls who writes that “justice has a certain priority,”⁴⁰ and Risse who writes that justice “is the most stringent moral value,”⁴¹ justice responsibility enjoys a place among the highest of our moral responsibilities. Its stringency arises in part because of its significance in ensuring that within our shared world each person has a proper place, obtains an appropriate share of what we do together, and gets fitting recognition within a species that shares a distinctive life.⁴² This makes the requirements of justice hardest to overrule in contexts where competing demands apply, and makes justice responsibility, in most cases, non-discretionary.

Assigning justice responsibility is thus among the most demanding responsibilities that can be assigned to an agent. This ascription bears two weighty implications, namely *action priority* and *enforceability*. *Action priority* implies that the required actions to discharge justice responsibility *takes priority* over other responsibilities and actions. This might imply that an agent ought to discharge their justice responsibility first and can then turn to other responsibilities. At a minimum, this responsibility would require a reorganisation of priorities. There may be cases where an agent bears more than one responsibility of justice in which case the all-things-considered strongest justice responsibility is prioritised.

Justice responsibility is demandable in terms of a right.⁴³ A characteristic mark of justice is that the obligations it creates should be enforceable: “we can be made to deliver what is due to others as a matter of justice, either by the recipients themselves or by third parties.”⁴⁴ For an agent to bear justice responsibility indicates that, under certain conditions, the agent is

⁴⁰ (Rawls, 1971, p. 6)

⁴¹ (Risse, 2020, p. 269)

⁴² (Risse, 2020, p. 303)

⁴³ (Hahn, 2009, p. 50)

⁴⁴ (Miller, 2021)

compelled to perform the actions that contribute to eradicating or reducing injustice, failure of which would render the agent blameworthy and subject to sanction. Under certain conditions, by virtue of the responsibility being for justice, the agent's responsibility to act could be coercively enforced. The enforcing reason lies not solely in the consciousness of an individual person or in the moral sense of her community, but in the legitimate claims others can make on her, and ultimately in the legal or political enforcement of these claims.⁴⁵ This enforcement could thus range from social sanction at one end to state intervention on the other.

Justice responsibility as a prospective moral responsibility to rectify injustice remains a broad concept for now. The grounding of justice responsibility and assigning it to the corporation is argued in Chapter 6, while requirements for discharging the responsibility is developed in Chapter 7.

5.4. Models of responsibility

With this understanding of responsibility and justice responsibility, I now turn to a review of the three models of responsibility used to assign responsibility for the three modes of injustice discussed in Chapter 2. In studying these models of responsibility, we are exploring whether any of them offer us a model for the responsibility for networked injustice, or at a minimum, offer us guidance in developing a model of responsibility for networked injustice.

⁴⁵ (Hahn, 2009, p. 50)

5.4.1. Social connection model of responsibility

Following the account of structural injustice (discussed in Chapter 2), Young develops the *social connection model of responsibility* whereby “individuals bear responsibility for structural injustice because they contribute by their actions to the processes that produce unjust outcomes.”⁴⁶ All that is required to bear social connection responsibility is to have participated in the society-wide structures that produce structural injustice. This model has been applied by theorists to numerous kinds of injustices such as racial inequality,⁴⁷ gender inequality,⁴⁸ colonialism⁴⁹ and sweat shops.⁵⁰

The claim is that it may not be obvious to individual actors that their ordinary actions and decisions affect others but collectively they do. The conception of responsibility therefore derives from connection to structural social processes that produce the injustices. By this account, participating in such social institutions and processes is grounds for being assigned responsibility for justice, and specifically to prevent future injustice. People have a prospective moral responsibility for monitoring the social institutions within which they live, and a duty to join with others to reform those institutions.

The relevant connection between a responsibility-bearer and a victim, by Young’s account, derives from the *actions taken* by responsibility-bearers as part of *social processes* that *cause injustices* to others.

By the social connection model of responsibility, every actor involved, no matter how trivially, in bringing about Sandy’s vulnerability to homelessness bears responsibility to remediate her

⁴⁶ (Young I. M., 2011, p. 105)

⁴⁷ (Hayward, 2017)

⁴⁸ (Parekh, 2011)

⁴⁹ (Lu, 2011), (Ypi, 2017)

⁵⁰ (Young I. M., 2011)

situation. Responsibility-bearers would not be limited to landlords, property developers and retail employers, but all those involved in buying and selling property, renting property, financing property development and mortgages, city planners, transport companies, and so on. Young states that none of the participants in the structural injustice ought to be *blamed* for the outcome “because the specific actions of each cannot be causally disentangled from the structural processes to trace a specific aspect of the outcome.”⁵¹

This view has not gone unchallenged with theorists asserting that blame can be widely spread across contributors to structural injustice.⁵² By Young’s account, blame or culpability, which normally attaches to people who have acted with malevolent intent, will not apply to those who play a role in causing structural injustices,⁵³ instead we are to focus on people’s prospective (forward-looking) responsibility to improve their practices.⁵⁴ By this account, individual responsibility-bearers are not identified, rather there is a *collective responsibility*, and rather than focus remedy on the victims, the responsibility is, by collective action, to *reform the social structure* that produces the injustice. While social structures are resilient social arrangements, they can be reformed, and so collective action is required to be directed at reforming these structures.

In assessing whether we could adopt the social connection model to assign responsibility to the corporation for networked injustice, one could view networked action as ‘social processes’ and networks as ‘social structures’ and be tempted to conclude that the model is appropriate for our purposes since these social processes can indeed “cause injustice for others”⁵⁵ as Young writes,

⁵¹ (Young I. M., 2011, p. 100)

⁵² (Reiman, 2012, p. 742), (Young I. M., 2011, p. xxi)

⁵³ (Reiman, 2012, p. 741)

⁵⁴ (Reiman, 2012, p. 742)

⁵⁵ (Young I. M., 2003, p. 17)

and they do connect corporations to individuals. However, I understand an injustice to be structural when it arises from the combined effect of uncoordinated actions among a myriad agents who act without intention to do harm and unable to foresee the contribution to harm their actions might make. This is not the case with corporate action in networks. Corporate action is coordinated with each other and harmonised in their interactions with individuals. Networked injustice arises from the actions of a small set of powerful agents acting with foresight into the impacts of their actions. Young's account does not enable us to assign blame or hold corporations individually responsible. With its forward-looking orientation, the social connection model makes no prescription to allocate resources or take actions to remedy the injustices that have already arisen, an aspect that I believe should not be overlooked.

Corporations bear specific attributive responsibility that is overlooked in Young's account because she flattens the differences between all of the parties having a relationship of connection. Because of the place of corporations in networks that substantially and foreseeably contribute to networked injustices, it is apt to say that they have a different kind of attributive responsibility (from, say, customers). On this basis, we can argue that their prospective responsibilities differ in turn – not merely a general duty to reform social structures as Young might argue, but certain specific duties (to remedy harms, change behaviours, and so on, as discussed in detail in Chapter 7).

To summarise this account: By the structural injustice account, injustice arises by the actions of individuals who act within social structures with no harmful intent or foresight that harms might result from their actions. The structures are the site of injustice, and if individuals are not committing the injustice, then we can only say that the social structures are. The injustice results from the collective wrong of subjecting victims to the cumulative harms of the myriad of actions in society. Individuals bear a responsibility to eradicate structural injustice in virtue of their contributions to the collective wrong, however this is not an individual responsibility

but a collective responsibility to get organised to take collection action. While social structures are resilient social arrangements, they can be reformed, and so collective action is required to be directed at reforming these structures. The social connection model makes no prescription to allocate resources or take actions to remedy the injustices that have arisen.

I believe the model has useful contributions for our task of assigning responsibility to corporations for networked injustice, however I don't believe the model is appropriate as a whole. Young's model draws on the idea of social connection through social processes, such that all agents who contribute, by their actions, to the structural processes that produce injustice have responsibilities to work to remedy these injustices. Structural social processes constrain and enable many actors in complex relations, and it is this complexity of social relations that has significant implications for attributions of responsibility.⁵⁶ This is similar to what we observe with corporate injustice through networks as I will discuss in the Chapter 6.

5.4.2. Collective model of responsibility

In Chapter 2 I gave an account of injustice that arises from goal-orientated collectives (GOC), which arises when agents coalesce in a collective to take action toward the achievement of a particular unjust goal that the participants jointly embrace and aspire to.⁵⁷ I mentioned the example of the Rwanda genocide of 1994 as such an example. When we intend something collectively, there is an understanding that we, as a unity, intend to bring it about together, thus we share a goal. Isaacs uses the example of a wave at a sports event – this cannot be done alone, it requires the coordinated action of others and we must all share the goal of wanting to perform

⁵⁶ (Barry & Ferracioli, 2013, p. 249)

⁵⁷ (Isaacs, 2011, p. 98)

a wave.⁵⁸ GOCs, by this account, are “unities of a special kind,” and more than the sum of their parts because they have intentions that transcend the individual.⁵⁹ Collective intention is a “state of affairs consisting of a complex of appropriately constrained individual intentions, the relationships between them and to the joint goal,”⁶⁰ where the joint goal is the end at which the collective aims, for example the death of all Tutsis. Viewed this way, collective intention has independent standing, thus able to ground collective responsibility.

The intentional structures of goal-orientated collectives qualify them as moral agents insofar as the structures enable them to act intentionally,⁶¹ while individual agents who participate in collective wrongdoing (a wrongdoing committed by the collective) are blameworthy for so participating.⁶² Goal-orientated collectives can be held collectively morally responsible for their actions, with their moral agency being derived from the mechanisms by which collective intentions are developed and exercised, what Isaacs terms their “collective intentional structure.”⁶³

Isaacs argues that those who participate in a collective injustice can be held morally responsible at both the collective and individual level.⁶⁴ This presents an interesting question over whether participants in networked injustice too can bear both collective and individual responsibility. I will return to this question shortly.

This model of responsibility further extends the scope of actions by which we consider injustice to arise and for which we may seek to assign moral responsibility. In addition to responsibility for standard unmediated injustices and the uncoordinated mediated injustice in society-wide

⁵⁸ (Isaacs, 2011)

⁵⁹ A controversial point as discussed in Chapter 4.

⁶⁰ (Isaacs, 2011, p. 36)

⁶¹ (Isaacs, 2011, p. 27)

⁶² (Isaacs, 2011, p. 18)

⁶³ (Isaacs, 2011, p. 5)

⁶⁴ (Isaacs, 2011)

structures introduced by Young, we now also have an account of responsibility for injustices that are coordinated and mediated by collectives.

Responsibility for GOC injustice is grounded in the intentional actions among participants of the collective that produce collective harm and collective wrong, from which follows collective responsibility of all participants in the collective. But, Isaacs argues, the presence of collective responsibility does not discount the responsibility of individual agents, thus participants bear collective *and* individual responsibility for injustices that result. This responsibility requires collective action (action of the collective) by all who constitute the collective to remedy the injustice caused.

This account of responsibility for injustice does not prescribe structural change to the mediating structure since collectives are non-permanent arrangements. For example, justice would not require that the mob that committed the Rwandan genocide reform its structure since the mob coalesced around a particular genocidal objective, and once achieved, disbanded.

It is plausible that corporations form such collectives around unjust goals – examples might be price-fixing or bid-rigging where corporations act together to circumvent market forces to set prices or circumvent open competition and procurement rules, respectively.⁶⁵ These might be specific cases, not how corporations standardly and routinely operate. Network participants do not have a joint goal – as I discussed in Chapter 2 and Chapter 3. While corporations have similar governing corporate objectives to maximise profit, the means of achieving this objective varies, thus their individual goals at any one time will vary across a network. There is no collective intention in a corporate network – they’re all there for themselves, to achieve their own goals and even to compete with each other to achieve it, even as they collaborate and

⁶⁵ To avoid confusion – we are considering a collective of corporations or corporations among other agents as part of a collective. This is different to the argument Isaacs makes, which I draw upon in Chapter 4, when arguing that corporations are moral agents.

cooperate. There may be specific occasions where corporations have joint goals perhaps relating to a specific collaborative project or cooperative initiative, but these would involve smaller subsets of network participants and be intermediate (shared) goals en route to achieving their individual goals. Participants of a corporate network might have the common interests of finding ways to increase profit, but one might want to grow sales, others may want to lower costs, still others may want to achieve a strategic objective like growing market share or crowding out a foreign entrant. The point being that the network does not form around a specific common goal, rather as a platform for individual corporations to pursue their interests.

Networks are ongoing arrangements not the ad-hoc collectives that Isaacs has in mind. Networks do not take collective action, nor commit collective harms and wrongs. Corporations do indeed act together, as members of GOCs do, but as I've described, networked action is not collective action. Importantly, the corporate network is not a moral agent, only the corporations operating within the network are. The network mediates individual corporation action, but as discussed in Chapter 3, it is an important mediator because through this mediation the actions of individual corporations are combined, harmonised and transformed to contribute to injustice. Taken together, I don't believe the goal-orientated collective responsibility model can be productively employed to assign responsibility to corporations for networked injustice.

5.4.3. Liability model of responsibility

The liability model assigns responsibility for what I've termed standard injustice (in Chapter 2), that is, the traditional view of wrongful harms that are unmediated by any structures, such as when X intentionally harms Y without justification. For such an action we would deem X blameworthy and assign responsibility to X to rectify this injustice.

Perpetrators of standard injustice are typically traceable by causal actions linking them to the injustice they've committed and linking them to victims. The ascription of justice responsibility to such actors follows the liability approach recognisable from law⁶⁶ which Young and others term the *liability model of responsibility*.⁶⁷

Liability responsibility “fixes on the person or thing that is to be blamed for the event, action or outcome in question,”⁶⁸ that is, it is about “who should be held responsible, and about how (the kind and extent) they should be held responsible”⁶⁹ Bosses that harass and intimidate workers, managers who put productivity above workers' health, and so on, certainly should be held responsible in a liability sense for wrongful harms that these workers suffer.⁷⁰

Under this liability model, “responsibility is assigned to a particular agent (or agents) whose actions can be shown to be causally connected to the circumstances for which responsibility is sought. The actions found to be causally connected to the circumstances are shown to have been voluntary and performed with adequate knowledge of the situation.”⁷¹ When applying the liability model of responsibility, “there must be clear rules of evidence, not only for demonstrating the causal connection between a given agent and a given harm, but also for evaluating the intentions, motives, and consequences of the actions.”⁷² In the language employed earlier, this is an attributive responsibility grounded in causality.

The liability model assigns substantive responsibility to the agent deemed attributively responsible for an objectionable state of affairs, requiring that they should "pay for it," by being made to make compensation or by being punished. To be responsible in this sense means such

⁶⁶ (Phillips & Schrempf-Stirling, 2022, p. 316)

⁶⁷ (Young I. M., 2011, p. 97)

⁶⁸ (Ladd, 1982, p. 59)

⁶⁹ (Vincent, 2011, p. 23)

⁷⁰ (Young I. M., 2006, p. 117)

⁷¹ (Young I. M., 2011, p. 97)

⁷² (Young I. M., 2011, p. 98)

things as being liable, culpable, guilty, blameworthy, and so on.”⁷³ It refers to the “things that someone must do, or how they should be treated, to set things right.”⁷⁴

Once we judged that a standard injustice has been committed, we would assign attributive responsibility to the agent deemed to have committed the injustice and then assign liability responsibility, a prospective responsibility, to remedy the situation. An agent that fails to discharge their liability responsibility would be held retrospectively responsible for this failure and again be assigned the responsibility to set the situation right.

In Young’s account of Sandy, if it was the case that the owner of Sandy’s current apartment evicted her owing to her race or gender say, the owner’s action would be deemed wrong and we would hold the landlord responsible to remedy the harm, which would need to start with immediately offering Sandy suitable accommodation, and then changing their harmful behaviour.

Corporations do commit standard injustices as I’ve mentioned before, and in these instances the liability model of responsibility might be adequate. However, as argued in Chapter 2 and Chapter 3, corporations operate in networks and bring about unjust outcomes through complex exchanges with each other. We may not always be able to trace causal actions between perpetrators and victims. The aggregate and structured nature of networks suggest that we will need a model of responsibility that can account for mediated injustices as in the two models we’ve discussed above.

Just as standard injustice misses elements of injustice that arises in networks, the liability model of responsibility understates corporate responsibility because it misses the instances where

⁷³ (Ladd, 1982, p. 61)

⁷⁴ (Vincent, 2011, p. 18)

corporations contribute to injustices without obviously being a perpetrator or collaborator, as in networks.

By way of summary: Moral complexity arises when agents act together as in all four modes of injustice we have considered. Like structural and goal-orientated collective (GOC) injustice, networked injustice is mediated by a social arrangement. In the case of structural injustice, the mediating arrangement is the society-wide social structures and with GOC injustice the mediating arrangement is the goal-orientated collectives within which agents act, while with networked injustice, the injustice is mediated by the network arrangement within which corporations operate to pursue their corporate objectives.

With standard injustice agents act alone or in multi-agent arrangements playing roles of perpetrator, collaborator or bystander, whereas in structural and GOC injustice, agents contribute to collective action. In the case of networked injustice, agents neither act alone nor participate in collective action, but in what I've termed networked action involving collaboration, cooperation, coordination and competition, not in pursuit of a joint goal, but their separate individual goals. The harms that arise emanate from individual actions performed in concert with others where every agent is pursuing their own goals in contrast to collective action where participants pursue a common goal.

Under the standard model of injustice, agents act with intent to harm or with foresight of the harms that will result from their actions, a similar situation with GOC injustice, whereas accounts of structural injustice assert that agents act without harmful intention or foresight of the harms that might arise from their actions. The situation is more nuanced with networked injustice where I've argued that agents do not necessarily act with harmful intent but have a willingness to harm, in pursuit of their goals and have foresight into the harms that may arise

from their individual and networked actions. Networks mediate corporate actions to produce networked injustice by the action transformation causal sequence (ATCS) so contributory actions are less direct in networked injustice than in standard injustice.

Furthermore, in the case of standard injustice, individual agents bear individual or shared responsibility for the injustice committed, since wrongdoers typically act alone or with accomplices. This is not the case with structural injustice where social connection responsibility is a collective responsibility. The inability to assign individual blame under this model of responsibility seems to stem more from pragmatic constraints given the large number of actors, and the complexity of their interactions, than a theoretical argument that individual contributors to structural injustice are not blameworthy. Individuals bear a responsibility to eradicate structural injustice in virtue of their contributions to the collective wrong, however this is not an individual responsibility but a collective responsibility to get organised to take collective action. It is the collective that takes collective action to cause cumulative harm and commit a collective wrong, thus producing the injustice, a GOC injustice. GOC responsibility generates both individual and collective responsibility since the injustice is committed by collective action but, as discussed in Chapter 5, this collective responsibility does not let individuals off the hook. The collective bears responsibility for the injustice but so do the individuals who make up the collective. This is in contrast with networked injustice where individual agents act without harmful intent but with foresight of the harms that could arise from their actions. There is no collective wrong because the network is neither a group nor an agent. Only the constituent corporations are moral agents, as argued in Chapter 4. The mechanism by which corporations in corporate networks commit injustice is more akin to multi-agent standard injustice (collaborator and bystander) than to structural or GOC injustice.

The remedial action for standard injustice takes the form of individual action, the nature of which is influenced by the agent's role as perpetrator, collaborator or bystander. Collective

action brings about structural and GOC injustice, and collective action is again required to rectify these injustices. The social connection model makes no prescription to allocate resources or take actions to remedy the injustices that have arisen with a focus on forward-looking reforms of structures, in contrast to GOC responsibility which does not prescribe structural change to the mediating structure since collectives are non-permanent arrangements, only prescribing remedy. As I will discuss in Chapter 7, remedial action for networked injustice has elements of each of the aforementioned prescriptions including individual action, some form of pooling of resources and joint action to reform the network's operations, remedy the injustices caused by effects of networked action, and change individual behaviour to avoid committing injustice.

This summary recalls the distinctness of networked injustice and indicates the need for a distinct account of responsibility for it. However, it is also apparent that the lines are not always perfectly sharp between these accounts of injustice since overlaps exist in some places, consistent with the conclusions by others.⁷⁵ These accounts of injustice can co-exist and it would be more accurate to portray them along a continuity rather than present them as distinctions,⁷⁶ since the distinction is “hard to sustain.”⁷⁷

5.5. Concluding remarks

In general form, justice responsibility is the responsibility an agent bears to advance, promote or contribute to securing justice or rectifying injustice. This responsibility derives from having contributed to or been complicit in bringing about the injustice. We studied three prominent

⁷⁵ (Phillips & Schrempf-Stirling, 2022, p. 330)

⁷⁶ (Abdel-Nour, 2018, p. 13)

⁷⁷ (Goodin & Barry, 2021, p. 341)

models of responsibility for justice to determine if any could be adopted to assign justice responsibility to the corporation for their part in committing networked injustice. For each of the three models of responsibility discussed, elements that might allow us to assign justice responsibility to the corporation for networked injustice have been identified, but none of the models would be fully able to assign justice responsibility to the corporation for networked injustice. In the next chapter, I will draw on this analysis to develop a model of responsibility for networked injustice, using this analysis as inputs and also to draw distinctions between these models and the one I develop.

Chapter 6: CORPORATE JUSTICE RESPONSIBILITY

6.1. Introduction

Management scholars and philosophers write that “the most profound challenges we are faced with are produced through the structural interplay of a large number of agents”⁷⁸ and the “moral complexity” that arises when agents act in collective contexts.⁷⁹ Under such circumstances, they say, “separating and allocating blame and, based on it, remedial responsibility on the grounds of individual involvement in bringing the problem about gets increasingly difficult and often impossible.”

