Agency, Injustice, and the Struggle Against Globalised Kleptocracy



Vafa Darren Ghazavi
Balliol College

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ABSTRACT

This thesis offers a political theory of overcoming globalised kleptocracy: the phenomenon whereby governing elites who steal from the collective wealth of their society protect those gains in foreign markets. It argues that a legalistic response to globalised kleptocracy is inadequate because it crowds out moral and political commitments to addressing the underlying structural injustice involved in the cross-border flow of corrupt assets. The traditional conception of political responsibility for structural injustice meanwhile is also too narrow because it does not empower all relevant agents in their own contexts, inside and outside the public sphere, to tackle globalised kleptocracy. The thesis thus reframes responsibility for justice in terms of moral imagination and the ideal of restless freedom – the freedom borne of relating to an unjust world, and thus ourselves, more aptly by contributing to its moral progress. In contexts of structural injustice, such freedom is realised through action: by discovering the injustice, recognising its victims, remaking norms and discourses, and advancing institutional innovation and renewal. On this basis, the thesis makes the case for pluralising the agent of change more widely and deeply. However, in making this move, it recognises that agents who could respond to the injustice of globalised kleptocracy face two dilemmas of paralysis: powerlessness, since their actions can seem futile, and elimination, since responsiveness to injustice might be punished in the market. The thesis thus develops a distinctive approach to structural change via two interconnected moves. The first focuses on the radical potential of small-scale action oriented towards achieving moral coherence between agents' identities, roles, and projects on the one hand, and an unjust phenomenon on the other. The second recasts globalised kleptocracy as a symptom of wider economic forces which themselves must be transformed, particularly beliefs about value creation and value extraction as they relate to finance. The central challenge of globalised kleptocracy turns out to be a deeper problem of moral economy: ensuring agents internalise the social effects of their economic activity, and collectively build institutions that enable them to do so. Rather than waiting for wholesale system change to end globalised kleptocracy, however, agents can influence the direction of change as part of a wider moral ecology. Such ecologies can degenerate and decay, creating greater injustice and inequality, but they can also propel moral progress in a dynamic and non-linear fashion. Crucially, a moral ecology affords multiple pathways for moral agency, while recognising the way in which one's individual agency is linked with that of others. Action against globalised kleptocracy and for broader transformation towards radical reciprocity in the economy, then, are mutually reinforcing, generating space for progress on both levels as ideals of justice and equality are incrementally instantiated in the market. By revealing how moral agency could be brought to bear in the inhospitable, self-interested domain of finance, and how this can help curtail the specific harms of globalised kleptocracy, the thesis ultimately claims the market economy could be structurally transformed over time through the pursuit of restless freedom.

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If we turn our mind toward the good, it is impossible that little by little the whole soul will not be attracted thereto in spite of itself.

– Simone Weil (1947)

Our activities fall into two classes. Some activities are moves within a framework of organization and belief that we take for granted. At the limit, the framework remains unchallenged and even invisible. We naturalize or sanctify it, treating as natural fact or sacred imperative the collective product of our own hands. Other activities are moves about the framework. Such activities change the framework the only way it ordinarily can be changed: piece by piece and step by step.

– Roberto Mangabeira Unger (2007)

The vast and wonderful knowledge of this universe is locked in the bosoms of its individual souls. To tap this mighty reservoir of experience, knowledge, beauty, love, and deed we must appeal not to the few, not to some souls, but to all.

– W.E.B. Du Bois (1920)

Introduction

I. Responsibility in an interconnected world

The link between aspects of economic growth in one society premised on unfreedom and extraction in another must be broken. Given the complexity of the potential ties and the difficulty of enacting effective reforms, however, who can we expect take on this task? Reflecting on the tension between complex transnational social processes and what he considers the conception of commonsense moral thought, Samuel Scheffler has observed that we lack clear, action-guiding, and psychologically feasible principles "which would serve to regulate those processes and their effects in a morally satisfactory way." Moreover, Scheffler suggests that this has left "our thinking about [individual] responsibility in some disarray."[1] This thesis is about how to understand and account for individual responsibility in domains where an injustice is brought about or reinforced by many actors pursuing their own ends, in apparently morally legitimate ways, according to widely accepted social norms. We can think of many examples of unjust harm in the real world which share these characteristics, prominent among them labour exploitation and modern slavery in global supply chains (traditionally associated with manufacturing "sweatshops" but now recognised as a problem in many sectors) and the challenge of climate change. I explore this question to help us address a different case: the *linkage* between grand corruption, especially in poorer and more repressive countries, and the transnational markets which facilitate and protect stolen wealth, especially in the advanced economies where much of this wealth finds a haven. To capture the correlated features of this phenomenon I call it *globalised kleptocracy*.