This is the situation and challenge I believe we face in responding to the injustices that arise from corporate networked behaviour. Even legal scholars acknowledge this complexity and acknowledge the fact that legal institutions “cannot cope with the risks and opportunities posed by networks” and are “not able to deal with the co-ordination and liability problems which are generated by networks.”⁸⁰

In Chapter 1 I discussed the fact that it is widely accepted that corporations bear extra-commercial responsibility to address social ills, that is, responsibility to allocate resources and take action from which it does not derive commercial benefit. However, I concluded that existing theories which assign extra-commercial responsibility to corporations leave a responsibility gap with regard to justice. Corporate social responsibility (CSR) theories are prudential rather than normative since social good is prescribed primarily when it supports the corporate profit motive. These theories account for social responsibility as voluntary or

⁷⁸ (Wettstein, 2012, p. 159)

⁷⁹ (Isaacs, 2011, p. 5)

⁸⁰ (Amstutz & Teubner, 2009, p. vii)

benevolent, and do not account for responsibility by corporations to advance justice. Literature that considers the corporation a secondary responsibility-bearer of justice seeks to assign responsibility for justice to corporations only where states are weak and even then, with a focus only on institutional change, overlooking the need for remedial action and change of corporate behaviour to avoid injustice.

I stated there that what is needed is a theory that grounds corporate responsibility for justice in corporations' roles in bringing about injustice. This theory needs to set out the scope of non-optional actions that corporations ought to take to rectify injustice, the circumstances under which they should take these actions, and how they are to deal with the competing responsibilities to other stakeholders. Finally, a theory of corporate responsibility needs to respond to the mode by which corporate injustice arise and cause suffering to people with which the corporations interact.

We've already developed the account of corporate injustice as networked injustice in Chapter 3, and in Chapter 5 I gave an account of justice responsibility. In this chapter I will bring these two accounts together to argue that justice responsibility can be assigned to the corporation in virtue of its role in causing networked injustice, and thereby bears the responsibility to rectify this injustice.

I ground this argument in contribution and complicity in two ways. First, I argue that networked injustice arises when network participation makes corporations complicit in injustices committed by another networked corporations. And second, I argue that networked injustice arises by the direct actions of corporations that have a cumulatively harmful outcome.

Corporate justice responsibility is the prospective moral responsibility borne by the corporation to rectify networked injustice. Because all network members participate in the production of the injustice, we hold all network participants responsible for the injustice that arises. Corporate

justice responsibility is therefore not a collective responsibility but a shared responsibility with each participating corporation bearing responsibility to act and allocate resources to rectify the injustice. In virtue of its participation in corporate networks, corporations participate in the perpetration of networked injustice. And in virtue of this participation in networked injustice we assign to every corporate network participant the responsibility to rectify networked injustice.

The chapter proceeds as follows: I start with a brief recap of the account of networked injustice developed in Chapter 3 as a reminder of its key elements and then move on to develop the account of responsibility for networked injustice. This responsibility is grounded in corporate complicity that leads to networked injustice and direct corporate contributions to networked injustice. Because I've referenced accounts of responsibility for injustice that rely on collective responsibility in developing my theory, to avoid confusion I set out why my account of justice responsibility is a not a collective responsibility but a shared responsibility. I close the chapter with a synthesised account of corporate justice responsibility which presents the responsibility borne by corporations to take action and allocate resources to rectify corporate injustice which manifests in the form of networked injustice.

6.2. Networked injustice

To guide the development of the account of responsibility for networked injustice, I present here a recap of the account of networked injustice as developed in Chapter 3.

Networked injustice is the wrongful harm suffered by individuals that results from networked action in networks. On their own, corporations would not be able to commit networked injustice because it is rooted in corporate networks and networked action. The extensive reach

of corporate networks makes their influence inescapable to the majority of individuals. Even without harmful intent, corporate actions can have harmful results that are then amplified by the harmonisation of corporate behaviour stemming from their network participation. This harmonisation traps individuals by the complicity of network participants and the cumulative effects of correlated harmful actions.

With corporations interacting with persons outside their networks, networked injustice emerges from harmonisation of corporate behaviours that stems from networked action in corporate networks. This harmonisation makes corporations complicit in an injustice committed by another corporation and closes off options to persons by the cumulative effect of correlated harmful corporate actions.

A commonplace manifestation of networked injustice occurs when individuals are locked into harmful positions, or positions where their options are closed off, by the actions of corporations operating in corporate networks. While I focus on such examples in the thesis, there are other ways in which networked corporations perpetrate injustice such as exploiting vulnerability without locking victims in.

6.3. Responsibility for networked injustice

Our core concern with corporate action in networks is the networked injustice that results when network participants interact with persons outside the network. We want to assign justice responsibility to corporations for the injustice that such persons suffer as a result. To be sure, interactions between a corporation and a person outside the network can be beneficial to the person. The corporation could supply, at a fair price, a product or service that is of utility to the person, the corporation could make an employment opportunity available at a fair wage, the

corporation could make a donation to the person and their family and so on. The interactions of concern to us here are those that result in or could potentially result in wrongful harm to the person.

In Chapter 3 I developed an account of a causal sequence that produced networked injustice. I termed this the action transformation causal sequence, or ATCS, since, by harmonisation and corporations' willingness to harm, the sequence transforms innocent corporate actions into wrongfully harmful outcomes. By the ATCS, corporations are complicit in the unjust actions committed by fellow network participants, and by the ATCS, corporations contribute to the emergence of networked injustice. I argue here that responsibility for networked injustice can be grounded in corporations' complicity and contribution in relation to the ATCS. I will make the argument for each of these grounds in turn.

6.3.1. Complicity that leads to networked injustice

Complicity in the ATCS

The question I address here is: *since the behaviour of corporations in corporate networks become harmonised, what role, if any, do network participants play in an injustice brought about by a fellow network participant?* I consider two roles network participants could play, namely, by their actions making the unjust outcome more likely, or by their actions contributing to the unjust outcome, that is, following Mellema⁸¹, facilitating the injustice or enabling it.

A corporation that acts unjustly toward a person would be a candidate for moral blame unless they have good reasons for their unjust behaviour. In the absence of such justification of their

⁸¹ (Mellema, 2016)

behaviour, we would hold them morally responsible for the injustice caused for which they'd be subject to sanction. We would consider this a case of a standard injustice (Chapter 2). But, given that the corporation acts together with others in a corporate network, we need to explore whether other network participants played a role in the unjust outcome.

Recall the example discussed in Chapter 3 where Corporation C offers Sandy a lower salary than it would offer a male recruit for the same job for no other reason than Sandy's gender. Sandy then went to Corporation D and other corporations but got no better offers, leaving her with no choice (other than unemployment) but to accept C's low offer. I explained that by harmonisation, conditions under which women are employed have been determined to be worse than those for men.

By D acting similarly to C or being reasonably expected to do so, D contributes to conditions in which Sandy lacks reasonable alternatives to accepting discriminatory wage offers, that is, being forced into a harmful situation. Corporation C harms her but D has played a role in bringing about the harm.

To be clear, Corporation C acts wrongfully toward Sandy when it acts in a direct discriminatory way⁸² toward her.⁸³ Merely making her the discriminatory offer is wrong. One could argue that this harms her too – if nothing else it is an insult and affront, assuming she knows the offer is lower than what a man would receive, and she is receiving it for no other reason that because she is a woman. Making such an offer knowing that she has no, or limited employment alternatives too is wrong. This would be the case regardless of the behaviour of the other corporations. When Sandy accepts the discriminatory offer, the harmful intention of the corporation is materialised, not only because she has succumbed to her lack of options by

⁸² I deem the offer of lower pay for the same job on the grounds of gender to be a case of direct discrimination, in this case, against women as the socially salient group.

⁸³ I am leaving aside the legal position on gender pay discrimination, I discussed this issue above, pointing out that gender pay discrimination is prevalent globally, and occurs even in countries where it is illegal.

accepting the discriminatory offer, but because she will be treated, on an ongoing basis, unfairly relative to men by the corporation.

While Sandy could accept the discriminatory offer without the influence of the network, I argue that the network makes discriminatory offers like the one C makes, more likely to be made, and the network makes such offers more likely to be accepted, in this way contributing to the wrongful harm that Sandy suffers. Corporation C's direct discriminatory action is enhanced by two facilitating factors which are linked to the operations of the network. The first factor that facilitates C's harmful action (*facilitating factor FF-1*) is the fact that every other corporation in the network is likely to offer Sandy the same directly discriminatory offer. Sandy discovers this when, disgusted by C's offer, she goes to other corporations in C's network (similar geography, similar industry, say) and discovers that they all make her a similarly discriminatory offer to C. With no better option open to her, Sandy accepts the discriminatory offer. The second facilitating factor by which the likelihood of C's harmful intention materialises (*facilitating factor FF-2*) is when Sandy reasonably expects that all the other corporations in C's network would act in a similar way to C and make similarly discriminatory offers. She doesn't even bother shopping around because her experience and information shared by her peers tells her that there really is no point since all the corporations will make her a similar offer, so she accepts C's discriminatory offer.

The facilitating factors contribute to Sandy being locked into accepting the harmful offer.

Why would all the companies in the network make similar offers? Isn't this counter to competitive behaviour? Wouldn't this undermine their pursuit of their corporate objective? In other words, why would the two factors that facilitate C's unjust action, FF-1 and FF-2, be true? These facilitating factors are:

FF-1: Network participants behave similarly (identically) in similar situations.

FF-2: Network participants are reasonably expected to behave similarly (identically) in similar situations.

Recall that the portrayal of corporations as competitive-only entities is false, and that corporations in fact, cooperate, collaborate and coordinate significant parts of their operations with competitors over significant periods. The facilitating factors are plausible because of harmonisation, by which networked corporations are likely to mimic each other in the same environment, faced with the same external stimuli whether opportunities or threats.

Complicity involves engaging with the wrongdoing of others,⁸⁴ or an agent's participation in the morally wrongful activity of another agent.⁸⁵ Corporation C acts wrongly by discriminating directly against Sandy and I am suggesting that the other corporations in the network have engaged with or participated in C's wrongful harm. This requires me to explicate what 'engaged with' or 'participated in' entail.

Lepora & Goodin state that "agents committing acts of complicity make potentially *causal contributions* to the principal wrongdoing of others⁸⁶ (my italics) which gives a starting point to the idea that engaging and participation entails potential "causal contributions." They then delimit this definition by adding that "without [those agents'] acts in any way constituting part of that principal wrongdoing in themselves."⁸⁷

I am not suggesting that network participants are co-principals in the wrongdoing that Corporation C does. They have not sat around a table to develop a joint plan to harm Sandy and cooperated to execute the plan by perhaps coordinating their actions, or that Corporation C told them of its plan to harm Sandy and they all went along with it. This is not what I am

⁸⁴ (Lepora & Goodin, 2013, p. 41)

⁸⁵ (Pauer-Studer, 2018, p. 643)

⁸⁶ (Lepora & Goodin, 2013, p. 41)

⁸⁷ (Lepora & Goodin, 2013, p. 41)

suggesting. If this were true, we would consider the other corporations jointly responsible for the wrongdoing. Instead, I am suggesting that by their networked relationships and harmonised behaviours, the other corporations make C's wrongdoing *more likely to occur*, which if true, would make them complicit.⁸⁸ I contend that C's peers are complicit in a direct discrimination because the network has contributed to, and sustained, the norms that discriminate directly against women. So in any particular case of discriminatory action by a particular corporation, all network participants are complicit in the direct discrimination.

As discussed in Chapter 3, rather than reject C's discriminatory offer, Sandy is more likely to accept it because she knows that if she goes to any other corporation in the network, they will make her a similar offer (FF-2). If this wasn't the case, if Sandy knew the other corporations would not act in a discriminatory way, she would reject C's offer. It is only because of her reasonable expectation of the others' behaviour that she accepts the harmful offer. The reasonable expected discriminatory behaviour of the other corporations makes the harm more likely to occur and thus contributes to it. Sandy's reasonable expectation would be confirmed if she did in fact go apply for a job at the other corporations, because then she would have the experience of the other corporations acting in similar or identical ways to C (FF-1).

Still, the other corporations could act contrary to network expectations. They could act in one of two ways. First, they could act competitively, perhaps offering Sandy just a little more than C does, just to employ her. Of course, this would still be harmful to Sandy if it remains less than what a male recruit would be paid. So secondly, other corporations could pay Sandy on the same pay scale as men. I suggest that with both these options, network norms stand as constraints. The corporations will be reluctant to bear a higher cost than their peers because this would make them economically uncompetitive, but similarly powerful, they would not want to

⁸⁸ (Mellema, 2020, p. 160)

be seen to be departing from expected behaviour, which is discriminating against women in this case, or worse, their learned behaviours direct them to uphold the discriminatory practice as a matter of course. If C behaves in a discriminatory way, it is most likely that this behaviour is explicitly or tacitly endorsed, or if not endorsed, it is condoned for fear of been seen to be the odd one out, the downside of which is to be frozen out of valuable economic opportunities in the network.

Lepora & Goodin describe cases of non-contributory acts that may make agents complicit in wrongdoing. Two of these cases are appropriate to our situation, that of ‘complicity by connivance’ and ‘complicity by condoning.’⁸⁹ In addition to the contributions to the wrongdoing already described, I believe these accounts allow us to connect the actions of the network with the wrongdoing of Corporation C (and any other network participant committing injustices).

Complicity by connivance entails ignoring another’s wrongdoing and in so doing tacitly assenting to it, what some theorists have referred to as a bystander. Agents are complicit because rather than intervene in the wrongdoing, when they have the capacity to do so, they overlook or ignore it, often implying secret approval, tacit permission or sanction, even encouragement by not condemning the action or intervening. Lepora & Goodin offer the example: Imagine you are in an important meeting. The chairman asks if there are any objections, and you say nothing. Your failing to object caused (or anyway allowed) the motion to pass, and if it was an evil motion, you thereby acquire some responsibility for the ensuing evil. The example suggests that you had the capacity and opportunity to intervene to stop the evil motion but failed to do so.

⁸⁹ (Lepora & Goodin, 2013, pp. 44-49)

If there was something an agent could have done to stop the wrongdoing but didn't, their inaction can be counted as a part of the chain of events that allowed the event to occur. In a network, corporations have influence over each other so the network of corporations would have significant sway over C to stop its behaviour. The inaction of the other corporations can properly be counted as complicity by connivance.

Bystanders give wrongdoers confidence that they can proceed with their wrongdoing without being interrupted. This is particularly problematic in cases of recurring actions such as corporations interacting with recruits, employees, customers and suppliers. In these cases, the same sorts of situations recur, time and again, involving the same agents. Acts of connivance with a wrong committed today may contribute causally to the wrongdoer's repeating the wrong on the next occasion. It does so by making the wrongdoer confident, on the basis of previous experience, that again in the future onlookers will connive rather than intervening to stop the wrong when they see it occurring. This could explain why, even in countries where gender discrimination is illegal, it continues – many bystanders are looking the other way.

The second non-contributory act considered as complicity is 'complicity by condoning.' In both conniving and condoning there is a principal agent (Corporation C) who commits a principal wrong (gender discriminate against a recruit), and there are secondary agents with knowledge of the wrongdoing and either connive in (overlook) it or condone it. Those are separate actions from the principal wrong committed by the principal agent. We would ordinarily conceive of condoning as pardoning or forgiving a wrongful action. Condoning takes a different form among corporations. First, not condemning wrongful actions can be viewed as condoning them since perpetrators are not held to account for their wrongful action. Second, and more significantly, corporate wrongdoing is condoned since most corporations themselves would be willing to, and *do*, commit those wrongful actions themselves. We have already established this since all corporations are likely to also make Sandy a discriminatory offer or

an unfairly low offer. By this willingness to act the way C does, every other corporation condones C's behaviour, the behaviour can be taken to say to Corporation C: "What you're doing is okay, we would do the same thing." Information about the network participants' willingness to act as C does would be known within the network (by relationships and harmonisation) as well as in the market (by interactions with recruits, recruitment agents and past experience), as though the corporations have announced it. What in connivance is accepted obliquely, is in condoning the object of direct acknowledgment and explicit pardon.⁹⁰

Thus, condoning cannot happen passively or inattentively. It requires the acknowledgement (and hence knowledge) of the wrongdoing, and its active forgiveness. An act of condoning can genuinely qualify as a potentially causal contribution, and as a case of complicity in consequence.

If what is condoned is an ongoing practice of wrongdoing, that too would be a case of 'complicity by condoning.' This occurs when, in condoning a specific act of wrongdoing now past (Corporation C paying Sandy less than they would pay a man, for no other reason than that she is a woman, for example), the condoner is at the same time condoning an ongoing practice (of gender pay discrimination) and thereby contributing in a causal way to subsequent instances of it.

Adopting the illustration introduced by Mellema: Assume an agent producing harm H is doing so intentionally and has decided to perform a particular action A as a means of bringing about H. We would consider another agent to have facilitated the harm H when its action(s) *increase the antecedent likelihood* that either the action A is successfully performed by the agent or that H is brought about by the performance of A, and doing so in a manner that is morally blameworthy (where at least part of the blame is due to an awareness of what they are doing).

⁹⁰ (Lepora & Goodin, 2013, p. 47)

As long as the likelihood of A's being produced by the agent in question is increased by a value greater than zero, or the likelihood that H is brought about by the performance of A is increased by a value greater than zero, the harm has been facilitated. This is the circumstance that we have described to date that follows networked action and the emergence of wrongdoing.

I'm arguing that corporate behaviour that follows networked action makes C more likely to perform the discriminatory action and the network makes C's actions more likely to succeed in harming Sandy, what Mellema terms facilitating harm,⁹¹ (a term also used by others⁹²), and what can be termed *thin complicity*. Contributing, conniving and condoning are actions that facilitate the wrongdoing C does and makes the network participants blameworthy when these acts are performed knowingly.

According to Mellema, agents that facilitate harm may not always act with harmful intention. I have already stated that networked action per se does not cause harm and that corporations engage in networked action without harmful intent. In most cases corporations are either indifferent to the harms that arise from networked action or actually prefer that the harm not occur, as I discussed earlier in this chapter when describing corporations' willing to harm.

Mellema draws a useful distinction between facilitating and enabling harm, with the latter attracting stronger blame.⁹³ Whereas facilitating harm or wrongdoing makes it *more likely* that another moral agent produces the harm, the actions of an enabler *constitute a necessary condition* of harm's being produced by the actions of the principal actor. The principal actor simply would not produce harm by acting as they do without the enabler's actions.⁹⁴ I have

⁹¹ (Mellema, 2016, p. 55)

⁹² (Lepora & Goodin, 2013, p. 42)

⁹³ (Mellema, 2016, p. 46)

⁹⁴ (Mellema, 2016, p. 45)

argued that corporations in a network are complicit in the wrongdoing of another corporation by facilitating the harm caused by the wrongdoer. Do the network participants enable this harm? In other words, could Corporation C harm Sandy without the other corporations in the network, or are the effects of networked action essential (causally strictly necessary⁹⁵) for C to commit its wrongdoing?

It seems possible that Corporation C could act in isolation to harm Sandy without the actions of the network. C could make Sandy a discriminatory offer which she simply accepts. This may indicate that networked action is not essential or a necessary condition for the harm C commits, or other harms corporations commit in interacting with non-network third parties. In this case only C would be involved in the wrongful harm. But again, we've established that by networked action, the other network participants have played a role in bringing about this situation.

Enabling harm entails *making it possible* for others to perform actions which produce harm.⁹⁶ What is crucial in making something a causal contribution is the fact that had an agent acted differently, the wrongdoing would not have occurred. Often referred to as the 'but for' test – but for your doing x (or were it not for your doing x), y would not have occurred. If there was something an agent could have done to stop the wrongdoing but didn't, their inaction can properly be counted as a part of the causal chain that allowed the event to occur. To illustrate enabling harm and to contrast it with facilitating harm, consider again the example of a man who plans to rob a bank (introduced briefly in Chapter 2). He conceives of the plan to rob the bank at night, does all the planning on his own, and will play the main role in executing the plan (making him the principal actor), but he needs the help of two friends. One friend will act as a lookout during the robbery, the other, who works as a security guard at the bank, needs to

⁹⁵ (Lepora & Goodin, 2013, p. 35)

⁹⁶ (Mellema, 2016, p. 46)

provide the thief with the codes to enter the bank at night. By my account of complicity, both the lookout and the security guard are complicit in the robbery. Were it not for the security guard giving the thief the door codes for the bank, the crime would not have been committed. The security guard is thus an enabler (thick complicity). Were it not for the lookout, the robbery could still have proceeded. Having a lookout gives the thief some comfort that if someone comes along, he will be warned, and so gives him more confidence in his undertaking. In other words, the lookout, though not essential to the crime, makes the crime more likely, and thus the lookout facilitates the crime (thin complicity).

This example gives us some insight to what happens when corporations interact with persons like Sandy. Even when they're not doing anything harmful to Sandy, they are willing to do so, something that C knows and is thus emboldened to make its discriminatory offer. Were it not for networked action that led to harmonisation, C would not have been able to harm Sandy. Networked action is the enabling factor since it incubates and propagates a chain of events that constitute a necessary condition for the harm that Sandy suffers. Without harmonisation of corporate behaviours, Sandy could have avoided the harm and gone somewhere else to get a fairly paid job. Harmonisation ensures that all other employers offer her a similarly discriminatorily-paid job.

Enabling factor: *EF: Corporate participation in networked action enables (certain) unjust actions performed by others in the corporate network.*

Had the corporations acted differently – had they resisted the force of network expectations and acted justly toward Sandy, then she would not have been left with no choice but to accept C's offer. They ensured that Sandy has no way of escaping the clutches of C's discrimination by acting identically when she approached them or let it be known that they would.

For complicity, an agent knows, or should have known, that by its action it will advance whatever intentions the principal actor has.⁹⁷ I think corporations know, or should know, that when they make unfairly low pay offers, or discriminatory offers on the grounds of gender, that they make it more likely that recruits will accept such offers whether from them or other corporations. Sandy can know something about how the corporations behave because whenever a corporation interacts with a third party, information is spread into the market about these interactions. This too corporations know or should know. What transforms the harm-likely action (the job offer at the market rate) into a harmful action (paying her an unfair wage) is the fact that other network participants behaved as predicted by their networked relationships. The accomplices contribute to the harmful *outcome* (Sandy suffering discrimination) even when they do not contribute to the harmful *action* where C discriminates against Sandy.

Grounding responsibility in complicity

Two prominent accounts of responsibility for complicity are those presented by Kutz and Lepora & Goodin.⁹⁸ While Kutz's account is more established and has been engaged with extensively in the literature, I will draw guidance from Lepora & Goodin's account instead since it is more applicable to the types of situations I am considering.

The main disqualification of Kutz's account, for my purposes, is that it is designed for collective action, the "product of individuals who orient themselves around *a joint project*," where these individuals have the "intention to act as *a group*"⁹⁹ (my italics). As I've discussed over the preceding chapters, the network is not the type of aggregate that takes collective, joint

⁹⁷ (Lepora & Goodin, 2013, p. 42)

⁹⁸ (Kutz, 2007), (Lepora & Goodin, 2013)

⁹⁹ (Kutz, 2007, p. 67)

or group action and is not guided by a collective, joint or group goal. When participating in networked action, corporations are *not* “participating in a collective endeavour,”¹⁰⁰ intentionally or otherwise. Networked action has no joint goal or joint purpose – it is a lattice of interactions with subsets of network participants interacting with each other in a myriad combinations over time, but not all working on one joint project to achieve one joint outcome. It is not the case that the network acts to commit networked injustice. In the account of complicity developed in Chapter 3, networked corporations, as network participants, are each complicit in the unjust action of another network participant. They do not act together to commit networked injustice in the sense that Kutz means, or that collection action generally implies. Corporations do not all set out on a collective mission to cause harm like the hundred thousand Hutus in Rwanda or like the squadrons of aerial bombers who destroyed the town of Dresden during World War 2 as Isaacs and Kutz explain, respectively.¹⁰¹ The harm or injustice that we’re concerned with does not arise by collective intentional action but by the effects of harmonisation of corporate behaviours where, by their networked actions, network members facilitate or enable the injustice committed by another network member. As stated earlier, networked injustice arises when network participants are complicit in the unjust actions of a network participant. Some might argue that we could consider the network participants as being a *group* or *collective* that is complicit with the wrongdoer. This again is not the case in networked injustice since each network participant is individually complicit with the wrongdoer, even though acting with others in the network (see Chapter 3 for this detailed analysis). This is not to say Kutz’s account couldn’t be modified to apply to our situation, but Lepora & Goodin’s account is more readily applicable since it is designed to address responsibility in the situation of a wrongdoer and accomplices.

¹⁰⁰ (Lawford-Smith, 2018, p. 326)

¹⁰¹ (Isaacs, 2011), (Kutz, 2007)

The question we are answering is: What conditions need to hold to assign prospective moral responsibility to an agent (or agents) who is (are) complicit with wrongful harm? Lenora & Goodin's guidance take the form of two questions: "did you act voluntarily?" and "did you know (or could and should have known) that what you were doing counted as a contribution to something you knew (or could and should have known) was wrong?"¹⁰² Answers to both in the affirmative would be sufficient to assign responsibility.

Recall our example from Chapter 3 where Corporation C offers to employ Sandy, a female recruit, at a lower wage than the corporation would employ a man for the same job and same level of output, for no other reason than her gender. Upon receiving this offer, the recruit goes to Corporation D in the hope of getting an offer that does not discriminate against her because of her gender, but D makes the same offer to Sandy as that made by C, not because they have colluded but because their offers are according to the going market rate in that society where corporate practices of gender pay discrimination is prevalent. Disheartened by this outcome, and expecting that all other corporations in the area would make similar offers, Sandy accepts the original job offer from Corporation C. We know C has acted wrongly by employing Sandy at the discriminatory wage, but D also played a role in the wrongful outcome by its actions. Our question is whether Corporation D, and other corporations in C's corporate network, are complicit in the injustice C commits.

The guidance from Lepora & Goodin suggests that if corporation C committed an injustice, and corporation D is found to be complicit, D would bear moral responsibility for its complicity under the following conditions:

Condition 1: D must have knowledge of C's action

¹⁰² (Lepora & Goodin, 2013, p. 97)

Condition 2: D must know that what C is doing is wrong or has a wrongful outcome

Condition 3: D must perform an action voluntarily that contributes¹⁰³ to C's wrongful action or the wrongful outcome produced by C's action

Condition 4: D must know that in performing their action, it would (or is likely to) contribute to the wrong done by C or the wrongful outcome produced by C's action

Lawford-Smith rightly summarises these conditions as: voluntariness, knowledge of contribution, and knowledge of wrongness of principal wrongdoing.¹⁰⁴

Recall that complicity in networked injustice can be either thin complicity, where the complicit agent *facilitates* the injustice, making it more likely to occur, or thick complicity, where the complicit agent *enables* the injustice by making an essential contribution. Condition 3 and 4 would need to be modified to take account of these two forms of complicity as follows:

Condition 3A: D must perform an action voluntarily that makes C's wrongful action, or the wrongful outcome produced by C's action more likely to occur (thin complicity)

Condition 3B: D must perform an action voluntarily that essentially contributes to C's wrongful action, or the wrongful outcome produced by C's action (thick complicity)

Condition 4A: D must know that in performing their action, it would (or is likely to) to make the wrong done by C or the wrongful outcome produced by C's action more likely to occur (thin complicity)

Condition 4B: D must know that in performing their action, it would (or is likely to) essentially contribute to the wrong done by C or the wrongful outcome produced by C's action (thick complicity)

¹⁰³ I will address what 'contribution' entails in the next section of this chapter.

¹⁰⁴ (Lawford-Smith, 2018, p. 334)

Let's test these conditions by applying them to the bank robbery case discussed in Chapters 2 and Chapter 3. In the case, a robber conceives of a plan to rob a bank at night, does all the planning on his own, and will play the main role in executing the plan (making him the principal actor), but needs the help of two friends. One friend will act as a lookout during the robbery (knowing that the robber will be robbing the bank), the other, who works as a security guard at the bank, needs to provide the thief with the codes to enter the bank at night which he does knowing that his friend intends robbing the bank. where one person commits the robbery with the help of a lookout and another who gives him the codes for the bank entrance door.

By my account of complicity, both the lookout and the security guard are complicit in the robbery. Were it not for the security guard giving the thief the door codes for the bank, the crime would not have been committed. The security guard is thus an enabler (thick complicity). Were it not for the lookout, the robbery could still have proceeded. Having a lookout gives the thief some comfort that if someone comes along, he will be warned, and so gives him more confidence in his undertaking. In other words, the lookout, though not essential to the crime, makes the crime more likely, and thus the lookout facilitates the crime (thin complicity). In Chapter 3 we concluded that the lookout was thinly complicit because his actions make the robbery more likely to occur but was not essential to the robbery, and the security guard who handed over the bank access codes to robber is thickly complicit, because his actions were essential to the robbery.

We now ask whether the two friends can be held morally responsible for the robbery committed by their friend? Starting with the lookout, the following four conditions would all have to be satisfied:

Condition 1: The lookout must have knowledge of the robber's action

Condition 2: The lookout must know that what the robber is doing is wrong or has a wrongful outcome

Condition 3A: The lookout must perform an action voluntarily that makes the robber's wrongful action, or the wrongful outcome produced by the robber's action more likely to occur

Condition 4A: The lookout must know that in performing his action, he would (or is likely to) make the wrong done by the robber or the wrongful outcome produced by the robber's action more likely to occur

Condition 1 holds because the robber informed his friend of his intention to rob the bank, thus requiring him as a lookout. If the lookout knew his friend was up to something but didn't know what it was, Condition 2 would not hold. Perhaps his friend was surprising his girlfriend by placing flowers in her flat and wanting it to be a surprise asked the lookout to ensure he wasn't disturbed. But in this case, we are told that the robber informed the lookout of his plans to rob the bank, so Condition 2 holds. There's no indication that the lookout was coerced into standing guard for his friend so his contribution to increase the likelihood of success of the wrongful harm is voluntary¹⁰⁵, thus conditions 3A and 4A hold. We would conclude that the lookout bears moral responsibility for the robbery. His is a lesser responsibility than that of the robber, because his contribution to the wrongful outcome is smaller in comparison.

How about the security guard who hands over the bank access codes? Condition 1 and 2 are true for the same reasons as with the lookout. Conditions 3 and 4 would be:

¹⁰⁵ I am making the simplifying assumption that the absence of coercion is sufficient to consider an action voluntary.

Condition 3B: The security guard must perform an action voluntarily that essentially contributes to the robber's wrongful action, or the wrongful outcome produced by the robber's action

Condition 4B: The lookout must know that in performing their action, he would (or is likely to) make an essential contribution to the wrong done by the robber or the wrongful outcome produced by the robber's action

We can use the 'were it not for' test to assess whether the security guard has made an essential contribution. Were it not for the security guard giving the bank access codes to the robber, the robber would not have gained access to the bank to rob it (I'm assuming there was no other way into the bank, for example, that the doors and windows were impenetrable or would set off an alarm if breached). So were it not for the security guard's actions the wrongful action or outcome of the bank being robbed, would not have occurred. The guard acted voluntarily since he was not coerced, so condition 3B holds, and, given that he knew of the robber's plan to rob the bank, he would have known that without his action the robbery would not have occurred, so condition 4B holds. By meeting our four conditions for moral responsibility in thick complicity, we would assign responsibility to the security guard for the bank robbery. Again, his responsibility would be less than that of the principal actor, the robber, but greater than the lookout since thick complicity bears greater responsibility than thin complicity.

We are now ready to consider the complicity of corporation D with the injustice committed by fellow network participant corporation C in (gender pay) discriminating against Sandy by offering her a wage lower than what it would offer a man for the same job and level of performance, for no other reason than her gender. The argument for complicity applies not only to corporation D but all other network participants individually. Any condition that we deem

to hold true for D needs to hold true *for all corporations* in the network in which C participates.

The conditions that D would have to meet are:

Condition 1: D must have knowledge of C's action

Condition 2: D must know that what C is doing is wrong or has a wrongful outcome

Condition 3A: D must perform an action voluntarily that makes C's wrongful action, or the wrongful outcome produced by C's action more likely to occur (thin complicity), or

Condition 3B: D must perform an action voluntarily that essentially contributes to C's wrongful action, or the wrongful outcome produced by C's action (thick complicity)

Condition 4A: D must know that in performing their action, it would (or is likely to) to make the wrong done by C or the wrongful outcome produced by C's action more likely to occur (thin complicity), or

Condition 4B: D must know that in performing their action, it would (or is likely to) essentially contribute to the wrong done by C or the wrongful outcome produced by C's action (thick complicity)

Knowledge of a network participant's action (Condition 1)

D might know that C has offered Sandy a discriminatory offer because she could have told this to D when approaching it in the hope of a better job offer. If this was the case then the condition 1 would hold for D, but it is not reasonable to expect this to be true for all network participants. It is unlikely that Sandy approached every corporation in the network for a job and told them about C's offer. It is also unlikely that C would announce to all corporations in the network that he was recruiting Sandy at a discriminatory wage. But we do know that if it was the norm that women are paid less than men for the same job, which certainly seems to be the case in

most parts of the world (as discussed in Chapter 3) then all corporations in C's network would expect that C would offer Sandy a wage lower than a male recruit. In fact, all corporations in the network would have played a part in establishing the discriminatory norm by the harmonisation of their behaviours. By the network norm, to which compliance is generally expected, it would be expected that whenever any of the network participants recruits a female employee for the job offered to Sandy, they would be paid the lower wage. We see this when Sandy actually goes to interview with corporation D, that she gets offer the lower wage. So, while every corporation in the network may not know that C has made a discriminatory offer to Sandy specifically, they do all know that C would make such an offer to every female recruit, which in this case, includes Sandy. I take condition 1 to hold.

Knowledge of the wrongfulness of a network participant's action (Condition 2)

I think it is reasonable to assume that corporations are aware that gender pay discrimination is wrong and harmful. If corporations expect that C would make a discriminatory offer to Sandy (per Condition 1), we can say they know this is a wrongful action, so condition 2 holds. What if corporation C acts contrary to the expectation, choosing to pay Sandy equal to what they pay men, or even more? The other corporations wouldn't know about this. This is true and possible but then we wouldn't have a case of networked injustice since C has not acted wrongfully toward Sandy. The injustice arises when C actually harms Sandy in accordance with the expectations, norms and beliefs of the network, by offering and paying her the low salary.

Voluntary contribution to injustice of network participant (Condition 3A or 3B)

We need to determine whether D made a contribution to C's wrongful action or the wrongful outcome. This could be a contribution that made the outcome more likely or a contribution that

was essential to the injustice. We then need to determine whether this contribution, if present, was made voluntarily.

What contribution has D made to the circumstance where C has made a discriminatory offer to Sandy which she accepts. There are three elements of Sandy's harmful employment circumstance – the offer, the fact that it is a discriminatory offer and that she accepts the offer. It is not a routine behaviour of corporations to get involved in each other's recruiting activities so it is unlikely that D was involved in C deciding to recruit a new employee – this would have been driven by C's corporate goals and operational needs. Again, it is unlikely that other corporations influenced the decision to make an offer to *Sandy* specifically, although Corporation D and other network participants would have influenced C's decision to hire a woman given the network norm of paying women less than men. The other corporations' involvement in setting the market rate for labour and the fact that they would most likely have offered Sandy the same offer contributes to her receiving a discriminatory offer and the fact that she accepts it given the absence of any better prospects.

As I argued in Chapter 3, while C could have made a discriminatory offer but would have had less certainty that it would be accepted, had it not been for the role of the other network participations through harmonisation. I argued further that the network participants' contribution to Sandy's position is an essential contribution since were it not for them, she would not have accepted the offer. D and the other corporations could have acted differently but didn't. We would conclude that D and the others in the network facilitate the making of the discriminatory offer and enable Sandy's acceptance of the offer.

On the question of voluntariness, according to Hart, an agent *does not* act voluntarily if at the time of their action they were “unconscious, mistaken about the physical consequences of their bodily movements or the nature or qualities of the thing or persons affected by them, or ...

subjected to threats or other forms of gross coercion ...”¹⁰⁶ This could be translated into at least three excuses that corporations could offer. ‘Unconscious’ – they could claim *ignorance* over Sandy situation. In this analysis I will show that this excuse doesn’t hold up. The issue of ‘bodily movement’ usually features in voluntariness where we would consider an action to be voluntary if it is not done accidentally or as a result of some involuntary movement.¹⁰⁷ But the corporation could claim *ignorance* relating to ‘the physical consequences of their bodily movements or the nature or qualities of the thing or persons affected by them,’ which could be translated to say they knew nothing about the nature of the offer Sandy received and the impact it would have on her if she accepted it. This is highly unlikely when we consider the market intelligence corporations have and the information within their grasp. To claim that they were ignorant to the impact a discriminatory offer would have on a female employee is implausible.

The third excuse or explanation, that arises from Hart’s definition, and that a corporation could offer to defend their claim that they did not act voluntary is that they were ‘subjected to threats or other forms of gross coercion.’ Hart writes that an agent acts under duress when they face coercion by threat of serious harm.¹⁰⁸ In other words, the corporation could claim that it was *forced* to act. Corporations acting under duress would be excused responsibility for their actions.¹⁰⁹ The corporation could point to my account of harmonisation and my acknowledgement of the influence of network norms over the behaviour of participants. I argued in Chapter 3 that corporations tend to comply with norms for fear of ostracism and potential loss of commercial opportunities. Corporations might acknowledge that they contributed to the harm that comes to Sandy by their networked action but would claim that they did so under duress. While there certainly is pressure on networked corporations to

¹⁰⁶ (Hart, 1973, p. 28)

¹⁰⁷ (Lepora & Goodin, 2013, p. 104)

¹⁰⁸ (Hart, 1973, p. 16)

¹⁰⁹ (Lepora & Goodin, 2013, p. 105)

comply, to claim duress would be a misrepresentation. One could ask – who is holding a gun to the corporation’s head (metaphorically)? No one compels the corporation to participate in the network – it chooses to be there because of the commercial benefits it derives. While network norms do strongly influence corporate behaviour, every corporation in the network is both subject and author of these norms. The norms are not handed down by some external power, they arise by the repeated and ongoing networked action of which each corporation is a part. But the corporation, where C, D or any of the others, could further press its claim. It could claim that it pays women less than men for the same job, not because of the peer pressure from other corporations, but for economic reasons. If they didn’t pay women less than men, it would argue, its costs would rise to the point where the business would collapse. It is thus forced by circumstances to offer Sandy the low wage offer and so does not act voluntarily.

Olsaretti writes that “A choice is voluntary if and only if it is not made because there is no acceptable alternative to it.”¹¹⁰ So what alternatives to the corporations face? Their claim is that they face two choices – either pay women less and stay in business or pay women equal to men and go out of business. Since they need to stay in business (by contract to shareholders, by obligation to stakeholders and presumably to continue the social good they do) they are ‘forced’ into the first choice, to discriminate against women. But we could challenge this argument at two levels, both in terms of the choices the corporation faces (one could argue the corporation might have non-labour costs that could be reduced, or that efficiencies could be found in the business) and what actions follow from them being ‘forced’ into one choice. But let’s grant their claim that they really only have these two choices.

I find merit in the assertion that circumstances can undermine voluntariness. If a man jumps from a second-floor building window injuring the people below on whom he lands, we would

¹¹⁰ (Olsaretti, 2004, p. 139)

not consider him morally blameworthy for the injuries if the building from which he jumped was on fire. His choices were to either die in the fire or jump from the burning building. He did not jump voluntarily from the building, nor did he voluntarily injure the people below.

What the corporation asks us to believe is that to save it from collapse, it must discriminate against women, and that, had its circumstance been different, it would have practiced gender pay parity. It is an empirical issue whether the corporation could afford gender pay parity. But what the corporation would need to explain is why it pays women less than men – why not pay the men less than the women, or better yet why not set a new wage that everyone gets paid regardless of gender that would enable the corporation to survive. Paying the market rate is not an acceptable explanation when there is a different market rate for men and for women. What is dressed up as an economic explanation is usually nothing more than sexism.¹¹¹ On a similar basis we would challenge all corporations in the network as to the reasons for the network norm that pays women less than men for the same job.

Corporations do have alternatives to discriminating against women and so do act voluntarily when they do so.¹¹² Hart writes that the expression ‘voluntary action’ is best understood as “excluding the presence of the various excuses.”¹¹³ I think we have done just this.

So where does it leave us? I believe we have done enough to show that corporations act voluntarily in networks in pursuit of their goals; they collaborate, cooperate, coordinate and compete in the ordinary course of their commercial operations. They voluntarily contribute to bringing about the conditions that places individuals like Sandy in vulnerable positions which leave them with no alternative but to accept unjust employment terms.

¹¹¹ (Sin, Stillman, & Fabling, 2017), (Blau, 2019)

¹¹² As an aside to the voluntariness argument, we would also challenge the corporate objection on the grounds that if a corporation’s livelihood rests on discriminating against women, we might not consider it a social institution of value to society, in a broad sense, even if it offers social value in other ways. Trade-offs between profit and justice is addressed in Chapter 7.

¹¹³ (Hart, 1973, p. 30)

Knowledge of contribution to the wrongness of a network participant's injustice (Condition 4A or 4B)

For this condition to be true, D must *know* that in performing their *action*, it would (or is likely to) to contribute to the injustice committed by C, either by making it more likely to occur or by being essentially to it coming about. What is D's reference *action* here – participating in the network, complying with network expectations, expecting others like C to comply with network expectations or perhaps conniving with C and condoning its behaviour? (as discussed in Chapter 3). Every corporation participates in networked action and complies (to a lesser or greater extent) with network norms which themselves do not harm Sandy. They again could claim that that Sandy suffers discrimination or some injustice at the hands of corporation C has nothing to do with them and that they have no knowledge that their contributions to the network have any unjust outcomes. The harmful effects that derive from networked action only materialise when corporations interact with individuals outside the network. And they contribute to the norms and know the norms are discriminatory (in this case), so can expect that C would follow the norms. Not only are they causally involved in the chain of events that lead to Sandy's situation, but they should reasonably know the outcome. They know that they and others act with a willingness to harm and that if C's efforts to lower its costs leads it to employing Sandy under unfair terms, then it would not be out of step with the norms, actions these corporations themselves might have taken.

I have shown that it is not unreasonable to expect that corporations in a corporate network have knowledge of another network participant's actions and the wrongfulness thereof, and that they voluntary and knowingly contribute to the resulting networked injustice that results. For this

complicity, we would assign justice responsibility to the perpetrator but also to every participant in the network (a weaker responsibility).