My conceptual focus in this thesis will be on individual rather than collective responsibility or institutional design, although I address both levels. This is not because I seek to highlight the primacy of the former, but because I am primarily interested in the question of *agency* in relation to social transformations that advance justice, including through the renewal of institutional arrangements. While group agents can display distinctive agency and are also a channel for individual agency,[2] individuals are the right locus of attention for my purposes for at least two reasons. The first, normative reason is that a constructive view of responsibility should, I suggest, deliberately encompass a maximally wide array of agents, in contrast to the more commonly held view (at least in liberal theories) which narrows the allocation of responsibility.

[1] Scheffler 1995, 234.
[2] See List and Pettit 2011.

This narrower approach is suitable for questions of liability and remediation for injustice but not forward-looking social transformation. My expanded view of responsibility inevitably reaches to individuals, including in their role as citizens, who have the capacity to remake social structures. A conception of responsibility for social transformation should empower as many people as possible to find as many openings as possible in their own lives to address large public problems. The second, related reason is an empirical assumption: the effectiveness of institutional arrangements rests at least to some extent on widespread support for their underlying aims. Mere non-opposition to institutional arrangements is not enough if there are strong incentives for agents to work against the basic aims of those institutions. Although those aims may be formally tolerated, ambivalence deprives institutions of epistemic inputs and broader commitments necessary to their success over time. Even in well-regulated markets, for example, agents can pursue loopholes or chip away at formal rules. A similar dynamic applies to organisations such as firms or state agencies, or what we might think of as the "meso" level of social analysis: the exertion of individual agency in the inner life of organisations is at least one part of keeping these group agents on track morally and cultivating their social purpose. In short, I take a "citizen-theorist approach to political theory":[3] I am interested in how political theory can attend to the aspirations of citizens wanting to engage in real-world struggles for justice or equality.

Though my inquiry has a different emphasis and approach, I follow Onora O'Neill in aiming for an integrated account of justice and virtue, one in which our universalist and particularist normative claims are mutually reinforcing rather than in tension with one another.[4] In that light, I try to unify: cosmopolitan *and* communitarian commitments, law *and* struggle, collective moral progress *and* the self, duties of justice *and* freedom. To make progress in a robust way, the struggle for structural justice demands such unsettling unities; at least that is my claim.

While my methodological approach begins with a discussion of globalised kleptocracy as a phenomenon *before* moving to normative concerns that can help address it, in this introductory chapter I want to establish the conceptual terrain I am working within. First, I discuss the traditional approach to moral responsibility which centres on liability. Second, I introduce the concept of structural injustice and a response to it based on social connection. Third, I lay the groundwork for my approach by identifying multiple, interconnected paths agents have to address structural injustice. Fourth, I turn to the question moral progress and introduce the ideal of restless freedom. Fifth, I situate the phenomenon of globalised kleptocracy in my

[3] Risse 2011. Notable examples in contemporary Anglophone political theory include Young 1990; Allen 2004; Young 2011; Ypi 2012.
[4] O'Neill 1996.

broader theoretical project. Sixth, I outline my methodological approach. Finally, I provide a brief overview of chapters in the rest of the thesis.

II. The liability model of responsibility

The traditional approach to a problem like labour exploitation in sweatshops or money laundering in banks is highly individuated. It seeks to isolate the *guilty* or *blameworthy* agents – the *perpetrators* of injustice or harm – and hold them *accountable*. In the global context, these might include human traffickers, terrorists, warlords, arms traffickers, unscrupulous corporations or, as is more conventionally the focus, states or political leaders that pursue unethical or unjust foreign policies, as well as the international institutional arrangements these states establish.[5] The traditional approach focuses on ascribing *liability* of some kind for *moral wrongs* committed. It relies on making a causal claim connecting agents to an unjust outcome and then assigning *costs* for remedying or rectifying the wrong.