We would consider D to be complicit with C in its wrongful act and thus ground D's responsibility in complicity.¹¹⁴ D's complicity constitutes participation (as a contributor) in C's morally wrongful activity.¹¹⁵ I conclude with Mellema that when an agent is complicit in the wrongdoing of a principal actor, then that agent is also guilty of wrongdoing.¹¹⁶

6.3.2. Contribution to networked injustice

Contribution to the ATCS

As developed in Chapter 3, the action transformation causal sequence (ATCS) arises from the networked action that corporations perform in corporate networks and the harmonisation of corporate behaviours that follow. It follows then that corporations contribute to the mechanism by which the ATCS transforms corporate actions. If the ATCS is the mechanism by which networked injustice emerges, then corporations contribute to the emergence of networked injustice by their contribution to the ATCS.

Grounding responsibility in contribution

To recap on emergence of the ATCS: The repeated complex interactions in corporate networks (networked action) leads to the harmonisation of corporate behaviour whereby corporations act near-identically in similar situations. Harmonisation results from corporations acting according

¹¹⁴ (Lepora & Goodin, 2013, p. 41)

¹¹⁵ (Pauer-Studer, 2018, p. 643)

¹¹⁶ (Mellema, 2016, p. 2)

to network norms and expectations. The effect of this harmonised behaviour is that when one corporation performs a negative action towards an individual, all corporations are likely to do the same, or the person reasonably expects that all corporations will do the same. When all corporations act identically, these small negative actions pile up, and because the actions are correlated, become harmful. The victim's experience is as though they are dealing with a monopoly or monopsony which dictates terms and closes off options. This process transforms mere negative actions into harms by the volume of repetitions when all corporations act identically and the correlation of these actions that lead to a single harmful outcome for the individual. The person is harmed by the unfavourable terms under which it is compelled to interact with the corporation and their inability to escape these corporations. By this causal sequence, mere negative (harm-likely) corporate actions are transformed to harmful actions that lead to unjust outcomes for persons who face closed off options.

Even though we've already made the argument for moral responsibility for complicity, which includes contribution to the ATCS, I will here specify what I take contribution to entail since it applies to both complicity and the causal sequence that transforms corporate actions. The ATCS entails networked actions followed by behaviour harmonisation which leads to actions that close off options (the unjust outcome).

I develop an account of moral responsibility for contribution to networked injustice via the ATCS based on Christian Barry's contribution principle, according to which agents are held responsible for an injustice when they have contributed to bringing about the injustice, with playing a causal role considered most directly to be contributing.¹¹⁷ Drawing on Barry's account¹¹⁸ and ideas already developed, I take contribution to mean that networked

¹¹⁷ (Barry C. , 2003, p. 228)

¹¹⁸ (Barry C. , 2005, p. 212)

corporations have contributed to a networked injustice suffered by a person if their conduct facilitated or enabled a causal sequence that led to the injustice. We would hold a corporation responsible for such contributory conduct when it is voluntary and undertaken with foresight of harmful outcomes.

We would therefore hold networked corporations individually morally responsible for their contribution to networked injustice when:

Condition 1: The corporation has knowledge of the harmful sequence (ATCS)

Condition 2: The corporation has knowledge of the unjust outcome of the ATCS

Condition 3: The corporation acts voluntarily and knowingly to facilitate the ATCS or

Condition 4: The corporation acts voluntarily and knowingly to enable the ATCS

We need conditions 1 and 2, and, 3 or 4 to be true to assign responsibility to the corporation.

It is widely accepted that to be held responsible for an action it must have been a voluntary act taken by the agent.¹¹⁹ Hart reminds us that responsibility requires certain “knowledge *or* intention.”¹²⁰ (my emphasis). In Chapter 4, in arguing for corporate moral agency, I relied on intention, here I will rely on knowledge. Even though I claim corporations have intentions, and to be sure, their intentions in participating in processes that lead to injustice matters significantly, the argument on the basis of knowledge is clearer and more streamlined.

¹¹⁹ (Lepora & Goodin, 2013, p. 94)

¹²⁰ (Hart, 1973, p. 210)

Knowledge of the action transforming causal sequence (ATCS) (Condition 1)

We're asking whether corporations know about the sequence that produces the unplanned consequence of their innocent actions in networks ultimately contributing to the harms suffered by the actions of others in the network. It appears to be a demanding question.

In Chapter 3 I described harmonisation as arising mindedly and unmindedly from corporations' standpoint. Corporations know, or should know, that their actions have unintended consequences or consequences different to what they intended. This we've come to know from the climate crisis for example where damage to one part of the environment has impacts elsewhere, or where damage to one part of an ecosystem causes devastation in another.

Corporations have an understanding of how individual actions and intentions can combine by facilitated interaction in structured ways to form a whole new set of actions and intentions. As discussed in Chapter 4, this is how corporate moral agency is formed. There's a parallel here. I'm suggesting this causal sequence arises from the unique way in which corporate actions combine in networks to transform the actions into different actions. It is a similar construct to how corporations function internally, and while the networked processes, relationships and attitudes are not as formalised and intimate as the processes, relationships and attitudes within the corporation, it would not be implausible to expect corporations to know about the ATCS or to expect that they should, given their internal experience of similar outcomes.

Knowledge of the unjust outcome of the ATCS (Condition 2)

Corporations will not have specific knowledge of all the unjust outcomes that network participants produce but would know the general outcomes of the causal sequence to be unjust. Through their vast information networks corporations know that the exploitation, discrimination and deprivation that exists in the world arises partly from corporate action. That

corporations are able to understand the connection between their actions, the ATCS and prevalent injustices is not too much to expect.

Voluntarily and knowingly acting to facilitate the ATCS or Voluntarily and knowingly acting to enable the ATCS (Condition 3 or Condition 4)

Since we need only one of these two conditions to hold, I will argue the tougher of the two – condition 4 – under the assumption that enabling the ATCS also facilitates it.

I've claimed that corporations know that the ATCS exists as a result of networked action and that corporations know the ATCS leads to unjust outcomes. To argue that corporations contribute to the unjust outcomes I have two tasks – to argue that the corporation acts voluntarily in enabling the causal sequence, and to argue that the corporation does so knowingly.

We can adopt the same argument on voluntariness made above, so there's no need to repeat it here, so I will only argue the point that corporations contribute to networked injustice knowingly.

Isaacs notes that the normative character of individuals' contributions flows in large measure from the collective endeavour of which they are a part and that the actions of one moral agent can interact with those of others ... thereby changing the nature of the individuals' actions and the consequences of those actions in morally significant ways.¹²¹ This we observe in the actions performed by corporations are transformed in the causal sequence that results from networked action among network participants.

¹²¹ (Isaacs, 2011, pp. 5-16)

Corporations are integral to networked action and the causal sequence that follows. The ATCS cannot occur without corporate action. If corporations do not participate in networks, do not follow norms and expectations, do not begin to mimic each other, and do not interact with persons outside their networks in predictable ways then the ATCS would not occur and would not produce the injustices it does. Corporate action certainly makes the causal sequence more likely to occur since its actions constitute the primary actions in the sequence, and we would say were it not for corporate action there'd be no causal sequence. If the causal sequence transforms mere negative action to harmful action, were it not for corporations' networked actions, there would be no harmful actions and the negative actions would remain that, mere unfavourable actions rather than harmful actions that accumulate to produce wrongful harms.

I am not suggesting that corporations set to out foster the causal sequence that leads to harm. I am suggesting that corporations have knowledge of this causal sequence and the harms it produces, and while they may find its outcomes regrettable, they accept that harmful outcomes to some people are inevitable in the course of the corporate activity. We could go further and say that were it not for corporations' willingness to harm and engaging instrumentally with persons as means to their corporate ends, the ATCS and its harms might not occur.

To apply this argument to Sandy's case, we're saying that without predictable (and thus knowing) corporate behaviour in networks, a negative action that is not harmful per se would be raising monthly rent on Sandy's flat. However, because of the ATCS this action becomes a wrongful harm of the deprivation Sandy suffers in being unable to afford housing and thus facing the prospect of being homeless.

As discussed in Chapter 2, knowing about the circumstances and consequences of action such as reasonable foreseeability of harm is sufficient to assign responsibility to an agent, even

without harmful intention. Claiming that the corporation has contributed to an injustice we attribute responsibility to the corporation for having played a role in bringing about the unjust state of affairs. We are asserting that the corporation bore a moral duty not to contribute to deprivation, discrimination or exploitation, but since it violated this duty through its contribution, we hold it retrospective responsibility. Further, we hold the corporation responsible to rectify this wrongdoing and so assign it a prospective responsibility to allocate resources and take rectificatory action.

I believe I have shown enough to conclude that corporations contribute to networked injustice through their complicity in the injustice of other corporations or by contributing to the causal sequence that brings harms to persons by closing off options to them. On these grounds, we are justified in assigning justice responsibility to the corporation.

Of course, corporations could offer excuses for their action. While excuses may cancel blame for wrongdoing, they certainly do not erase the fact that a wrong was done.¹²² Corporations could admit to wrong but offer valid excuses on utilitarian grounds that they were doing great social good, for example a pharmaceutical company could claim that vaccines that save millions of lives are produced in facilities that exploit workers. Such excuses are tricky because it appeals to the fact that most corporations do produce social good. But an excuse for ongoing harm to some for the benefit of others cannot be accepted as justification. We might accept an excuse if corporations had no way of knowing that their actions would contribute to anyone else's action, or if they had no way of knowing that other corporations, to whose actions are contributed, act wrongfully, then they could be excused any responsibility for complicity in contributing to wrongdoing. But the fact that the injustices are ongoing negates such excuses.

¹²² (Lepora & Goodin, 2013, p. 94)

Corporations cannot credibly claim that they're unaware of exploitation by corporations in their network, or that corporations in their network are discriminating against women on pay. These facts are usually widely reported by human rights groups and the media, and besides, through the network information sharing, all corporations will invariably have some idea of what the others are doing. My contention is that social benefit does not justify wrong but, in some circumstances, can potentially excuse it.

Corporations acquire corporate justice responsibility in virtue of their participation in corporate networks. It is a responsibility to rectify networked injustice that arises between corporations and the persons they interact with, where the injustice derives from the network processes that cause harms to people as a result of these interactions. The conception of responsibility derives from contribution to these networked processes that lead to predictable patterns of behaviour and foreseen injustices. Participating in corporate networks and its processes, by contribution and complicity, is therefore grounds for being assigned responsibility to act to advance justice.

6.4. Collective vs. shared responsibility

In Chapter 4 I discussed the fact that corporations comprise numerous, often tens of thousands, individual employees. I argued that by the internal corporate processes, employee-corporate relationships and employee attitudes (especially relating to intentional action), the corporation was an agent capable of intentional action and moral judgement and thus fit to be assigned moral responsibility. Does the same apply to the corporate network, in other words, rather than argue that each network participant bears individual responsibility for networked injustice, could we argue that the corporate network is a moral agent and thus assign justice responsibility

to the network? Like corporations internally, when operating in corporate networks with other corporations, corporations have complex processes between themselves, they develop relationships and act with intention (as discussed in Chapter 2), so in form, it looks like a case could be made for networks to be considered group agents.

When theorists typically consider the question of individual agent responsibility for collective action it is in the context of an unjust or harmful goal held by the collective agents, for example contribution to tribal violence,¹²³ bombing of a city,¹²⁴ or genocide.¹²⁵ The question these theorists seek to answer relates to individual contribution to the fulfilment of the joint and unjust goal. The circumstance that I am considering is different. I think it is fair to say that most corporations do not set out to commit injustices and so do not operate with unjust or harmful goals. Corporations do not gather in networks to inflict harm on third parties. They assemble in networks because networked action offers them business benefits. As I've explained, harms that arise from networks do not derive from harmful intentions as the reason for participating in the network.

Unlike a corporation, a corporate network is not a group agent. There is no shared goal among network participants – each corporation in the network works to pursue its individual goals. As discussed in Chapter 2, while there may be common interests among corporations in a network and their individual goals may have alignment, they are not all working towards the same goal as we see in corporations where employees work toward maximising profit, or in the Rwanda genocide where the one hundred thousand Hutus worked together to kill Tutsis, or in the Anti-Turtle League example where all members are dumping plastic into the ocean to harm turtles. Networked action comprises a web of interactions between corporations, sometimes just two

¹²³ (Skerker, 2020)

¹²⁴ (Kutz, 2007)

¹²⁵ (Isaacs, 2011)

of them, most times more, but the whole network is not engaged in the same venture, initiative or project, there are hundreds or thousands of collaborative and cooperative initiatives on the go in pursuit of individual needs not a collective need, objective or goal. Network participants are not all collaborating or cooperating on the same project, or all collaborating with each other. This means there is no collective or group action. And while corporations all operate in the network with intention, there is no group intention (as described in Chapter 4) such that each corporation acts with the intention to further the network's goal in the expectation that every other corporation also intends to act in furtherance of the network's goal. This is no such group intention because there is no network goal.

When a participant in a corporate network acts, it is not acting on behalf of the network or representing the network, as corporate employees do in relation to the corporation. Network participants act of their own accord and to achieve their own objectives but are highly influenced by the network just as they have influence in the network. This is linked to the unique behaviour that corporations exhibit, where they are self-interested competitive entities on the one hand, but also cooperate, collaborate and coordinate with the same entities with whom they compete.

The responsibility for networked injustice is a *shared responsibility* since corporations have acted together to bring about the injustice. While collective responsibility is associated with a single or unified moral agent (such as an individual person or a corporation), shared responsibility is associated with individual moral agents who contribute to harm as members of an aggregate either directly through their own actions or indirectly through their membership

in the aggregate, such as corporations in a corporate network.¹²⁶ There is no collective wrong but there are individual wrongs committed by agents in a network by their intentional networked action. In situations where collective agency is absent, as in networks, moral responsibility, if present, resides only at the individual agent level.¹²⁷ The harm that occurs does so because of the cumulative effect of the many self-interested actions upon persons. While shared, responsibility for networked injustice requires action on behalf of every contributor to rectify the injustice. However, shared responsibility does not mean that every actor bears responsibility to the same degree.¹²⁸ As I've discussed in this chapter, an enabler of injustice bears greater responsibility than a facilitator of injustice, and a perpetrator of an unjust act bears greater responsibility than those who act complicitly with the perpetrator.

What I've developed is not an account of *network* injustice (injustice committed by a network) but *networked* injustice (injustice committed by participants in a network where the injustice is mediated by the social arrangement of a network and the networked action it facilitates). The network facilitates the actions taken by individual corporations that together creates the conditions under which an injustice is committed. We do not consider the network blameworthy, and we do not assign responsibility to the network.

Furthermore, while the corporation is a moral agent, the corporate network is not and is thus not fit to be assigned moral responsibility. The network does not act, and certainly not intentionally, nor does it have an intentional structure (as discussed in Chapter 4). Network

¹²⁶ (Smiley, 2023) Note, to avoid confusion with the way I use the term 'group', especially in Chapter 4, I've used the term 'aggregate' here to replace the author's use of the term 'group' to refer to a generic assembly of agents acting together.

¹²⁷ (Isaacs, 2011, p. 100)

¹²⁸ (Tempels, Blok, & Verweij, 2017, p. 101)

participants compete with each other which is in stark contrast to what we'd expect of constituents of a group agent.

Assigning individual responsibility to agents for injustices that arise in collective contexts often raises the concern that we may be holding an agent responsible for acts not committed by them. This concern is lessened in the case of responsibility for network injustice because every networked corporation contributes to networked action and thus to the chain of actions that lead to the unjust outcome. They are held responsible not because of mere membership of the network but by their contributory acts to the causal sequence that leads to networked injustice.

6.5. An account of corporate justice responsibility

Corporate justice responsibility (CJR) is the moral responsibility borne by commercial corporations to rectify corporate injustice, what we've developed as networked injustice. Corporations acquire corporate justice responsibility in virtue of their participation in corporate networks. It is a responsibility to rectify networked injustice that arises between corporations and the persons they interact with, where the injustice derives from the network processes that cause harms to people as a result of these interactions. The conception of responsibility derives from contribution to these networked processes that lead to predictable patterns of behaviour and foreseen injustices. Participating in corporate networks and its processes, by contribution and complicity, is therefore grounds for being assigned responsibility to act to advance justice.

While corporations do commit standard injustice and participate in social processes that contribute to structural injustices, which may attract responsibility by the liability and social

connection models of responsibility respectively, I have argued that corporations principally commit injustice when participating in corporate networks, and thus principally commit networked injustice.

Networked injustice emanates from, and is mediated by, corporate networks and follows the interactions between corporations and parties outside these networks. Corporations commit networked injustice routinely in virtue of the fact that corporations necessarily participate in networks with other corporations and cannot but interact with third parties outside these networks.

Like Young, I argue that responsibility can be assigned to agents (in this case, corporations) “because they contribute by their actions to the processes that produce unjust outcomes.”¹²⁹ CJR is assigned to the corporation on the grounds of its contribution to networked injustice, which arises by complicity with injustices committed by fellow network participants, and contribution directly to wrongful harms. These harms follow networked action and corporate interactions with third parties, particularly vulnerable persons. Someone is harmed by an interaction with a corporation when their interests have been adversely and wrongly set back by this interaction. Corporations’ actions are deemed wrongful when they breach a moral principle with no valid justification or excuse.

By CJR, corporations bear responsibility to commit resources and take action to rectify injustices caused by their actions whether solely, or as participants in corporate networks. It assigns a responsibility that is discharged individually or shared with other corporations depending on the circumstance and nature of the injustice. The quantum of resources and the

¹²⁹ (Young I. M., 2006, p. 119), (Young I. M., 2011, p. 105)

nature of the required actions will necessarily be contingent on each specific case, but in Chapter 7 I develop a framework for action and guidance on dealing with costs and priorities.

CJR is a prospective moral responsibility to act but has both retrospective and prospective elements, and so is both backward-looking and forward-looking. The corporation is attributively responsible for having caused, contributed to or been complicit in causing networked injustice, and bears prospective responsibility to commit resources and take action to rectify these injustices in virtue. Theories like the social connection model focus on forward-looking responsibility only which may give agents who have failed to meet past obligations “a free pass indefinitely.”¹³⁰ This is not the case with corporate justice responsibility. CJR identifies victims who are owed remedy and identifies corporations to whom we then assign the responsibility to take actions to rectify these injustices that have already been perpetrated. Corporations bear forward-looking responsibility for failing to discharge their retrospective responsibility by taking prescribed remedial action (developed in Chapter 7), but they also bear forward-looking responsibility to proactively avoid and prevent networked injustice from occurring by changing their organisational behaviours and corporate objective, and acting to reform corporate networks (also developed in Chapter 7).

CJR has both negative and positive duty elements. The remedial aspect of CJR takes the form of a negative duty which is discharged once the injustice has been rectified, while the requirement to change behaviour and reform corporate networks to avoid and prevent networked injustice takes the form of a positive duty.

Given the role corporate networks play in injustices like exploitation, discrimination and deprivation we would count corporations among the key candidates for responsibility to rectify

¹³⁰ (Young I. M., 2011, p. xxi)

these injustices. It is a responsibility to those who suffer or are vulnerable to corporate injustice by those who, by their actions, cause or stand to cause these injustices. Even if a network participant's actions cannot be traced to the wrongful action or unjust outcome, mere participation in the activities of the network is sufficient to assign CJR which requires contributing to rectifying the networked injustice.

While standard injustice and structural injustice covers a broad range of wrongs and agents, networked injustice applies particularly to corporations given their unique behaviour in networks and their attributes of power and influence. Unlike other accounts of corporate responsibility, CJR is not voluntary and is not contingent on state strength, that is, whether states are able or willing to secure justice.

6.6. Concluding remarks

This chapter has brought together the analysis of the thesis so far, to present an account of corporate justice responsibility as the responsibility borne by the corporation to rectify networked injustice which is rooted in corporate networks and networked action. This responsibility is grounded in corporations' complicity with injustices committed by fellow network participants and direct contributions to networked injustice.

Because all network participants participate in the production of the injustice, we hold all network participants responsible for the injustice that arises. However, corporate justice responsibility is not a collective responsibility but a shared responsibility with each participating corporation bearing responsibility to act and allocate resources to rectify the injustice. In virtue of this participation in networked injustice we assign to every corporate

network participant the responsibility to rectify networked injustice. What is required of corporations to discharge this responsibility is developed in the next chapter.

Chapter 7. DISCHARGING CORPORATE JUSTICE RESPONSIBILITY

7.1. Introduction

Arguments to justify punishment of corporate injustice under criminal law often fail, leaving “even the most egregious and harmful management failures [to] be addressed through design and regulation of the corporation rather than imposition of individual criminal liability.”¹ The theory of corporate justice responsibility (CJR) seeks to contribute to this “design and regulation of the corporation” in light of its unavoidable involvement in injustice under current ways of doing business. In Chapter 6 I developed the account of CJR, by which corporations bear responsibility to commit resources and take action to rectify injustices caused by their contributory actions to networked injustice. This chapter deals with the challenging question of what we expect of the corporation to discharge this responsibility that we have assigned to it.

When we say a corporation bears corporate justice responsibility, we are saying the corporation ought to perform the appropriate actions and allocate the appropriate resources to rectify the injustice for which the responsibility is assigned. Here I offer an account of the *actions* and *behaviours* required of corporations to advance justice, that is, to discharge their justice responsibility. The specific actions required of a specific corporation will be dependent on the circumstances in which that corporation operates and its characteristics. Here I develop a framework of actions that serves as a guideline or conceptual basis for determining specific actions and behaviours in specific cases.

¹ (Buell, 2018, p. 471)

However, directing the attention of the corporation to justice and specifying extra-commercial activities that require diversion of resources away from profit generation to justice faces significant hurdles. At what cost ought the corporation to act to discharge its CJR? When faced with choices between generating profit and meeting justice requirements, which should the corporation prioritise? These types of questions are inevitable and relate to issues of the corporate objective and corporate purpose. While this chapter focuses on what is required of the corporation, it also addresses these thorny issues.

I proceed as follows: I develop a framework of prescribed action around three types of actions, namely those that *remedy* injustice, *avoid* injustice and *prevent* injustice. I then address the issue of cost and priority of prescribed action and introduce the concept of *corporate justice debt* as a way of quantifying and accounting for the justice responsibilities borne by corporations. I argue that compliance with the demands of CJR are best ensured by external requirements placed on the corporation to revise the corporate objective. Here I introduce the *just-profit principle* which I propose as a new corporate guiding principle rather than the current focus on profit. Bringing together the discussion on the cost and priority of CJR with the just-profit principle, I conclude the chapter with a discussion on corporate purpose and how we might revise corporate purpose to accommodate corporate justice responsibility.

Note: We speak of ‘restoring’, ‘securing’ or ‘promoting’ justice as the objective for specifying action. I will use these terms on occasion but mainly the phrases ‘advancing justice’ or ‘rectifying injustice’ to indicate ideas of eradicating or eliminating networked injustice. We advance the frontier of justice by working towards rectifying injustice.

Note: This chapter does not address a number of important questions relating to discharging corporate justice responsibility such as the order in which multiple responsibility-bearers should act or the order in which victims ought to receive remedy where multiple victims are

present. I have dealt with these matters elsewhere.² A third important question relates to taking up the slack, that is, the situation where corporations don't do their fair share in advancing justice. The theory developed here has the building blocks to provide meaningful answers to these questions which further research can produce.

7.2. Framework of prescribed action

CJR assigns to corporations the responsibility to rectify networked injustice. This leads us to ask what rectifying networked injustice entails. Since networked injustice arises by the action transformation causal sequence (ATCS), it follows that rectifying networked injustice should be targeted at this causal sequence. Recall that the ATCS starts with corporate networks that produce networked action by which harmonisation of corporate behaviours occur (influenced by network norms and imitation). This harmonisation combines with corporations' willingness to harm in pursuit of profit to transform ordinary business actions into harmful actions, or to make corporations complicit in the explicitly unjust actions of other network participants. Any framework of prescribed action to rectify networked injustice would be required to offer action guidance that addresses these stages in the ATCS.

By my account of corporate operating behaviour in producing networked injustice, at any point in time, a corporation faces three realities requiring action to advance justice. Firstly, the corporation has committed injustices that have wrongly harmed victims. These injustices could have been committed recently where victims are still living, or they could be historical injustices where the descendants of the original victims are no longer alive.³ The second reality

² (Williams, 2018)

³ This raises the thorny issue of the non-identity problem which I will not address, neither will I focus on a detailed account of remedy for historical injustice.

that faces the corporation is that if it continues operating as it always has, it will likely continue to commit injustices and perpetuate both the structures of injustice and the suffering of those impacted by these injustices. And thirdly, the corporation interacts with other corporations who may commit injustices.

In response to the first reality it faces, CJR requires the corporation to execute a programme of remedial action to *remedy* the injustices it has already caused. In response to the second reality the corporation faces, CJR requires that the corporation *avoid* causing new injustices or perpetuating the effects of existing injustices by changing its operating behaviour. And in response to its third reality, CJR requires the corporation to actively contribute to reform (to networks or broader institutions) that would *prevent* the commission of networked injustice. These three required categories of action – remedy, avoidance and prevention – provide a framework, the remedy-avoid-prevent framework or *RAP framework*, for prescribing the requirements of discharging CJR. This framework should be applied to corporations with the ATCS in mind.

The RAP framework is a modification of the set of correlative duties developed by Shue that are required to fulfil a basic right.⁴ Following Shue and Wettstein,⁵ discharging CJR requires the corporation to discharge these three correlative responsibilities, the responsibility to remedy the harm it has caused by its wrongful action (remedy injustice), the responsibility to stop and avoid repeating wrongful actions (avoid injustice) and the responsibility to prevent the recurrence of the injustice (prevent injustice).

The responsibilities to remedy and prevent are discharged by discrete programmes of action that are launched as the need arises, whereas the responsibility to avoid injustice entails continuous requirements which is best met by changing corporate behaviour and indeed, the

⁴ (Shue, 1997, p. 60)

⁵ (Wettstein, 2009, p. 290)

corporate objective as discussed later in this chapter. The exact form of each intervention would be context-specific but would be broadly guided by the RAP framework. I now turn to each of these responsibilities in turn.

Remedy injustice already caused: instituting a programme of remedial action

My goal here is not to develop a theory of reparation but seek to consider the nature of remedial action expected of a corporation. Owing remedy to a victim is a special obligation in virtue of a perpetrator having wronged a victim.⁶ It is a positive duty (grounded in a failure to satisfy a negative duty), an obligation to *do* something. Remedy is not an obligation to refrain from doing something, as in avoiding injustice (discussed in the next section of this chapter).⁷

Political theorists and philosophers have historically neglected theorising reparations for injustice,⁸ but have recently begun to turn their attention to this important topic.⁹ Still, few focus on the remedial responsibilities of corporations in particular, the exception being recent attention on corporations and human rights.¹⁰

Offering remedy or reparation, or making amends, is an attempt to make right the wrongs that have been done to others. Rather than retribution which seeks to punish the wrongdoer, remedy seeks to ‘repair’ the harm done to the victim by seeking to return victims to their position before they suffered the injustice. An alternative approach is to consider the counterfactual, that is, to ensure the victims are afforded the lives they would have lived had the corporation not committed the injustice. This is no simple task.¹¹

⁶ (Kagan, 1998, p. 128)

⁷ (Kagan, 1998, p. 131)

⁸ (Thompson, 2002, p. 38)

⁹ (Butt, 2009), (Radzik, 2009), (Walker, 2006), (Thompson, 2002), (McKeown, 2021), (Lu, 2011), (Spinner-Halev, 2007), (Young I. M., 2011), (Stemplowska, 2020)

¹⁰ (Schormair & Gerlach, 2020), (Karp, 2015), (Wettstein, 2009)

¹¹ (Sharpe, 2007, p. 12)

Having acted wrongly by stealing your truck, what would be required of me to make things right? We'd expect a programme of remedial action to include my acknowledgement of having wronged you and returning your truck or some equivalent, since, as Sharpe writes, replacing what one has taken or destroyed is the essential idea of reparation.¹² We may also expect compensation for the inconvenience you suffered for being without your truck and you might look to me for an apology. There is a sort of 'scorekeeping' at play – the perpetrator has gained unfairly at the victim's expense, and so to restore balance, the victim is due something from the perpetrator, but the basic aim is to reduce the inequity created by injustice.¹³

But what would remedy entail if I wronged you by exploitation or acted with discrimination toward you or contributed to your prolonged health or economic deprivation? Or indeed forcing you into a harmful position or to accept a harmful offer as occurs in networked injustice. With such wrongs, remedy is much harder to conceptualise.

Some conceive of remedy as having material and symbolic components¹⁴ or similarly to consist of financial compensation and apology.¹⁵ Material reparation generally addresses the specific harms that result from wrongdoing, while symbolic reparation speaks to the wrongness of the act itself.¹⁶ Remedy has to be specific to the situation and importantly, must be co-created between perpetrators and victims since there is no universal formula for what constitutes adequate remedy.

A helpful way to begin to define what the expectations are of a corporation, is to set out what remedy should attain. Thompson draws a distinction between what she calls 'reparation as restoration' and 'reparation as reconciliation.'¹⁷ *Restoration* requires that victims are 'restored'

¹² (Sharpe, 2007, p. 24)

¹³ (Sharpe, 2007, p. 26)

¹⁴ (Sharpe, 2007, p. 27)

¹⁵ (Johnstone & Quirk, 2012)

¹⁶ (Sharpe, 2007, p. 27)

¹⁷ (Thompson, 2002, pp. 47-53)

to the position they were in before the injustice was done or afforded lives as though the injustice had not occurred. *Reconciliation* is achieved when the wrongdoer has apologised, and the parties are prepared to resume peaceful, co-operative relations. According to the reconciliation view, remedy can be achieved without restoration, in fact, this view insists that restoration on its own is insufficient to achieve reparation.¹⁸

Reparative justice theorists argue for greater emphasis on reconciliation and symbolic reparation, than restoration with its focus on financial compensation.¹⁹ Here I argue the other way, in favour of restoration. My argument rests on the position that restoration is most appropriate given the specific situation we're considering, that of the *corporation* who bears justice responsibility, rather than individuals or the state, which is the context for most theorising. The three main criticisms of restoration is that firstly, it is impractical to identify the victims of injustice and determine what is due to them, secondly, that material reparation "does not restore the moral balance"²⁰ and thirdly, that it does not restore ongoing relations between perpetrator and victim.²¹ I will address each of these criticisms in turn to show that they fail when considering the corporation as the remedial responsibility-bearer.

The first criticism of restoration or material remedy, that it is impractical to identify the victims of injustice and determine what is due to them, may be true when dealing with nation-to-nation injustice such as war or colonisation, or largescale human atrocities such as genocide, because of the vast numbers of people involved and the bodily damage many suffer. This is usually not the case with corporate injustice. While corporations could be held responsible for their contributions to large-scale injustices, most corporation injustices arise in their normal course of business, as considered in this thesis. In such cases, victims can more readily be identified

¹⁸ (Thompson, 2002, p. 47)

¹⁹ (Radzik, 2009), (Walker, 2015), (Walker, 2006), (Thompson, 2002), (Sharpe, 2007)

²⁰ (Thompson, 2002, p. 48)

²¹ (Thompson, 2002, p. 52), (Walker, 2006, p. 379)

since they have engaged in some way with the offending corporations, typically as employees, customers or suppliers, where tracking and identification records are usually available.

The second criticism of restoration is that it “merely provides the victim with possessions, money or new opportunities.”²² This is often of greatest urgency and most appropriate to satisfy what justice requires, that is, allowing victims of injustices to rebuild their lives and enable them to pursue their life projects. One of the advantages of payments as a mode of reparation is that there is a tangible and immediate benefit for the recipients involved.²³ While reconciliatory actions do not provide financial benefits or ease financial burdens, especially among the economic vulnerable and poor, I acknowledge that they satisfy important psychological needs of offended parties. In particular, they can restore respect and dignity to victims, and serve a remedial purpose that money cannot.

If corporate profit has been earned by the commission of injustice, then corporations have no claim on those profits, and these profits should be paid to victims of the injustice. By my account of justice, this brings moral balance – the effect of injustice is that victims’ pursuit of their life’s projects has been interrupted, they have been unjustly prevented from living decent lives. Reparation should be targeted at removing the impact of this interruption, even if perfect restoration isn’t achieved.

The third criticism relates to ongoing relations between perpetrator and victim. It claims that restoration “fails to address the harm done by a wrong to relations of respect that ought to obtain ... Acts of disrespect cannot be undone.”²⁴ Firstly, while it is true that material reparations do not secure ongoing relations, I do believe enabling victims to live dignified lives through material reparation is an important element of showing respect and returning respect

²² (Thompson, 2002, p. 48)

²³ (Johnstone & Quirk, 2012, p. 161)

²⁴ (Thompson, 2002, p. 49)

to those harmed by injustice. Secondly, the matter of ongoing relations is not as significant in relation to corporations (as perpetrators) as it is to nations or individuals (as perpetrators) since corporations have more transitory encounters with individuals. This is not to say that relations don't matter and that corporations can treat people with disrespect. When corporations intend operating in a community, community members would expect to be treated with respect. But the nature of corporate injustice is most commonly an economic injustice, where victims have been primarily harmed financially. Here material or financial restoration is most likely what victims require rather than reconciliation and commitment to peaceful future relations, which are of greater value between warring parties say, seeking remedy.

The focus on reconciliation and future relations runs the risk of overlooking the urgent material needs that victims of injustice face. Casting our minds back to Sandy, the single mother facing homelessness who we've considered throughout this thesis, even though Young highlights her plight, Young's 'forward-looking' theory offers no relief for Sandy. Sandy needs immediate relief whereas structural change by collective action will likely only take effect in years to come. This is a significant oversight for Sandy, but Young's account, if implemented, will likely benefit future Sandys. If Sandy has been forced to accept an unfairly low salary, then remedy requires that she be 'made whole,' in other words, she should be paid a fair salary going forward and compensated for the lost income.

With a focus on restoration, the corporation's remedial financial obligation has two components,²⁵ namely *restitution* which requires returning or replacing property, by monetary payment, or by performing direct services for the victim²⁶ and *compensation* that usually has a narrower meaning, referring to a financial payment that makes up for property that cannot be

²⁵ (Fabre, 2007, p. 137)

²⁶ (Sharpe, 2007, p. 27)

returned or repaired, or that acknowledges a fundamental loss such as the violation of human rights.²⁷

While I have made an argument for restoration rather than reconciliation, situations of injustice might warrant both approaches. It is plausible that the focus on restoration is supplemented with reconciliation where appropriate.

Corporate injustices usually occur in social and political contexts where such behaviour is sanctioned. The idea of justice responsibility as developed in this thesis is that agents bear responsibility on account of their contribution to the injustice (whether directly or by complicity). Since broader society or the state itself contributes to the injustices that corporations are party to, we can argue that these parties share responsibility with the corporation, and thus the corporation need not bear the full burden of remedy, only its 'share.' It might be the case that Sandy's economic vulnerability results from the weak education she received owing to her social group or poor social and economic policies. If true, the state should bear its share of the remedy for these harms. While the RAP framework does prescribe an extensive set of actions there are elements of remedy that may best be enacted by the state or sectors of society along with or without the corporation.

An important aspect of corporate remedy which has not been dealt with here owing to its vast complexity, is the matter of corporate responsibility for historical injustices, that is, injustices committed multiple generations ago where individuals involved at the time, both perpetrators and victims, are no longer living. Examples of such historical injustices may be trans-Atlantic slavery or oppressive regimes such as Nazi Germany or apartheid South Africa. While the complexity over the identity of the victims or those to whom remedy is owed, remains, some

²⁷ (Sharpe, 2007, p. 27)

of the complexity over the identity of the perpetrator could be reduced when we consider the corporation as a ‘historically continuous body.’²⁸ By this view, the corporation that committed injustices historically is connected to the current incarnation of the corporation in tangible ways. It is unlikely that one incarnation of the corporation (shareholders, employees, assets, brands, intellectual property, contracts, and so on) ended on one day and a new incarnation started on the next. It is more likely that these overlapped over time as employees, say, left the corporation and new employees joined, or as old shareholders sold their shares and new shareholders bought. The financial and intellectual assets of the corporation would no doubt have been carried on through the generations. If a company benefited from an injustice, it committed one hundred years ago, it is not unreasonable to expect that some, if not all, of that benefit continues to materialise in the current corporation in terms of knock-on cumulative effects like brands that build over time, or cash stockpiles that accumulate over time. If the injustice gave the corporation a competitive advantage in the past, the current corporation could still be benefitting from that historical advantage (for example access to cheap labour, or preferable contracts with a repressive regime), since opportunities often follow particular advantages. This allows us to conceive of the corporation as a continuous body connecting the current corporation to the old one. This connection raises the complex questions around the nature, if any, of the remedial responsibility borne by the current incarnation of the corporation. While scholars have addressed this question in relation to nations, it seems to have been overlooked for corporations, and would be a fruitful area for future research.²⁹

²⁸ (Butt, 2006, p. 357). I introduced this concept in Chapter 4.

²⁹ (Butt, 2009), (Thompson, 2002), (Lu, 2017), (Isaacs, 2011)

Avoid causing injustice: changing corporate behaviour

It should be uncontroversial that the most obvious first step to avoid contributing to injustice is to stop the wrongful practices that contribute to injustice. If a corporation is paying women less than men for the same work, it has an obligation to stop this practice and pay women and men equally for the same job. If the corporation employs workers in inhumane conditions, it should change their working conditions. Avoiding injustice requires a change in the way the corporation operates guided by a change in its corporate policies for trading, sourcing, recruitment, people management and so on.

Similarly, since a necessary and sufficient condition of becoming complicit in wrongdoing is to perform a contributing act, one obvious way to avoid complicity in wrongdoing done by other corporations in corporate networks is to avoid performing a contributing act.³⁰ So refraining from contributing to the ATCS is certainly a key requirement of corporations. Corporations can also avoid complicity in wrongdoing by taking actions that “actively interfere” in the wrongdoing being done by other corporation.³¹ Interfering in the wrongdoing of other corporations could entail approaching the corporation directly to discourage the behaviour, report the behaviour to authorities or refuse to do business with the corporation. There are limits to what can be expected in this regard since we would not hold a corporation blameworthy or complicit in a wrongdoing if their best efforts have failed to stop it.

I wrote earlier that since networked injustice arises by the action transformation causal sequence (ATCS), it follows that rectifying network injustice should be targeted at this causal sequence. To avoid contributing to injustice, the corporation ought to avoid contributing to the ATCS. I will take each stage in the ATCS to explore what avoidance of injustice might entail.

³⁰ (Mellema, 2016, p. 77)

³¹ (Mellema, 2016, p. 77)

Participation in corporate networks: As argued in Chapter 2 and Chapter 3, corporations fundamentally conduct their business in networks, so it would be unreasonable to require corporations to withdraw from networks or to refrain from networked action (collaboration, cooperation, and so on) since this would retard economic progress. What corporations ought to do however is avoid having their participation in networks transform into unjust outcomes. This may require changes to the networks (as discussed below) but relates more closely to changes in corporate behaviour. Where corporate networks are overtly unjust, for example where exploitation of workers is commonplace, to avoid contributing to this injustice or being complicit, corporations should seek to withdraw from these arrangements if they cannot be reformed.

Harmonisation of behaviours: The most significant outcome of networked action in corporate networks, that leads to injustice, is the harmonisation of behaviours that emerges. As long as corporations continue to operate in networks, they will be subject to the force of harmonisation. Avoiding injustice would require refraining from deliberate contributors to harmonisation such as imitation and following network norms and reviewing its behaviour to guard against non-deliberate imitation. Breaking the ATCS sequence at this stage is the most promising form of avoiding contributing to networked injustice. Corporations would be required to actively interfere with network norms by agreeing to codes of practice for example, that ensure norms do not facilitate or enable wrongful outcomes. A particular norm that would require significant change is that of corporations' willingness to harm as discussed in detail in Chapter 3.

We essentially want non-compliance with certain network social norms and rules. Norms tend to persist for long periods, and to respond very sluggishly to changes in external conditions that alter the benefits and costs of adhering to the norm. This makes changing norms very difficult.

However, when norm shifts do occur, the transition tends to be sudden rather than incremental.³²

Interactions with persons: Avoiding injustice requires careful consideration of the impacts of corporate actions on individuals. The most profound impact of the ATCS is that mere unfavourable interactions with individuals can blow up into unjust outcomes. An important element of this careful consideration of impacts on persons is taking account of the decisions and actions of other corporations. Goff writes that “it is acceptable for an economic actor to make random errors in the pursuit of his own interests, but he should make sure that his errors are not correlated with the errors of his peers.”³³

Discharging the responsibility to avoid injustice requires that the potential for contributing to an injustice forms part of the consideration of corporate decisions alongside the usual economic considerations. If contemplating raising the price of a product, the corporation needs to consider the impact this would have not only on its profits but on the vulnerable in society, especially if all suppliers of this product raise their prices. If a corporation is able to pay women less than men which bring it financial benefits, it needs to consider the reason women might accept lower pay. If its contemplated action of raising prices or recruiting women at lower pay, create, aggravate or perpetuate an injustice the corporation has an obligation to avoid this result by changing its operating practice. This requirement, like many others in this chapter, will impact the economics of the corporation and its relative competitive position. It raises the issue of the cost at which corporation ought to discharge their justice responsibilities. I will address this issue later in this chapter.

³² (Young H. P., 2015, p. 363)

³³ (Goff, 2016, p. 579)

This responsibility holds regardless of the legal and social norms in force in the society where the corporation operates, that is, even if it is an accepted norm to follow a wrongful practice or there is no legal constraint to doing so, the corporation ought to stop. This holds too in cases where the injustice is illegal but poorly enforced. Hsieh argues that where just institutions don't exist, corporations may have a responsibility to promote the establishment of such institutions.³⁴ Corporations often hold powerful positions in weaker states who might be unable to enforce local laws for fear of economic retaliation such as closing down operations or reducing investment, which may translate into corporations enjoying de facto immunity from contravening certain laws. It is this power to commit injustice that further endorses the responsibility for corporations to avoid situations where they would commit them.

In addition to the requirement to refrain from its obvious contributions to injustice, corporations also bear responsibility to avoid more subtle contributions such as perpetuating enduring effects of past injustices.³⁵ The effects of injustices often don't end when the act of injustice ends or even after the injustice is rectified. People are rendered vulnerable and suffer deprivations by the injustices they suffer. These vulnerabilities and deprivations continue long after the original injustices are committed. Corporations that operate in societies with such background conditions ought to take care that their usual business practices don't perpetuate the harms suffered by parties they interact with. By treating victims as though the deprivation does not exist the corporation may end up perpetuating it, thus arguably committing a new harm.