Since we can, following David Miller, distinguish *outcome* and *remedial* responsibility, we should register how costs assigned to an agent for remedial responsibility can be influenced not just by moral responsibility or culpable causal linkage to a particular condition, but also by non-culpable causal linkage, benefit, capacity, and relevant community ties.[6] While the details and implications of such arguments are often controversial, and without addressing here how far remedial responsibility can take us in addressing structural injustice, I think the broad outlines are highly intuitive and widely applicable.

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[5] Utilitarians such as Peter Singer offer an alternative approach to global moral responsibility; see Singer 1972 for a seminal statement. Since that approach has little to say about the structural causes of suffering, I leave it aside. One way of characterising Singerian utilitarianism is as an approach to global *ethics* that neglects global *justice*.

[6] Miller 2007 (and Miller 2001) provides an account of "distributing responsibilities" which in some respects comes very close to the Youngian conception I discuss. In Miller's view, outcome responsibility concerns "the responsibility we bear for our own actions and decisions" while remedial responsibility concerns "the responsibility we may have to come to the aid of those who need help" (2007, 81). With regard to remedial responsibility, Miller, like Young, starts with the injustice itself and then works from there to identify agents who have responsibility. As he says, "we begin with a state of affairs in need of remedy… and we then ask whether there is anyone whose responsibility it is to put that state of affairs right" (2007, 98). Miller offers a "connection theory" of remedial responsibility which considers an agent remedially responsible depending on linkage to a particular condition based on six factors: moral responsibility, outcome responsibility, causal responsibility, benefit, capacity, and community. He acknowledges there will be tension in how these sources of connection should be weighed in particular circumstances and resists offering an algorithm to resolve such disputes, leaving room for intuitions to weigh them in particular circumstances. Whereas Miller's analysis focuses on responding to discrete states of affairs, Young's analysis is directed towards the transformation of social structures which bring about such states of affairs in the first place; we could say Young's account is more forward-looking as it is explicitly framed by the goal of *preventing* further injustice.

The approach of assigning agents with specific liability-based duties to address a particular wrong is steeped in the legal and moral discourses of many societies such that it can be generalised as a model for thinking about responsibility, the *liability model*.[7] This model encompasses "practices of assigning responsibility under the law and in moral judgement that seek to identify liable parties for the purposes of sanctioning, punishing, or exacting compensation or redress."[8] It is a model which fits neatly with commonsense moral thinking, or the notion that we have special responsibilities for what we do ourselves as well as towards others with whom we have significant sorts of relationships.[9] Cognitively, it fits with our tendency to assume "acts have primacy over omissions, near effects have primacy over remote effects, and individual effects have primacy over group effects."[10]

In practice, ascribing liability can be highly malleable. Consider corporate manslaughter in English law.[11] In 1987, the *Herald of Free Enterprise* capsized after leaving port because its bow doors had been left open, resulting in 193 deaths. Each person who could have closed the doors failed to do so, while the company failed to invest adequately in prevention measures. An inquest jury charged several employees for gross negligence manslaughter and the operating company with "corporate manslaughter". The case collapsed in court, however, when the company and employees were acquitted because the acts of negligence could not be attributed to a "controlling mind". Campaigners for justice often argue for some kind of legal or moral innovation to pin liability on specific individual or group agents, even for harms which are the result of complex interactions. But even where it is possible to do so, this can easily become contrived, disproportionate, or address symptoms rather than root causes. We need to ask if this is the right approach for every task related to confronting an injustice. This brings us to the perspective of structural injustice.

III. Structural injustice, social connection, and responsibility

In drawing the distinction between her approach and the traditional liability one, Iris Marion Young argues that liability, derived from blame for wrongdoing – including an evaluation of intentions, motives, and consequences – is an inappropriate framework for assigning responsibility in relation to *structural injustice*. For Young, liability fixates on guilt which is unhelpful because it directs attention to some actors while absolving others, deflects attention

[7] See Young 2011.
[8] Young 2011, 98.
[9] Scheffler 1995, 223.
[10] Scheffler 1995, 227.
[11] The following account draws on Yardley 2014.

from background conditions, and – strategically – produces defensiveness, creating division where unified action is called for. For Young, what is needed to address structural injustice is not a diluted form of liability but a different conception of responsibility altogether, one that can be channelled towards forward-looking structural change.