The effects can continue long into the future, decades and sometimes even centuries as we see in many African countries who suffered under colonialism or African Americans owing to slavery. What causes these effects to continue for so long? Perhaps the deprivations are so

³⁴ (Hsieh N.-h. , 2009)

³⁵ (Spinner-Halev, 2007) discusses this topic.

severe that the victims cannot recover. Or perhaps the intentional acts continue to deprive the victimised group. A third explanation is that unintentional acts continue to perpetuate the effects of the injustice. It is this third view that I want to explore further since I believe it pertains to the corporation in important ways and serves as an example of the norms and practices by which injustices are perpetuated.

Suppose a corporation invites applications for a high-paying job, and Sandy applies. We know that if only she could earn the money of such a high-paying job, Sandy could afford accommodation and avoid homelessness. However, Sandy suffers a deprivation that she cannot overcome, her lack of skill and experience at this job. If it is the case that she is a victim of historical or current gender or class discrimination, say, which now confines her to low-paying jobs, by simply employing her in this low-paying job and not seeking to remedy Sandy's situation, the corporation could arguably be perpetuating the injustice suffered by Sandy, since her deprivation is not due to any choice, decision or acts of negligence or laziness on her part but the injustice she suffers. Acknowledgment that current injustices have some roots in past injustice provides additional weight to moral arguments for remedying these current injustices.³⁶

Under these conditions, filling all high-paying jobs with men because they alone possess the required skills, could be conceived as a further injustice against women. Because the corporation has work that needs to be done which requires particular skills and since these skills are concentrated in a particular gender, the corporation would argue that it only hires men into high-paying jobs not because of discrimination against women but because they lack the skills. What this claim misses is that the unequal distribution of skills is the legacy of an injustice. By following its usual recruitment processes the corporation would be perpetuating

³⁶ (Young I. M., 2011, p. 184)

the injustice. While the corporation does not intend the harm it can foresee it, as a side-effect of its recruitment policy.³⁷ The thorny question though is whose responsibility it is to fix it – the background system of education, or the employer. On one view the answer depends partly on what is most socially expeditious – for instance, perhaps restructuring hiring practices is socially damaging in a way that reform of the education system isn't. Either way, it requires deliberate reflection and consideration as to behaviour to avoid injustice, rather than continuing to act without these considerations.

Sandy's experience, as described here, could also be deemed an *indirect discrimination*.³⁸ Whereas direct discrimination is characterised by the explicit and intentional treatment of a victim by a perpetrator to disadvantage the former because of their membership of a socially salient group, *indirect discrimination* “occurs whenever an act imposes a disproportionate burden on a group of people where this does not involve any bias or discriminatory intention on the part of the agent.”³⁹ An agent that discriminates indirectly perpetuates a latent disadvantage suffered by victims of direct discrimination, creating a new disadvantage, even if unintentionally.

Indirect discrimination involves the ‘perpetuation of disadvantages resulting from past direct discrimination.’⁴⁰ This perpetuation occurs as follows: due to current or historical discrimination members of a group would suffer a particular deprivation or disadvantage, for example, lack of education. This renders them unable to perform certain jobs or to perform them much poorer than someone who is educated. So, an employment policy that requires a certain productivity level, say, while not intending to discriminate against any group, might in fact turn out to discriminate against the uneducated group, who through no fault of the own,

³⁷ (Kagan, 1998, p. 101)

³⁸ (Lippert-Rasmussen, 2014)

³⁹ (Lippert-Rasmussen, 2014, p. 56)

⁴⁰ (Lippert-Rasmussen, 2014, p. 55)

are uneducated due to the discriminatory practices to which they are or have been subjected. In a case such as this, the corporation's policy would be heaping more suffering onto the already-disadvantaged individuals, thus not only perpetuating their disadvantage but possibly exacerbating it. This is why group discrimination is particularly relevant – since disadvantage is cumulative, the less someone has work opportunities the less they gain work competence thus leading them to gain fewer work opportunities.

The idea is that if it is deemed that an actor's continued ordinary behaviour would perpetuate an existing injustice then the actor would be required to change their behaviour or interactions with victims such that the injustice is no longer perpetuated. This is not a reparation that requires the perpetrator necessarily to make reparations to the victim but rather to avoid causing a harm. With the victim in a vulnerable position, the perpetrator runs the risk of complicity in the injustice that caused this vulnerability. In societies where regulations exist pertaining to indirect discrimination, the duty to avoid perpetuating injustice is discharged by corporations first assessing whether there are forms of indirect discrimination that aren't the subject of regulation, and then taking this prescribed action accordingly.

What are the corporation's options in responding to Sandy's application? I identify five possible responses.

The first response could be to *decline the application* and the corporation could claim that it hires on merit and pays its staff to deliver performance, and since Sandy does not possess the skills required for the job, she will not be able to deliver the required performance. A second response could be to *hire Sandy into the high-paying job*. Perhaps aware of Sandy's circumstance and wanting not to perpetuate the injustice the corporation offers the job to Sandy. However, soon it becomes apparent that Sandy cannot perform the job as things begin to go wrong. A third option might be to *hire Sandy into the high-paying job with extra support*. As

is often seen in affirmative action programmes, Sandy could be hired into the job for which she is currently ill-equipped but is offered intensive skill development training and professional coaching. The expectation would be that eventually she'll deliver at the required level of performance. This option goes a long way to addressing Sandy's deprivations since it offers her a high-paying job with all the associated socioeconomic benefits, and it offers her the opportunity to develop her talents. Fourthly, the corporation could *hire Sandy into a low-skill job but pay her at a higher level*. Keen to offer Sandy some opportunity to improve her lot, the corporation could hire Sandy to do a job for which she is skilled but rather than pay a low salary, she is paid at the high-paying job rate. This would come at an increased cost to the corporation but the incremental pay to Sandy would represent a form of injustice-avoidance from the corporation's standpoint and perhaps Sandy would see it as compensation for the injustices she has suffered. Finally, the corporation could *evade the situation* by not hiring anyone or at an extreme, decide that the cost of operating in this market is getting too high given the justice responsibilities it bears and so shuts down its operation. In the case of not hiring anyone, this would be unsustainable and would begin to damage the business eventually. Exit would be an option for the corporation but in both of these cases, the corporation would have forgone an opportunity to fulfil its justice responsibility, assuming it bore a remedial responsibility to Sandy. There is an aspect in which exit might be to the benefit of society. If the corporation is one who is determined to ignore its justice responsibilities and may wilfully commit injustices against staff, then the society would be better off with them leaving since fewer injustices would be committed.

The typical corporate practice is reflected in the first response – it would simply not employ Sandy. From Sandy's standpoint it is yet another blow stemming from the deficits that she suffers and her hopelessness of escaping it. By following its usual hiring process, the corporation is reinforcing the inequality (of skills, wealth, social status, and so on) in the society

and continuing to heap the burden of Sandy's unjust inherited deprivation upon her. This response by the corporation ensures that the injustice persists. If the corporation follows meritocratic hiring, then at issue is what 'merit' entails. Efficiency and productivity might suggest that Sandy does not merit employment because she lacks the required skills today, while justice might suggest that she does merit employment owing to the corporation's CJR to avoid perpetuating the deprivation she suffers.

The same goes for the second and fifth responses. While hiring Sandy into the high-paying job knowing her skill deficit might start with good intentions, not much will be achieved and in fact, having failed at the job, Sandy probably leaves believing the social rhetoric about her community being incompetent and others at work believing the same. The third response is not costless to the corporation. The corporation incurs the cost of the training and coaching, it bears the cost of the period of Sandy's underperformance while she comes to grips with the job requirements and there is the possible dip in morale as other staff observe an underperformer receiving special treatment.

The problem with the third response is that it tries to address two problems at once, namely the problem of Sandy's low skill level and the problem of her low economic status. Addressing both simultaneously comes with extra burdens to the corporation as already described, and they also come to Sandy in the stress and self-doubt she may experience in this demanding role. This option is predicated upon a belief that Sandy will eventually reach the target skill level and that there are no major disasters in the interim while she gets skilled up. While the fourth response might seem nonsensical, of paying a worker at a higher level than the job she performs, I believe it addresses these challenges and offers a workable option. It takes the two problems separately. It acknowledges Sandy's skill deficit and rather than subject her to a potentially humiliating upskilling programme, it employs her at a level which she can comfortably deliver at. However, in acknowledgement of its obligation to Sandy, the

corporation pays her a compensatory amount. Rather than contribute to some vague community project in acknowledgement of its corporate social responsibilities, such an initiative contributes directly to remedying the injustice suffered by a person which would have knock-on social benefits to her family. The approach does not solve Sandy's skills deficit but with her higher pay Sandy can invest in her own skills development which may be to her benefit since it gives her more career options than only receiving training at the corporation which would most likely only be relevant there. The approach recognises that not every injustice can be fully avoided or remedied but that there are ways to advance justice by reducing the effects of injustice if not eradicating them entirely.

Of course, a corporation does not only hire one person and would have responsibilities beyond only their staff, so the total cost needs to be considered. It is a departure from normal business practice but is a positive step away from vague notions of corporate social responsibility. In the presence of injustices, to avoid perpetuating injustices and being complicit, the corporation would need to change its operating practices. This is a conclusion shared by Hsieh who writes that in nonideal institutional environments, avoiding harm may require corporations to "curtail their activities."⁴¹

This example demonstrates the complexity of seeking to avoid perpetuating an injustice but also that it is possible. Like the more direct ways of refraining from unjust activity as prescribed by CJR, avoiding perpetuating enduring injustices requires a *deliberate* change of corporate behaviour and practices. In the case discussed above, it would require a change in employment practices, whereby firms are required not to recruit staff meritocratically when doing so manifests indirect discrimination against members of certain groups.

⁴¹ (Hsieh N.-h. , 2013, p. 9)

In a broad sense, where a corporate culture has emerged that has normalised behaviours that contribute to injustice, this normalisation would need to be reversed. This requires extensive change management in the corporation and to be successful, must be led by senior management.⁴²

Prevent the commission of injustice: contributing to structural reform

Young questions the moral acceptability of institutional rules and practices that when followed produce and reproduce injustice.⁴³ We must similarly question the workings of injustice-producing networks and the moral acceptability of their practices which presents a fundamental challenge to accepted business operations.

Since participation in corporate networks renders the corporation most likely to contribute to injustice, the corporation will need to modify its participation. As discussed above, while corporations might be able to withdraw from some networks, it is unlikely they can withdraw from all, so CJR would require that corporations work to reform these networks to minimise or eliminate the harmful harmonised behaviour that results. In most societies anti-trust legislation is in place to avoid anti-competitive behaviour or collusion. Where these laws don't exist or are poorly complied with, corporations would be expected to promote their development or compliance. This requirement would be grounded, like the requirements of remedy and avoidance, in the negative duty to refrain from contributing to injustice whether directly or complicitly.

Preventing injustice makes the greatest long-term contribution to advancing justice and may not demand much in terms of financial resources but could be the most complex to execute.

⁴² (Ashforth & Anand, 2003, p. 37)

⁴³ (Young I. M., 2011, p. 95)

Whereas remedy and avoidance of injustice are largely within a corporation's control, prevention requires collaboration with peers in networks and requires behaviour change of others, making it more demanding. These reforms require shared actions among network participants, it requires organisation, the will to cooperate on the part of many diverse actors, significant knowledge of how their actions produce networked injustice, and the ability to foresee the likely consequences of proposed remedies.⁴⁴ Whereas networked action can lead to unjust outcomes, corporations can use their presence in networks and networked action to contribute to the prevention of injustice. Here their networks become a force for good beyond corporate financial benefit.

The idea of 'preventing' injustice could appear too daunting a task for any agent, but collectively with others this is more achievable and even then, where resources are limited, corporations should focus where they have the appropriate resources and influence.⁴⁵ While broader social structures may require reform to fully eliminate corporate injustice, it is reasonable to expect that corporations first focus on the networks within which they operate.

An impetus for reform of unjust networks is that as long as arrangements such as business networks remain unjust, corporations who participate in these networks will continue committing and perpetuating injustices, thus accruing remedial obligations. It would be self-defeating for corporations to implement programmes of remedy and change their operating policies to avoid contributing to injustice if they don't also work to prevent injustice by reforming the networks in which they operate.

⁴⁴ (Young I. M., 2011, p. 153)

⁴⁵ (Young I. M., 2006, p. 127)

Prevention requires that the corporation intervene in the mechanisms by which injustice is likely to perpetuate, which as I've argued is the networks within which it operates, whether with peers in an industry or along its supply chain. Prevention therefore has two broad components relating to the operation of the networks and the legislative environment within which these networks sit.

So, firstly, preventing injustice requires *self-regulated change of the norms and accepted behaviours of the networks*. As Young points out, the ongoing sets of processes will continue producing harms unless there are interventions to change them.⁴⁶ If it has become a norm to practice gender discrimination then this norm should be eliminated from the functioning of the network. If the correlated pricing behaviour among landlords in a community are causing avoidable homelessness, then these landlords should reform this policy. If procurement rules by a multinational corporation places such extreme cost pressure on a factory owner in a developing country leading to sweatshop factory conditions, then the corporation should collaborate with all parties along its supply chain to reform the procurement policy and enable the factory owner to offer humane working conditions. Rather than abandoning the sweatshop, the corporation bears an obligation, in virtue of its dominant position in the supply chain, to use its influence to improve the working conditions of workers in the factories of its subsidiaries of contractors.⁴⁷ Corporations often don't face legal sanction for injustices committed by contractors in other countries. Similarly, those contractors are not held legally responsible in the corporation's home country. It falls upon the corporation itself then to hold its contractors responsible for their treatment of employees.

Self-regulation and reform of networks may be insufficient, and so a second form of preventing injustice requires *advocating for changes to public policy*. Corporate injustices mostly arise in

⁴⁶ (Young I. M., 2006, p. 122)

⁴⁷ (Wettstein, 2009, p. 306)

environments of weak legal regimes or weak enforcement of what laws exist to prevent injustice. Rather than take advantage of conditions corporations ought to lobby for tightening of legislation and stricter enforcement. In developing economies governments are often reluctant to institute stricter labour practices for fear of becoming an unattractive destination for foreign businesses, or causing those already present to exit. Corporations need to give government the assurance that stricter policies would not induce them to leave. Governments' eagerness to attract large corporations to their shores provides corporations with the opportunities to influence working conditions in factories by refusing to invest where appropriate policy is in force. This obligation stands in contrast to current prevalent corporate practices where corporations seek out societies with lax labour policy owing to their lower cost. This behaviour acts as a deterrent for reform. Public policy reforms are therefore required to bring about change. Corporations regularly exercise the influence gained by the powerful social position to further their own interests. CJR requires that this influence be used to advance justice. In support of the role corporations ought to play in these reforms, Wettstein writes powerfully that "institutional agents ... are better equipped to deal with the structural conditions" that require reform, and that "they are better able to see, assess, and possibly understand the sometimes distant, indirect effects of their actions and decisions and, accordingly, to avoid harmful outcomes linked to their conduct. Moreover, institutional acts have greater impact and leverage. This goes both for producing harm as well as for preventing and remedying it."⁴⁸

Like other responsibilities of justice, CJR is demanding of responsibility-bearers. Foundationally, discharging CJR requires a change of behaviour and a re-evaluation of

⁴⁸ (Wettstein, 2012, p. 160)

corporate decision-making, especially when it comes to trade-offs between pursuing economic opportunities and causing harm to third parties. Corporations that have already been contributing to injustice, already bear a debt they must pay through some combination of a programme of action and financial compensation. Companies that continue to operate in corporate networks through which injustices are produced ought to undertake a programme of action to change their behaviour and reform those networks (as discussed below).

The prescribed actions to discharge CJR are distinct from the prescriptions offered by CSR. Discharging CJR does not entail a diffused programme of corporate action delivered for the benefit of the vague notion of “society” as prescribed by theories of corporation social responsibility, but a focused programme of action and an adjustment to the way of doing business. While theories of corporate social responsibility may offer corporations latitude in the scope of their social action, CJR directs urgent corporate action towards the sources of the injustices and their victims. CJR is focused on rectifying injustice, not justifying business or merely advancing its social legitimacy, as discussed in Chapter 1. It seeks to rectify specific injustices, caused by specific actors and actions, and suffered by specific victims (as far as practical), rather than the approach under CSR which usually allows the corporation latitude to engage in social projects that suit its business needs. I am not suggesting that corporations stop their programmes of corporate philanthropy and efforts to be better corporate citizens or wrestling with the opportunities and challenges posed by stakeholder theory. What I am suggesting is that while these efforts may contribute to corporations’ duties of benevolence, they do not discharge corporate justice responsibility.

By way of summary, remedy-avoid-prevent (RAP) expresses principles that prescribe actions for discharging corporate justice responsibility. Remedy and avoidance occur within the

existing structural context which demonstrates the necessity for actions that prevent injustice or promote justice through structural reform of networks. Remedy, avoid and prevent are interdependent – refraining from unjust activity reduces the need for remedy, and working towards the prevention through reform of structures and peer behaviour, corporations are less likely to be complicit in the wrongdoing of others and have fewer injustice minefields to navigate and avoid. It is only when corporations have failed in the responsibility to avoid committing injustice or prevent injustice, that they bear remedial responsibility. They cannot be excused for this remedial responsibility on the grounds that it is burdensome when it results from their own actions in committing the injustice and failing to instantiate social arrangements that prevent such activity.

What emerges clearly from this discussion is that rectifying corporate injustice is unlikely to improve corporations' profitability. This is not the aim of CJR. However, this issue of corporate financial responsibilities cannot be overlooked and so in the next section I address the issue of the cost of discharging CJR and how justice fits into other corporate responsibilities.

7.3. Cost and priority of prescribed action

If we are to expect compliance, we ought to consider the costs that the corporation would bear in discharging CJR and what other responsibilities it faces. I don't mean to imply that the expectation of compliance is a prerequisite for the authority of a normative requirement. We want compliance but know that agents often don't comply; some cite good reasons for not complying such as the lack of understanding of their responsibilities or that compliance conflicts with other responsibilities. I'm suggesting that the more we can stipulate how agents

should think about their responsibilities and offer action-guidance, the more likely they are to actually comply.

The attractiveness of looking to corporations to act to advance justice is that they usually have the resources that could be so employed. These could be financial resources, facilities, equipment, as well as human capabilities. Furthermore, corporations can create economic opportunities for those who may need them such as offering employment, investing in new ventures on preferential terms, or offering preferential supply or purchase contracts. But the resources under the corporation's control are accumulated for a purpose – to advance the corporate objective of generating profit. And these resources already have claims against them such as claims relating to ongoing operations, debt claims held by banks, bondholders or creditors, and there are shareholder claims on these resources. Directing resources to the pursuit of justice means diverting these resources away from their current economic purpose and away from the current claimants. Assuming discharging CJR comes at significant claims on resources and corporations have limited resources, what takes priority – meeting business claims or discharging CJR?

Two ideas might help define the limits of the cost a justice responsibility-bearer ought to incur. First, is the Nozickean idea that an agent is entitled to their holdings if they were acquired justly.⁴⁹ If the resources under corporations' control have not been acquired justly, then we could argue they are not entitled to these resources and that whatever was gained from or denied to victims of justice ought to be the cost of remedy. This might be considered the minimum since victims might be owed compensation for inconvenience and for non-economic harms. Corporations might also be liable for interest. The idea of the cost to be incurred is discussed

⁴⁹ (Nozick, 2013, p. 122)

more fully in the next section of this chapter on corporate justice debt. Employing these resources to advance justice is not punishment or a cost, but an act of promoting justice, in some sense, returning these resources to their owners. The second idea to define a limit on cost is offered by Singer who argues that we ought to bear the cost of rectifying a harm up to the point where any further cost causes a new moral harm.⁵⁰ Here corporations would need to demonstrate that discharging their justice responsibility creates a new injustice, perhaps such as forcing the corporation into bankruptcy which would have economic repercussions for employees, suppliers, investors and so on.

There tends to be a concern that if corporations are to remedy and avoid injustice, they will become economically unviable. The concern might extend even further to claim that more unjust corporations might replace the existing set, and thus leading us to the unintended consequence of making society more unjust. But with the right background institutions, the new set of corporations could equally be more committed to justice and their justice responsibilities, free of the obstacles that existing corporations claim they face.

Some may argue that justified harms are not morally blameworthy and that the harms corporations cause are justified because of the social good they do. Or that we have priorities among our moral responsibilities. Both arguments might be plausible. An example might be pharmaceutical companies that manufacture vaccines that save millions of lives each year. What is the justification? That committing injustice that some bear is justified by the benefit others enjoy? Another way of putting this – the concern might be that demanding that such corporations discharge their corporate justice responsibilities will create a greater harm than the harms currently perpetrated by these corporations, say. I suggest the innovation that our modern societies and economic players require is to abandon our readiness and willingness to

⁵⁰ (Singer P. , 1972)

harm and seek to advance good without injustice, or advance the most good with the least injustice, rather than accept that the social good that derives from corporate activity produces injustice.

Some may claim that shareholders have a special claim on the organisation and therefore their interests take priority. This claim often accompanies a further claim that the contract between the shareholders and corporate executives binds the executives to pursuing the interests of shareholders, and therefore makes it illegitimate to pursue other ends. It is a strange claim which seems to indicate that when two parties enter a contract with one another all other responsibilities necessarily fall away. Even though executives are employed by the corporation and bear some responsibility to shareholders, these are not the only responsibilities the executives have – they continue to bear responsibilities to their fellow humans. I acknowledge that shareholders have a claim to furthering their interests, but it is not an at-all-costs claim, it is a conditional claim. One important constraint on this claim is that if the corporation commits injustice, it rearranges its moral priorities to place the interests of the victims of its unjust acts above those of shareholders. Wolfe reminds us that corporations have obligations not only to their shareholders, but also to others in the society as well; they have public duties, even to the point of having to accept lower profits than might otherwise be the case.⁵¹

In ideal conditions, we can conceive of corporations as operating as they currently do as secondary agents of justice, a term introduced earlier, used by O'Neill. Under such conditions the financial interests of shareholders can take priority. But when conditions change, when corporations are participants in activities that bring about injustice, they effectively rearrange their moral priorities such that shareholder financial interests are subordinate to justice. This could arise from its own direct action or in virtue of its participation in a corporate network.

⁵¹ (Wolfe, 1993, p. 1675)

Only justice responsibilities that flow from committing an injustice take priority, not necessarily others, especially positive duties.

Discharging CJR may not be feasible under the current legal and economic frameworks of business. CJR requires reform of the corporate objective (as discussed below) and reform of corporate behaviour (as discussed above). These are unlikely to be enacted voluntarily by corporations, and if enacted differentially could create distortions in corporate competitiveness. Corporate justice responsibility may require revisions to company law and professional codes of practice, for example the accounting standards. Hsieh has argued that in the absence of just institutions, corporations bear a responsibility to promote these institutions.⁵² This pursuit could form a significant part of the reform requirements specified in the framework of prescribed actions above.

The matter of cost and priority is addressed again below in the discussion on corporate purpose. For now, to help conceive of the cost that is reasonable for corporations to bear and the programme of paying this cost, I introduce the idea of corporate justice debt in the next section. The idea of paying down a debt over time may ease concerns that discharging CJR cause force the corporation out of business.

7.4. Corporate justice debt

Corporate justice debt is a means of quantifying what is owed by a corporation in virtue of its CJR and will play an important role in considering the revisions of the corporate objective in

⁵² (Hsieh N.-h. , 2009), (Hsieh N.-h. , 2017, p. 199)

light of CJR, in the next section of the chapter. This debt is owed by a corporate perpetrator of injustice to a victim of that injustice. The debt accrues in two ways. Firstly, by new acts of injustice, and secondly, often more significantly, as injustices go unremedied. Broadly, any unremedied injustice whether recent or historical, whether resulting from acts of commission or omission, add to the accumulation of corporate justice debt.

It is useful to present the approach to advancing injustice in terms of a debt owed because it is a language well understood by corporations and can be aligned with their organisational logic.

The structure of the concept is similar to the well-known concept of financial debt or borrowing. We borrow money from a bank to cover some financial need or to make a purchase. By this act of borrowing, we inherit an obligation to repay the loan in full under conditions agreed with the bank. Such conditions would stipulate the repayment term, that is, the number of years we have to repay the debt, what interest we will be charged on the outstanding amount and the quantum of our repayments. The loan conditions will also stipulate what penalties we'd incur for failure to repay the debt or for missing a repayment. Corporations incur financial debt as well, borrowing from banks to fund operations or equipment purchases, or borrowing from the capital markets by purchasing bonds. The structure of the obligations is similar to personal borrowings.

It is common for political theorists and philosophers to speak of what we 'owe' each other, which evokes the idea that we bear a 'debt' to others that ought to be repaid. Scanlon is one such prominent example.⁵³ Relatedly, scholars have also employed this concept of debt as a metaphor for atonement which an agent might bear for having harmed someone.⁵⁴ Since these obligations carry moral weight, they are often referred to as moral debt. By drawing an analogy with financial debt, the concept of moral debt is employed to express the notion that to wrong

⁵³ (Scanlon, 1998)

⁵⁴ (Theron, 2004), (Radzik, 2009)

another person is to incur a moral debt, and so the way to correct wrongdoing is to “repay that debt.”⁵⁵ The philosopher Storer, places moral debt “at the heart and core of moral judgment” and that it is “the central meaning of moral terms, and that moral judgments are efforts to describe those debts.”⁵⁶

Two comparable ideas to corporate justice debt have emerged in recent years, namely social mortgage and climate debt. Holders of wealth in a market economy are considered to hold their assets subject to a “social mortgage” – an obligation to apply their wealth not simply to the accumulation of more wealth but also to pay off the senior claim that society legitimately places on that wealth⁵⁷ The idea is that wealth should serve society since it is generated as part of a collective. Social mortgage expresses the integration of our participation in private markets with our obligation to our inner selves and to others.⁵⁸ Climate debt claims that those countries who have made the greater contributions to human-induced climate change, owe a ‘climate debt’ to those countries who have made lesser contributions.⁵⁹ The obligation derives from contribution and establishes a debt that is owed by one party to another.

The idea of moral debt has already been raised in the context of corporate obligations to society. Economists describe situations where “the marginal social cost of a firm’s activity increases without a corresponding marginal increase in social benefits”⁶⁰ and in management theory the concept arises when a corporation “takes a benefit from others through not fulfilling just business decisions (where just means protecting both alienable and inalienable rights).”⁶¹ While these situations certainly do create an obligation for the corporation, I will use the concept of debt in the context of justice responsibility.

⁵⁵ (Radzik, 2009, p. 25)

⁵⁶ (Storer, 1971, p. 358)

⁵⁷ (Kleinbard, 2021, p. 182)

⁵⁸ (Kleinbard, 2021, p. 183)

⁵⁹ (Pickering & Barry, 2012)

⁶⁰ (Roush, Mahoney, & Thorne, 2012, p. 87)

⁶¹ (Guidi, Hillier, & Tarbert, 2008, p. 605)

By committing injustice or leaving injustices unremedied, the corporation denies to victims that to which they have a claim. I am conceiving of this denial as ‘borrowing’ from the victim and thus the rectification as settling this debt. I accept the flaw in this analogy, especially the aspect of borrowing that is consensual, something that is absent when victim suffer injustice. A central requirement of CJR is that this debt needs to be repaid. This debt is repaid by actions according to the principles of the RAP framework discussed earlier in this chapter, that is, remedy, avoidance and prevention of injustice.

Debt can be settled by some combination of reparative acts and financial settlements. In trying to incorporate the idea of corporate justice debt into the just-profit principle, I will only consider the financial aspect here.

Corporate justice debt differs from social mortgage in that the debt arises not from the corporation’s accumulation of financial resources per se, but in light of the injustices committed in the accumulation of those financial resources. In this sense it is closer to climate debt which derives from causal contribution. But like social mortgage, as is true of any other mortgage, corporate justice debt ranks ahead of shareholders in its claims on equity and income.⁶² Like any other corporate debt, corporate justice debt does not interfere with corporate rights of ownership (debtholders have no claim of ownership over the corporation’s assets, only contingent contractual claims), but like other corporate debt, its claim on corporate profit comes ahead of shareholders’ claims. And like ordinary financial corporate debt, where, if the corporation defaults on its debt contractual obligations, debtholders have mechanisms of executing claims directly against the corporation’s assets, so too should victims have such mechanisms where corporations default on their corporate justice debt obligations.

⁶² (Kleinbard, 2021, p. 182)

Companies can settle this debt in one payment and be corporate justice debt-free provided they avoid committing new injustices, or it could repay this debt over an extended period, much like other corporate debt, which would attract interest. The actual payment terms will be determined between the corporation and the affected parties, but the principle is that this is a commitment of financial and other resources which is reported in a corporation's financial statements.

There may be an objection to this notion of corporate justice debt being settled over time rather than immediately. In urgent cases, where immediate remedy is required, immediate settlement would be demanded, which would arise from the corporation's remedial responsibility. The repayment of the debt follows the programme of action the corporation commits to under the RAP framework. There may be circumstances under which it may be preferable or simply pragmatic to opt for an extended repayment period. There will be some limit to what the corporation can settle immediately before it goes bankrupt. While I do not argue for the survival of corporations guilty of injustice for their own sake, a corporation that goes out of business might leave some debt unpaid, which would constitute a permanent injustice to victims. If the corporation going bankrupt causes a new injustice (which might include the negative impact on employees, suppliers, customers and so on) we certainly would not want it to fail. In such cases it would be preferential that we offer the perpetrator payment terms. It is also the case that advancing justice takes time, whether through remedy, avoidance or prevention, negating the need for immediate settlement of corporate justice debt, however corporations must settle as much as they can as quickly as possible. They will have an incentive to do so since the unpaid debt accumulates interest.

Corporate justice debt quantifies the corporation's justice obligation in a way that is easily incorporated into the organisational logic of its bearers and also provides guidance for accounting for this obligation. As I discuss in the next section of this chapter, the presence of corporate justice debt also plays a significant role in revising the corporate objective.

7.5. Ensuring compliance: The just-profit principle

In this section I explore the possibilities of ensuring compliance by corporations with the requirements of corporate justice responsibility. I explore four possibilities:

First, we could *rely on the virtue of corporate executives*. This would be the simplest way to satisfy ourselves that CJR would be discharged by corporations and while some might follow through, history suggests that the majority of corporations will default on the obligations. A major challenge this option faces is the way corporate executives are incentivised, that is, to maximise profit. Relying on the virtue of executives when discharging CJR is at odds with the corporate objective of maximising profit, by which they are measured and rewarded, is unlikely to yield compliance.

Second, we could *revise governance oversight of corporations*. Whereas governance, through boards of directors, are almost universally selected to exclusively represent shareholders, we could introduce employee and societal representatives to the boards with equal voting power to shareholders. With these diverse interests, we would certainly see corporate policies develop to take account of broader considerations with greater emphasis on justice than current arrangements. This is an improvement over the first option but the tension between discharging CJR and maximising profit will remain, albeit with more balanced decision-making. Numerous inefficiencies are also introduced to the corporate governance structures owing to the greater diversity of decision-makers which will render decision-making processes more complex and thus slower, and indeed reaching agreement might be impossible on some issues. Not only would there be conflicts between stakeholder groups, such as shareholders, employees and societal representations, but there's likely to be conflicts within these groups. While

shareholders tend to be homogenous, there's likely to be differences in interests between white collar and blue collar employees, or between different civil society groups.⁶³

Third, we could *legislate the requirements of RAP* by introduction amendments to company law. Under this option, the corporate objective of maximising profit remains in tension with discharging CJR, but CJR is effectively compulsory by law. It is common to have requirements of justice coercively enforced and given the severity of corporate injustices, this approach may be warranted, however experience shows that voluntary reparation can accomplish more for perpetrators and victims than reparation carried out under duress.⁶⁴ With justice at odds with the corporate objective and managers' incentives, we would expect vast efforts to circumvent the requirements even if unlawful to do so. This raises the cost of discharging CJR through greater monitoring, reporting and enforcement requirements both within corporations and within society but from a justice standpoint may be justifiable costs.

Fourth, if corporate objective is misaligned with the requirements of discharging CJR, we could *revise the corporate objective*. The basic idea here is that we define an economic measure, say *just-profit*, that accounts for the requirements of discharging CJR. Instead of a corporate objective of maximising profit, we set the corporate objective to maximizing just-profit and incentivise managers accordingly. Now the corporate objective, to maximise just-profit, is aligned with CJR. We don't rely on the virtue of managers, nor do we need revised governance structures or laws, although some elements of these would support compliance.

I believe this fourth option holds greatest promise as I will show below.

The corporate objective is usually taken to be to "make as much money as possible."⁶⁵ I call this the *profit-only principle*. When corporations are governed by the profit-only principle,

⁶³ (Bennett & Claassen, 2022, p. 2097)

⁶⁴ (Sharpe, 2007, p. 31)

⁶⁵ (Friedman, 1970, p. 1)

maximising profit or returns for shareholders is the overarching corporate objective. Ethical practice and avoidance of committing injustice are secondary, as is general pro-social activity – these are all subordinate to the objective of profit maximisation.

As discussed in Chapter 1, corporations are generally regarded to bear extra-commercial social responsibilities. As discussed however, these responsibilities too are subordinate to the profit motive. Thus, the modern corporation could be said to be governed not by the profit-only principle, but by the *profit-first principle*. Under the profit-first principle the corporation bears extra-commercial responsibilities under the wide-ranging theories of corporate social responsibility requiring the firm to direct some of its resources to social initiatives and to address social ills. However, generating profit remains the corporation's primary objective, that is, no social responsibility action is pursued if it threatens the maximisation of profit. In fact, one of the premises of CSR, as discussed in Chapter 1 is that most CSR theories support social action by corporations *only when* it aids the generation of profit. The corporate objective under CSR as described by the profit-first principle is identical to the profit-only principle, that is, maximise profit or shareholder returns, except now there is a notional hurdle to clear of ethical behaviour and social investment, albeit self-serving.

Neither of these governing principles and their associated corporate objectives, allows the corporation to discharge its CJR. Only by incorporating the pursuit of justice into the corporate objective can we ensure alignment, as mentioned above, through a corporate objective of maximising just-profit. I term this the *just-profit principle*. Under this principle, the corporation's objective is to maximise profit *after discharging its corporate justice responsibilities*. By embedding justice requirements in the logic of profit maximisation and measurement, the corporation continues with its organisational logic of a maximising objective, only now, rather than maximise profit, the corporation ought to maximise just-profit.

Whereas ordinary (unjust) profit is derived from sales revenue after expenses and financing costs (that is, interest on financial debt), just-profit is derived from sales revenue after expenses, financing costs, and *justice-advancing payments*, where the latter are the payments associated with the annual costs of remedying injustice, avoiding injustice and preventing injustice. Justice-advancing payments could also be conceived as the annual instalments of paying down the corporation's corporate justice debt.

The just-profit principle expresses the essence of CJR and holds that all corporate decisions and actions are directed towards maximising *just-profit*, that is, profit generated after discharging CJR by fulfilling the requirements of the RAP framework. With the just-profit principle as the overarching guiding principle for the corporation, advancing justice is not a project or separate endeavour, it becomes built into the strategy and operations of the corporation, as well as into how it spends and accounts for its resources.

The just-profit principle considers allocating resources to initiatives that secure justice as superior over allocating resources to initiatives that generate profit or does not sanction the generation of profit at the expense of justice. The pursuit of financial profit is thus subsidiary to the pursuit of justice. We can define just-profit as the residual profit after meeting justice obligations. Corporations are justified in maximising this form of profit. Whereas under the profit-only and profit-first principles, right action and priority of resources allocation is directed towards activities that offer the highest probability of maximising profit, under the just-profit principle, right action and right resource allocation is determined by activities that offer the highest probability of maximising just-profit. Kang & Wood propose an idea with a similar logic, what they term 'before-profit CSR,' which demands that corporations perform "moral and social responsibilities before they are free to achieve whatever level of profits they can

make. Moral and social responsibilities are lexicographically prior to economic responsibilities.”⁶⁶ In our case corporate justice responsibilities are lexicographically prior to economic responsibilities.

Just-profit is the financial surplus generated from corporate activity after accounting for justice obligations or it is financial surplus that is free of any injustice, that is, the operations that generate the profits do not participate in any activities that cause injustice.

In a just society, corporations will continue operating by the just-profit principle, only in this case the justice-advancing payments would be zero since corporate justice debt would be fully paid down. In a just society the just-profit principle reduces to the profit-first principle. Therefore, in a just society, a corporation is justified in focusing on maximising ordinary profit and making social investments voluntarily.

External oversight would still be required to ensure corporations are operating by the just-profit principle. This could take the form of a public authority which monitoring capability and sanction powers. Corporate accounting standards would need to be modified to account for the new principle and independent quantification of corporate justice debt will be required.

This option, like option 3, would still require legislative change but rather than legislate actions that corporations ought to take in pursuit of an undesirable target, I’m suggesting a legislative change to the target. Corporations are, among other characterisations, legal entities subject to constraints in law and beneficiaries of protections and rights in law. If legislation is the most effective way to enforce the just-profit principle, then this should be pursued. However, there are other options to enforce change of behaviour. Here I have in mind, as already mentioned, professional or industry standards such as accounting standards, stock exchange rules or sector charters. Triple-bottom line accounting has had positive effects in corporate behaviour, which

⁶⁶ (Kang & Wood, 1995, p. 823)

requires reporting on financial, environmental and social outcomes of corporate operations.⁶⁷ Corporations could adopt sectoral approaches, such as that adopted along the diamond supply chain, called the Kimberley Process, which seeks to eliminate blood diamonds by tracing diamonds from retail and wholesale jewellers to distributors, through diamond cutters and polishers, all the way to mines.⁶⁸

The other three options mentioned continue to place the corporate objective at odds with the pursuit of justice. It is as though a bus of schoolchildren risks veering off the road because of its wheel misalignment, so we hire a truck to continuously nudge it back into its lane to keep the children safe and guide the bus in the desired direction. With my approach we fix the wheel alignment of the bus so it drives perfectly in the direction in which we want it to go, without the need (or with much less need) for nudging and the associated risk. Rather than a corporate objective that invites corporate injustice, requiring safeguards and governance to minimise the injustice, my approach proposes a corporate objective with avoidance of injustice already built in.

Transgressive conduct is regulated by two sets of sanctions, social and personal. Social sanctions are rooted in the fear of external punishment; self-sanctions operate through self-condemning reactions to one's misconduct."⁶⁹ Expecting self-sanction while setting a profit-only target is naïve. Changing the corporate objective offers better hope of just behaviour but there remains a role for social sanction. In Chapter 1, I identified the influence social expectations has on corporate behaviour. There I discussed the view that CSR is in large part a reaction to social expectations of corporations. One approach then to guiding corporate action toward more just behaviour could be to instill this requirement in the agendas of social

⁶⁷ (Elkington, 1998)

⁶⁸ (Haufler, 2010)

⁶⁹ (Zsolnai, 2016, p. 426)

movements. I believe this is a promising route, its effectiveness being significantly boosted by having a simple targeted principle for which to advocate. I suggest that the just-profit principle could be such a target. By advocating for its inclusion in company law and financial accounting standards, citizens could make a meaningful and sustained difference to corporate behaviour for the good of society.

The idea of maximising financial profit but with restraint is not new. Even economist Friedman, extensively quoted as opposing social responsibility of corporations writes that the corporation's responsibility is to maximise profit "while conforming to the basic rules of the society, both those embodied in law and those embodied in ethical custom."⁷⁰ The idea of constraints is therefore accepted. It is the content of these constraints that are debated. Corporate justice responsibility envisions a reform of the "basic rules of society" where avoidable and foreseeable wrongful harms to persons are not justified on the instrumental grounds of pursuing profit or protecting shareholder interests. It further envisions the just-profit principle either built into "law" or "ethical custom," freeing corporations to operate by Friedman's guidance.

Corporations can reasonably foresee that their networked action will cause wrongful harms to persons but will perform these actions nonetheless. Their justification is that their actions are necessary to meet their corporate objective. I think they're right. To meet the currently-defined corporate objective of maximising profit, the corporation has no choice but to operate with a willingness to harm and to use persons instrumentally. We can prescribe changes to governance structures and changes in behaviour that may minimise this injustice, but until we *change the corporate objective*, we are unlikely to see corporations operate injustice-free.

⁷⁰ (Friedman, 1970)

Knowing that the way they operate foundationally leads to injustice, to avoid injustice corporations must retard certain behaviours at least weight them against considerations of justice before proceeding. This may mean pulling back from networked action or taking extra precautions to ensure that harm-likely action does not turn into harmful action. This may require networked action with peers not to maximise profits but to minimise injustice. And it may require giving up some bargaining power by reducing harmonisation to eliminate the effect of quasi-monopoly or quasi-monopsony power. On the same grounds that we believe monopolies are morally problematic, we consider harmonised behaviour by corporate network participants. To eliminate or minimise harmonisation there may have to be limits on collaboration, cooperation and coordination among corporations, more than there currently are, especially in level 2 networks, and there may also need to be limits on board director overlaps. We've got to work through the chain of events that goes from corporate networks to the emergence of injustice and reform these processes.

It seems overly demanding to hold corporate managers accountable for financial performance and then simultaneously make demands of justice as I am. This tension continues to plague any efforts to guide corporations to rectify the injustices they contribute to and are complicit with. Rather than keep placing corporate managers in this responsibility tug-of-war, I'm suggesting that one of the expectations be modified. We could lower our expectations of corporations discharging their justice responsibilities and so continue with the widespread corporate injustices millions suffer. Or we could modify the corporate objective by incorporating a justice component without abandoning the profit-motive. By my proposal, I have opted for the latter.

7.6. Corporate justice responsibility and corporate purpose

Hsieh identifies “two contentious debates in contemporary [corporate responsibility] scholarship: the debate about the moral agency of corporations and the debate about the purpose of the for-profit corporation.”⁷¹ I have already engaged with the debate on corporate moral agency in Chapter 4 and have found it unavoidable in this chapter to address the issue of corporate purpose. Suggesting a modification to the corporate objective is to engage with corporate purpose.