But what is structural injustice and why does it demand this different conception of responsibility? I understand the conceptual features of structural injustice to be:

1. *Social processes which enable some groups to dominate or exploit*[12] *other groups, giving rise to benefits for the former.* Following Young, structural injustice consists of social processes which "put large groups of persons under systematic threat of domination or deprivation of the means to develop and exercise their capacities, at the same time that these processes enable others to dominate or to have a wide range of opportunities for developing and exercising capacities available to them."[13]

2. *Social processes combine diverse individual actions and institutional practices.* Structural injustice is a kind of cumulative wrong, though different elements need not take the same form. So, for instance, a victim of structural injustice may encounter different kinds of events which coalesce into a serious deprivation. These may include market transactions but are not limited to them, encompassing the entirety of a social context. Responsibility for structural injustice therefore cannot be limited to the linear and traceable interactions between people or group agents, either in individuated or aggregate form.

3. *Decisions and actions within the social process are mostly within the bounds of status quo morality.* Many or even all of the activities which produce structural injustice may be considered legitimate by widely accepted moral baselines; structural injustice occurs "for the most part within the limits of accepted rules and norms."[14] This has the effect of normalising the social process which produces the injustice. Indeed, sources 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."[15]

[12] The connection between Young's earlier work on exploitation and later work on structural injustice has been helpfully developed in McKeown 2018.
[13] Young 2011, 52.
[14] Young 2011, 52.
[15] Young 1990, 41.

4. *Structural outcomes may be systematic but not necessarily foreseeable or intentional from the perspective of agents in terms of identifiable causal connection.* Structural injustice may afflict people in ways which are systematic but not necessarily foreseeable by relevant agents. Moreover, many agents enmeshed in the social process are not purposefully seeking to obtain harmful overall outcomes, even as they contribute to them or benefit from them.

5. *Addressing structural injustice resists a clear division of costs or allocation of duties.* Because of 1-4, the resultant harms resist straightforward attempts to calculate and exhaustively assign costs for their rectification or deterrence. They are violations of justice which do not find obvious correlative duties in the prevailing moral discourse and thinking of their age.

Young borrows John Rawls's distinction between normative judgements on the basic structure of society and those of individual interactions. This distinction is crucial because it shows that people can claim "their individual interactions with other people are impeccable", while they simultaneously "contribute a great deal to the production and reproduction of structural injustice because of the social position they occupy and the actions they take within it."[16]

Jonathan Wolff elucidates the implications of structural injustice by relating it to a distinction drawn between individual and institutional racism.[17] We can apply this distinction to a simplified case of a police force. Individual racism might consist of individual police officers inflicting gross and unjustified violence on individual black citizens. It is clear in such cases of *overt* wrongdoing that individuated accountability is called for. Institutional racism, in contrast, manifests itself in what has been characterised in the literature as more *subtle* or *covert* forms of racism which are less identifiable with specific agents but instead rely on pervasive attitudes of racism and a prevailing sense of group superiority. Consider the example of black citizens being targeted as a whole community, for instance through disproportionate policing of petty crimes in majority black neighbourhoods. Individual acts of wrongful policing may still exist but a different sort of response is required in the case of institutional racism. The key point for our purposes is that institutional racism, like structural injustice, cannot be effectively addressed by dismissing individual police officers *one at a time* as this would leave the underlying problem unchecked; replacing a racist police officer won't address the underlying harm because a pipeline will produce another. For the liability model to work, its enforcement would need to

[16] Young 2011, 73.
[17] Wolff 2018a makes this conceptual link by drawing on Kwame Ture (then Stokely Carmichael) and Michael Hamilton's 1967 book *Black Power*.

be highly pervasive in responding to specific instances of harm, otherwise its deterrent effect will only scratch the surface of the problem.

In a crucial sense, Rawls addressed the potential injustice of the aggregated, combined, or patterned effects of ordinary interactions in a society, such as through transactions in the market, by focusing the principles of justice on *institutional* rules and practices.[18] This may appear, then, to be the right strategy for also addressing structural injustice of the kind Young describes. Yet, on its own, this is insufficient in at least three respects for the task at hand. First, the Rawlsian approach to structure tells us very little about the content, extent, or nature of the responsibilities people might have for *bringing about* something resembling a just basic structure in the real world. Second, since the Rawlsian approach is about the design of ideal institutions, it does not adequately account for *power* dynamics, *ideology*, or *interests* that invariably shape institutional processes or narratives.[19] In seeking an institutional settlement, Rawls freezes much of what should remain open to political contestation, disruption, and possibility.[20] Third, the Rawlsian framework does not capture the complexity of social processes which seek to *recast a particular social phenomenon as an injustice* when it has previously not been recognised as such. It does not give us the normative resources to challenge the moral baselines which are encoded in our sense of justice and which can dominate the terms of public discourse. This is perhaps most obvious in the historical cases of racism, slavery, and sexism, in relation to which social movements have struggled to transform dominant discourses and practices. These examples illustrate that the very concepts, assumptions, and narratives of social and political life can be a basis for injustice. In real-world normative theory, no regulative or distributional scheme can by itself address injustices we are blind to noticing or have marginalised because of naturalised and reified practices, beliefs, or sentiments. We need a more expansive notion of responsibility to address these tasks.

Young's conception of "structure" is thus more suitably expansive than the Rawlsian one: "Social structures are not a part of the society; instead they involve, or become visible in, a certain *way of looking* at the whole society, one that sees patterns in relations among people and the positions they occupy relative to one another."[21] On this basis, Young develops her own

[18] In their focus on aggregated outcomes, there is a parallel between Rawls and Friedrich von Hayek, though with very different conclusions on the possibility for social justice to be supported through institutional arrangements.
[19] This critique has been forcefully presented by Goodhart 2018. Through a historical lens, it has also been powerfully levelled by Forrester 2019.
[20] For the classic critique along these lines, see Honig 1993.
[21] Young 2011, 70. Sangiovanni usefully interprets Young's view of social structures as "schemas, as enacted in practices by particular people in particular places with particular things, that both are shaped by and give shape to distributions of material and nonmaterial resources." See Sangiovanni 2018, 462.

"social connection model of responsibility" for structural injustice. Under the social connection model, "all those who contribute by their actions to structural processes with some unjust outcomes share responsibility for the injustice."[22] This model puts the emphasis on the way in which people are connected to each other through *social* processes.[23] So, for instance, this model makes salient the way in which consumers in the rich world are connected to factory workers in low-income countries.

Responsibility under Young's social connection model has five features that distinguish it from the liability model:[24]

(i) It does not isolate perpetrators or pinpoint moral wrongdoing.
(ii) It judges background conditions of action – the social and institutional frameworks against which the transactions between agents take place.
(iii) It is more forward-looking than backward-looking; the focus is on preventing future harm.
(iv) It is essentially shared with others.
(v) It can only be discharged through collective action.

Instead of *moral* responsibility for structural injustice, Young therefore advocates a form of *political* responsibility which consists of an imperative to watch social institutions, monitor their effects "to make sure that they are not grossly harmful," and maintain "organized public spaces where such watching and monitoring can occur and citizens can speak publicly and support one another in their efforts to prevent suffering."[25] The meaning of politics here is "public communicative engagement with others for the sake of organizing our relationships and coordinating our actions more justly."[26] Therefore, discharging responsibility might involve trying to "persuade others that [a specific] threat to well-being is a matter of injustice rather than misfortune and that we participate together in the processes that cause it" as well as enjoining "one another to work on our collective relationships and try to transform the necessary practices."[27]

How can we *assign* such responsibilities among agents to address structural injustices given the

[22] Young 2011, 96.
[23] It is this perspective which allows Young to coherently move to questions of *global* justice; that is, to focus on injustice across borders. I follow Young's approach in this regard.
[24] Young 2011, 104-113.
[25] Young 2011, 88.
[26] Young 2011, 112.
[27] Young 2011, 112.

reality of scarce resources and attention? Young resists issuing a formula and instead provides "parameters of reasoning" for discerning responsibility:[28]

(i) An agent's *power*, or position of influence within the social process.
(ii) An agent's *privilege*, which may come apart from (i) in some instances, such as when an agent *benefits* from a structural injustice but has less influence over it.
(iii) An agent's *interest*, namely those most affected (most obviously victims).
(iv) An agent's *collective ability*, or capacity to draw on membership in relevant groups.