Most accounts of responsibility for injustice say that *if* an agent contributes to an injustice or *if* an agent is complicit with an injustice, then, subject to certain conditions, the agent can be judged to be blameworthy and be assigned some remedial responsibility. What the account of networked injustice, developed in this thesis, suggests is that the conditional ‘if’ is superfluous. It suggests that in virtue of corporations operating in networks, something they can’t avoid (Level 1 networks) and do routinely (Level 2 networks), corporations commit networked injustice when interacting with persons outside their network.⁷² This not only implies that corporations bear justice responsibility to rectify these injustices but that the corporation as a social institution needs urgent revision. In contrast to the popular view that asks what business can do to improve society, usually to mean what business can do *in* society, to change society, we should require business to *change itself*—this could be its greatest contribution to improving society. Many acknowledge this fact and have produced extensive literature and practice to

⁷¹ (Hsieh N.-h. , 2013, p. 1)

⁷² Recall in Chapter 3, I introduced the idea that networked injustice can be intra-network or extra-network. I am suggesting here that extra-network networked injustice is inevitable with the way the world stands and corporations operate but am not suggesting the same for intra-network networked injustice because I have not set out to study this aspect in the thesis.

bring about a change to corporate behaviour such as concepts of ‘shared value,’⁷³ ‘reimagining capitalism’⁷⁴ and theories CSR themselves, as discussed in Chapter 1.

A tension exists between the current corporate objective and justice. It is a similar tension that exists between the corporate objective and the environment, the corporate objective and human rights, and so on. Most innovations are to better manage the tension. Few try to remove the tension. I’ve tried to explore the possibility, to imagine, removing or reducing the tension. Rather than try to force a square corporation into a round justice hole, can we start by imagining justice and ask what shape the corporation ought to be to make its greatest contribution. Perhaps managing the tension is the best we can do.

Donaldson writes that “Unlike purely natural objects, we *decide*, up to a point, what the corporation is.”⁷⁵

By extending justice responsibility to corporations, the claim is that even if corporations have as their purpose the maximisation of profit, “there are conditions under which it would be wrong not to engage in activities to the benefit of other parties”⁷⁶

In considering the roles corporations ought to play in advancing justice, Hsieh distinguishes between two accounts of corporate purpose, what he terms the *interest-based* account which seeks to satisfy the interests of shareholders or stakeholders, and his *production-based* account which focuses on productive activity that “allows members of society to meet their wants and needs, either by providing labour and capital or through purchasing goods and services.”⁷⁷ I find the production-based account appealing because of its focus on the social value the corporation offers, rather than merely being a generator of profit. The account would address

⁷³ (Porter & Kramer, 2011)

⁷⁴ (Henderson R. , 2021)

⁷⁵ (Donaldson, 1982, p. 14)

⁷⁶ (Hsieh N.-h. , 2017, p. 199)

⁷⁷ (Hsieh N.-h. , 2013, p. 18)

the social circumstances of vulnerability in which many people like Sandy find themselves by “providing goods and services to those who may not be able to afford them at market prices or to provide jobs that pay more than prevailing market wages.”⁷⁸ However the production-based account of corporate purpose may not account for the remedial and preventative components of CJR, requiring engaging in activity outside the normal productive activities of the corporation. Perhaps we could tentatively add a third account to Hsieh’s typology of corporate purpose, namely the *objective-based* account, which focuses on an outcome rather than the interests of parties or the activities of the corporation. On the objective-based account, the corporation’s governing objective is either the traditional objective of maximising profit, Hsieh’s objective of allowing members of society to meet their wants and needs, or my objective of the corporation driving towards just-profit.

7.7. Concluding remarks

Justice is concerned not merely with avoiding and relieving harm but “principles that tell us what are good and bad states of affairs and what responsibilities we have to foster the one and to avert the other.”⁷⁹ Our expectations of an actor who bears responsibility to advance justice would be to contribute to building and maintaining a fairer world,⁸⁰ and that they recognise their responsibilities of justice to be above mere duties of beneficence and charity.⁸¹ We want such actors with responsibility to advance justice to uphold and comply with social

⁷⁸ (Hsieh N.-h. , 2013, p. 20)

⁷⁹ (Barry B. , 1982, p. 244)

⁸⁰ (Caney, 2013, p. 134)

⁸¹ (Barry C. , 2003, p. 223)

arrangements when they are in place, to bring about fair arrangements when they are lacking and to remedy hardships brought about by unfair existing arrangements.⁸²

I have laid out what I believe justice requires of corporations – the principles for their actions, our expectations of them, and their obligations to advance justice.

Discharging corporate justice responsibility is not straightforward. There is complexity in what is required of the corporation to rectify networked injustice and even greater complexity in dealing with its competing responsibilities. This chapter sought to offer guidance to navigate this complexity, ultimately arguing that our best way forward is to revise the corporate objective and purpose to drive towards just-profit rather than pure financial profit.

Neuhauser writes that it is unclear whether Young consider corporations to be “only part of the unjust background structure that can (and perhaps should) be changed by the joint action of individual actors. Or *corporate actors are actually responsible agents themselves* who can take over a part of the forward-looking responsibility to overcome structural injustice”⁸³ (my italics). With regard to networked injustice, I’ve made it clear that corporations are not merely part of the background structure but direct participants in bringing about networked justice and are thus responsible for acting to rectify it. Neuhauser continues: “Then, for example, it could be part of the political *responsibility of corporate actors to change their own structure* so that it becomes easier for certain individual actors to comply with their political responsibility”⁸⁴ (my italics). I support the intuition that participation in networked injustice may require corporations to change much about themselves. I have focused on changing their governing objective and behaviour which would lead to structural change within corporations.

⁸² (Barry C. , 2003, p. 223)

⁸³ (Neuhauser, 2014, pp. 240-241)

⁸⁴ (Neuhauser, 2014, pp. 240-241)

CONCLUSION

'It is nonsensical and destructive to assign any moral responsibility for injustice to corporations. If any moral responsibility for injustice arises from corporate activity, it is borne by the transgressing corporate employees, not the corporation. Assigning such responsibilities to the corporation would place undue burdens on corporate activity which ultimately harms society, since even though corporations get things wrong sometimes, they mostly generate vast social good. The corporation should be left to get on with the job of producing the social good it is set up to produce and should not be taxed with additional burdens that fall to others.'

This statement captures my synthesis of the attitudes among many scholars, legislators, lawyers and business professionals, many of which have been outlined in the thesis, toward the idea of corporations bearing corporate justice responsibility. The statement presents the theoretical and pragmatic hurdle this thesis has sought to overcome. Packed into this short statement are four challenges this thesis has wrestled with: The *first* challenge is that we lack a compelling account of corporate injustice to respond to the idea that corporations merely 'get things wrong sometimes,' and so it follows that we do not have an account of the responsibility corporations bear for this account of corporate injustice, our *second* challenge. Our response here would have to follow the idea that corporations are not simply failing to comply with their justice responsibilities, but that we have not developed a compelling account of these responsibilities. *Thirdly*, even if we can establish that corporations commit injustice and if we can construct an argument for the responsibility they ought to bear for this injustice, we face the challenge of showing that corporations have moral agency such that corporations, not merely their employees, are fit to be assigned moral responsibility for justice. The *fourth* challenge for an account of corporate justice responsibility is what is demanded of the corporation to discharge

this responsibility and how conflicts with what is termed, corporate purpose, which usually is expressed as corporations operating by the objective of maximising profit, should be resolved. So we'd need an account of the cost expected of corporations to rectify injustice.

If I have been successful in developing a theory of corporate justice responsibility, then I have met these four challenges the thesis faced. Corporate justice responsibility (CJR) is the moral responsibility borne by commercial corporations to rectify corporate injustice, what we've developed as networked injustice. While corporations do commit standard injustice and participate in social processes that contribute to structural injustices, which may attract responsibility by the liability and social connection models of responsibility respectively, I have argued that corporations principally commit injustice when participating in corporate networks, and thus principally commit networked injustice.

In Chapter 1 I identified gaps in the corporate social responsibility (CSR), business ethics and political theory literature in the account of corporate injustice, the injustices that corporations routinely commit, and accounts of the responsibility for corporate injustice. In simple terms, political theory addresses injustice but pays little attention to the corporation as a perpetrator of injustice and a responsibility-bearer for injustice, while CSR theories focus on corporations but mainly overlook corporate responsibility for injustice. Corporate justice responsibility seeks to bring these two literatures together by presenting a view of how corporations contribute to injustice, and by presenting an account of responsibility for this injustice that is borne by the corporation.

One of the failings I identified in theories of CSR is their adherence to attempts to justify the existence and behaviours of corporations rather than address particular moral concerns. My goal in the thesis has been to flip this around – to focus on addressing a moral concern (injustices such as exploitation, discrimination and deprivation) and assess how best the

corporation can meet its responsibilities for justice while also meeting its commercial responsibilities. The thesis took seriously the fact that real people suffer widespread injustices and that corporations are significant contributors to these injustices. And it took seriously the range of responsibilities that corporations bear and the complexity faced in acting to address injustice.

Underpinning my approach is the rejection of the seeming assumption that CSR theories make, that corporations are morally neutral actors, looking from the outside in on injustice. I have argued that corporations are very much on the inside when it comes to injustice and that they bear stringent responsibilities to address this fact, not merely as altruism or philanthropy. Only by acknowledging this reality can we begin to develop meaningful ideas about what truly ethical and just corporate action entails.

In Chapter 2 I identified a gap in political theory in theories of responsibility for injustice, particularly corporate injustice, which I believe CJR contributes to closing. I argued that social connection theory lets corporations off too lightly, overlooking the significant role they play in society and injustice, that liability injustice cannot account for the fact that corporations act in structured networks and that collective responsibility did not apply to networked corporations since networks are not collectives, share no common goal, and are ongoing arrangements rather than the once-off structures typical of accounts of collective responsibility. Political theorists tend to assign responsibility for justice to corporations only where states are weak and even then, with a focus only on institutional change, overlooking the need for remedial action and change of corporate behaviour to avoid injustice. On my account, corporations bear justice responsibility whether a state is weak or strong.

Developing the account of networked injustice which emanates from, and is mediated by, corporate networks and follows the interactions between corporations and parties outside these networks, dealt with the *first challenge* this thesis faced, that of not having a compelling account of corporate injustice. Corporations commit networked injustice routinely in virtue of the fact that corporations necessarily participate in networks with other corporations and cannot but interact with third parties outside these networks (Chapter 2 & 3).

Young explained that injustices suffered by vulnerable persons arise due to blameless actors following social norms in social processes. She termed these structural injustices and developed a theory by which everyone who participates in the social processes that yield structural injustice bears a responsibility to transform the norms and social processes by which they act. On Young's view the social processes mediate the production of injustice. She draws a distinction between these mediated structural injustices and standard injustices for which the standard liability model is sufficient to assign responsibility.

As I've argued Young misses something important in her account since there are other forms of mediated behaviour, such as networked action, that could also, or perhaps better, explain the injustice suffered by vulnerable persons, especially when corporations are involved.

Among the benefits of Young's structural account of injustice is that it offers insight into injustices that are not easily traceable to intentional wrongdoing by individual agents.

The networked account of injustice adds to our understanding of injustice by enabling the tracking of wrongdoing to corporations who might otherwise not be identified as perpetrators of wrongful action. Something morally significant occurs when powerful social actors interact with the vulnerable in society. This matters even more when these powerful actors coordinate their activity in extractive networks. These facts give rise to our concern over networked injustice.

Networked injustice is the wrongful harm suffered by individuals who interact with networked corporations. While networked injustice can occur within networks (intra-network) or when corporations interact with persons outside their networks (extra-network), I have focussed on the latter. The injustice emerges from harmonisation of corporate behaviours that stems from networked action in corporate networks. This harmonisation makes corporations complicit in an injustice committed by another corporation and closes off options to persons by the cumulative effect of correlated harmful corporate actions.

On their own, the network participants would not be able to commit the unique injustice that arises from corporate networks while every corporation has the option (in tension with their corporate objective) to change their behaviour to avoid contributing to the wrongful harm, and they have the option to change the way networks operate.

Networked action and the resulting injustice are foundational to how corporations function. I therefore identify corporate injustice as networked injustice. Corporate injustice is rooted in corporate networks and networked action.

Corporate networks produce two outcomes that relate to injustice. Firstly, for a networked corporation, negative interactions with persons outside the network are likely to become unjust, by the actions of the network. Secondly, network participants are complicit in the unjust actions of others in the network because of their contribution to the unjust outcome.

The concept of networked injustice not only offers a more complete identification of injustice, in addition to standard, structural and goal-orientated collective injustice, it also offers unique insight into the nature of the injustices committed by corporations. Networked injustice is central to the theory of corporate justice responsibility because it is the mode by which corporate injustices arise.

While studies of corporate networks tend to focus on the benefits and impacts on corporations, I have turned our attention to the harmful impacts networked action can have on persons and society more broadly. Sometimes these impacts are by-products of commercial activity but mostly they are the means by which corporations pursue their commercial goals. I've argued that corporate behaviours and plans become harmonised thus creating the conditions for potential harms when corporations interact with individuals, especially vulnerable individuals, outside their networks. I separated out actions that make the network function and offer benefits to participants, and the effects that follow these actions which can cause harm to those outside the network. The potentially harmful interactions towards individuals are not by design but derive from what sits behind the seeming innocent interaction, the powerful and complex web of networked actions. Networked injustice arises not only by individual corporations acting unjustly, but results from the actions and effects of these actions that are unique to the way corporations behave in networks.

Since networks are not agents, they can't wrong people. But networks and structures can facilitate and enable wrong being done. In contrast to the account of structural injustice where the wrongful actions are not committed by particular agents against particular others, with networked injustice, particular agents do indeed commit injustice against particular others, the network is the arrangement that facilitates this perpetration. The mediating role of structures and social arrangements serves to obscure the role of the agents involved in the ensuing injustices which is why it has been important to understand the nature of injustice as we have just done.

As the world currently stands, and given their reach and influence, society cannot escape harms that are produced by corporations, yet we do not hold corporations fully responsible for these

harms. Part of the reason for this incomplete accountability is our incomplete understanding of the modes by which corporations commit injustice. Our existing theories of responsibility for justice don't pick out the corporation as bearer of responsibility for injustice, particularly those injustices that corporations themselves routinely commit. We need the concept of networked injustice to help us identify corporate injustices. Only then, with the concept of networked injustice and the responsibility that follows, can we theorise solutions to the responsibility gap for corporate injustice.

The theory of corporate justice responsibility holds even if the idea of networked injustice is rejected, and we hold to the atomistic view of the corporation. Contribution to injustice and complicity with the perpetration of injustice serve as grounds for assigning responsibility to the corporation regardless of the view one holds of injustice. And assigning responsibility to remedy, avoid and prevent injustice holds regardless of how we conceive of corporate injustice, only the content of the prescribed actions will differ. The theory casts the net justifiably wide to capture a broader set of acts and circumstances by which victims suffer injustices than would be the case if the atomistic view of the corporation is adopted and reliance is placed solely on the liability model to assign justice responsibility.

The theory of corporate justice responsibility meets the *second challenge* this thesis faced, that of lacking an account of the responsibility corporations bear for corporate injustice, and thus contributes to filling a gap left by corporate social responsibility (CSR) theories and business ethics which overlook the structured behaviour of corporations (in corporate networks) that leads to networked injustice (Chapter 1 & 3) and corporate *responsibility for injustice* rather than voluntary acts of benevolence (Chapter 1). The theory of corporate justice responsibility also contributes to filling the political theory gap in theories of responsibility for injustice.

These theories typically overlook the unique structured injustice caused by corporations (networked injustice) (Chapter 2) and therefore overlook corporations as significant responsibility-bearers for injustice, especially injustice mediated by structures (Chapter 5).

In Chapter 5, I presented justice responsibility, in its general form, as the responsibility an agent bears to advance, promote or contribute to securing justice or rectifying injustice. This responsibility derives from having contributed to or been complicit in bringing about the injustice. I drew from three prominent models of responsibility for justice (liability, structural and goal-orientated collective) in developing the account of CJR as a distinct model of responsibility given the uniqueness of networked injustice. And in Chapter 6, I presented the account of corporate justice responsibility as the justice responsibility borne by the corporation to rectify networked injustice which is rooted in corporate networks and networked action. This responsibility is grounded in corporations' complicity with injustices committed by fellow network participants and direct contributions to networked injustice.

Because all network members participate in the production of the injustice, we hold all network participants responsible for the injustice that arises. However, corporate justice responsibility is not a collective responsibility but a shared responsibility with each participating corporation bearing responsibility to act and allocate resources to rectify the injustice. In virtue of this participation in networked injustice we assign to every corporate network participant the responsibility to rectify networked injustice.

In Chapter 4 I addressed the *third challenge* this thesis faced, the matter of the corporation's fitness to be held morally responsible for the injustices that arise from corporate actions. The oddity of this debate over corporate moral agency is not over whether business activities lead to injustice, but over the identity of the perpetrators of the injustice and thus the identity of the

agents to whom we assign responsibility to rectify the injustice. Individualists argue that the corporation is not an agent and so cannot be assigned any responsibility, only that corporate employees are moral agents fit to be assigned moral responsibility. They argue that corporate employees, never the corporations, commit injustice and therefore justice responsibility should be assigned to corporate employees individually in virtue of their perpetration of injustice and their moral agency, rather than to the corporation. I joined the collectivists in arguing that the corporation is indeed a moral agent, fit to be assigned moral responsibility, in virtue of the fact that they qualify as groups who perform intentional group action and by their internal decision procedures can make moral judgements. I argued that employees are more than mere individuals since they act with unique intention and dedication in pursuit of corporate goals, not always motivated by self-interest. Conceiving of employees in this way supports the idea that employee intentions collectively are corporate intentions.

While I rejected the collectivist account in relation to corporate networks, I've argued here for a collectivist account of the corporation. The corporation is a moral agent in its own right and when acting with other corporations in a network, nothing about this agency changes, neither does the network assume moral agency.

I addressed the *fourth challenge* in Chapter 7 when developing the framework for corporate action required for discharging corporate justice responsibility. I acknowledged the complexity in determining what is required of the corporation to rectify networked injustice and the greater complexity in dealing with its competing responsibilities. This chapter sought to offer guidance to navigate this complexity, ultimately arguing that our best way forward is to revise the corporate objective and purpose to drive towards *just-profit* rather than financial profit only. I argued that corporations are best able to meet their corporate justice responsibilities by acting

by the *just-profit principle* which states that the corporate objective is to maximise profit after discharging corporate justice responsibilities. Whereas ordinary (unjust) profit is derived from sales revenue after expenses and financing costs (that is, interest on financial debt), just-profit is derived from sales revenue after expenses, financing costs, and justice-advancing payments, where the latter are the payments associated with the annual costs of remedying injustice, avoiding injustice and preventing injustice, and the annual instalments of paying down the corporation's *corporate justice debt* which is the financial quantifications of the corporation's liability associated with its unjust activities.

In addition to novel concepts such as just-profit and corporate justice debt, the thesis also introduced novel concepts of *networked injustice* and the process that is core to the emergence of networked injustice, that of *harmonisation* of corporate behaviour when acting in a network (Chapter 3). These novel concepts would benefit from further research. Harmonisation would benefit from empirical research to evaluate the extent to which corporate behaviours harmonise and produce predictable patterned actions, under what conditions it occurs and the role it plays in the causal sequence that leads to corporations contributing to networked injustice either directly or by complicity. The concept of corporate just debt would benefit from further development in terms of quantification methodologies for retrospective and prospective obligations, and repayment algorithms.

Furthermore, the difficulty in advancing the debate on corporate moral agency and corporate purpose demonstrates that further work in these critical areas is required.

By corporate justice responsibility, corporations bear responsibility to commit resources and take action to rectify injustices caused by their actions whether solely, or as participants in

corporate networks. It assigns a responsibility that is discharged individually or shared with other corporations depending on the circumstance and nature of the injustice. As I repeatedly stated in this thesis – corporations play valuable social role in society and so rightly should not be burdened with responsibilities that should be performed by other agents, as pointed out in my fictional statement at the start of this concluding chapter. This thesis has not claimed that corporations should be hampered from their economic mission. What it has argued is that playing their valuable social role and pursuing their economic mission, does not justify committing injustice. If committing injustice is a necessary condition for corporations to fulfil their corporate purpose then it is incumbent upon society to alter that purpose, as I have suggested is done. As a social construction, if the corporation is not serving the interests of humanity in the way we want, then we should decide to change it. We should decide what the corporation can and can't do, and at what cost to justice.

American scholar H.B. Reed lamented, over one hundred years ago, in 1916, that ethical problems in business had arisen because of the “unequal evolution between business morals and business conditions.”⁸⁵ I argue that with the surge of corporate growth and the rapid spread of corporate networks in recent decades, we face a similar unequal evolution with “business conditions” having streaked ahead, leaving “business morals” and political theory with the desperate need to catch up.

Henderson recently called for “revolutionising the purpose of the firm” as a step towards beginning to “address inequality and build a just society.”⁸⁶ I did not set out with such a great ambition, but I do hope corporate justice responsibility and its demands of reform of corporate behaviour, is considered as one of the answers to Henderson's call.

⁸⁵ (Reed, 1916, p. 258)

⁸⁶ (Henderson R. , 2021, pp. 85-120)

That we have an institution as powerful and influential in society as a corporation, whose governing objective is misaligned with the pursuit of justice, is a major stumbling block to the attainment of just societies. Institutional arrangements would need to be reformed to enforce the changes to corporate behaviour, including those outlined in this thesis. Whether the corporate institutional framework is reformed or not, the governing objective of the corporation needs to shift from one focused on profit and shareholder value without consideration for justice, to one that has the pursuit of justice built into it. Operating within the requirements of corporate justice responsibility would set the corporation in the same direction as the rest of society in our pursuit of a just society.

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