Martha Nussbaum criticises Young for downplaying the importance of guilt and blameworthiness. From a pragmatic point of view, Nussbaum argues accountability regimes can be forward-looking by prioritising deterrence or by issuing blame in ways that promote learning. Blame need not focus on some agents while absolving others; it can be nuanced enough to issue specific and collective blame at the same time. Issuing blame also need not ignore background conditions. Finally, Nussbaum points out guilt can motivate people and bring them together in pursuit of reparations. Nussbaum also makes strong conceptual critiques. First, the retrospective/prospective distinction breaks down when we think that the failure to take political responsibility must itself be the subject of some sort of blame. Second, there may be culpable negligence in ignoring structural injustice if citizens ought to monitor such injustice and be vigilant about it. Finally, we can blame an individual agent for not taking up their share of moral responsibility.[29]

Young has also been criticised for not adequately explaining why liability cannot be extended to address structural injustice. Christian Barry and Kate MacDonald suggest Young's understanding of liability is "unduly narrow". They argue harm does not need to be counterfactually dependent on some agent's conduct to generate a ground of liability, as borne out by widely adopted innovations in criminal and tort law. They point out that "[w]hen many people make non-necessary but jointly sufficient contributions to harm, they can be held jointly and severally liable for it." So we can in fact extend or refine a liability model so that it accommodates "much more diffuse relations than are typically captured by existing legal mechanisms through which liability models are expressed".[30]

[28] Young 2011, 142-147.
[29] Nussbaum 2011.
[30] Barry and MacDonald 2016, 97-100.

Young may have invited these critiques because of the emphasis of her argument, and the ambiguous and contested empirical nature of her claim that the harmful effects of structural processes "cannot be traced directly to any particular contributors to the process."[31] But I think such interpretations miss the key insight and purpose of Young's social connection model. In practice, we should not draw too stark or binary a demarcation between the liability and social connection models: structural injustices tend to demand both approaches simultaneously and reflexively. And we may be able to find suitable parameters for legally defining negligence that would capture at least part of the harm in question. In some instances, where the social and moral climate allows it, a notion of strict liability may even be introduced into a legal regime to provide redress, and help prevent, certain types of wrongs.

Young went to great lengths to underline the limitations of liability not to throw it out, I suggest, but to highlight the need for political responsibility to make it work properly. Her primary goal, at least in my interpretation, was to develop a theory of responsibility that could motivate the kind of agency needed to tackle structural injustice in the real world, especially in cases where the moral baseline for responding to a particular case of harm *as an injustice* is lacking. Her model is geared towards transformation, not enforcement of an existing moral code. A sophisticated and nuanced liability regime like the one Nussbaum advocates may flow out of such a process but it would not achieve this on its own since the liability model starts from the perspective of what costs can be imposed on the perpetrators of injustice rather than what can be done to *motivate participation* in the constructive imaginative, relational, political, and discursive work of making background injustices salient and confronting them.

So, for instance, we might think that political leaders have a responsibility to incorporate minimal labour rights into the international trade regime and companies must abide by such standards. But for this formal process of rule-making and rule-adherence to get off the ground or become effective it would typically require some kind of transformation in attitudes or normative expectations promoted by groups such as workers in low-income countries in conjunction with consumer movements in rich countries. Consider, once again, the case of the racist police force: even a forceful and effective liability regime *presupposes* legal, cultural, and organisational settings that are geared towards addressing racism.

[31] Young 2011, 100.

IV. The multiple paths of moral agency

Building on the Youngian model, I propose a framework that puts agency and transformation at the centre of our conceptual and practical response to structural injustice. In my framework, structural responsibilities encompass four overlapping tasks of *moral imagination*, each registering a *pathway for moral agency*:

(i) identifying an injustice and making it salient for others (call this *discovery*);
(ii) enabling agents to more fully realise their connections with the victims of injustice (call this *recognition*);
(iii) promoting discursive and normative change that responds to injustice (call this *reconstructing social ethos*); and
(iv) expanding political possibility by widening the range of institutional alternatives (call this *institutional innovation and renewal*).

These tasks are not temporally sequential, nor must they occur simultaneously. So, for instance, a banker may begin to promote a discussion inside her firm or professional association with the aim of bringing greater ethical scrutiny to the problem of corrupt money flows, but still lack affective appreciation of kleptocracy's victims or have little sense of how her organisational-level activities could contribute to institutional reform at a national or global level. Individual citizens cannot abdicate responsibility for these tasks since in some respects they can *only* be properly advanced from the *bottom up*, that is, at the level of persons through processes of persuasion, deliberation, and contestation, as well as through individuals remaking the social world through the *roles* they occupy, including inside firms or states. The work of moral imagination by its nature cannot be outsourced to group agents such as the state in the form of legislative or juridical rule-making. It ultimately falls to ordinary citizens to determine the values a political community deems applicable to a given domain of collective life; any attempt to impose values from above will face difficulties of effective compliance, or be undermined by vested interests, given the complex dynamics of structural injustice. Structural responsibilities of this more democratic kind cannot be collapsed into more precise responsibilities around liability or institutional remedies for specific harms, though they may sometimes overlap in how they are discharged in practice.

In contrast to Young's focus on action in the public sphere, my framework suggests the social connection model does not go far enough to account for the multiple paths moral agents might pursue to contribute to social transformation, including through the force of their moral example, in the course of their life projects, or through social roles. In this sense, the politics of

injustice is not contained in certain spheres of life but moves between and across them. Given how this expands the scope of relevant agency, and the form such agency could take, I call my approach a *pluralist* conception of agency. Because she implies public political action is the most potent means to discharge our responsibility for structural injustice, Young does not adequately capture the myriad steps that could be taken – sometimes indirectly or on a small scale – to challenge status quo injustices or prefigure alternative futures. In my model, there are many ways that such a responsibility could be discharged, drawing on individual talents and social roles, and through action and experimentation in social practices. To begin to sketch this picture, consider a poet who writes a poem that illuminates an injustice, a student who selects a topic related to global injustice for a class project, or a banker who creates a new investment product that prioritises social outcomes. These sorts of actions help create the social world. So we can say that Young's conception of political responsibility, which is already more capacious than what a liberal theory of justice would typically promote, is still too narrow.

The main limitation of the Youngian model is that is draws too sharp a distinction between the good life and responsibilities of justice. We need, I think, to challenge this distinction at a fundamental level. My claim is that it is an integral part of a flourishing, good life is to challenge injustices in which one is entangled. We should attempt to conceptualise the complex nature of social change more deeply, and in particular the relationship between human agency and *moral progress*. Realising one's capacities to contribute to moral progress, and especially progress against structural injustice, I will argue, is a distinctive form of human freedom: *restless freedom*. The obligations borne of the four tasks of moral imagination are in some sense constitutive of who we are, or want to become, as moral beings. Since individual self-realisation is linked to an apt response to one's world, these pathways for moral agency represent opportunities for us to realise our potentialities by truly making our social context our own. This is achieved not through a false or inflated sense of control or influence, but by reclaiming what *is* within our power to contest injustices tolerated by the status quo. This freedom manifests itself, then, in how we relate to the roles we inhabit and our projects. Where injustice is real yet obscured from our vision, the only apt response is one of anxiety about the relation of self to the world, and the taking of action in response to this anxiety; hence the apparent paradox of *restless* freedom.

V. Moral progress and structural transformation

To recapitulate, much of the criticism directed at Young's model arises from a confusion between the nature of just *institutions* in response to aggregated harms and the broader project of *social transformation* which makes the emergence of more just institutions possible over time. This clarification also addresses the question of the proper relationship between liability and

structural injustice, namely that responsibility for the latter creates the conditions in which an effective liability regime (one which serves the aims of justice) can function.

Since he was concerned with ideal theory, Rawls said little about the process of *transition* towards greater justice in the real world. As Thomas Pogge explains:

> [W]hen assessing alternative public criteria of justice, Rawls is asking not how well each would guide and organize people as they are now, shaped by existing social institutions. Rather, engaging in *ideal theory*, he is asking how well each candidate criterion would guide and organize human beings as they would come to be *if they grew up in a society governed by this criterion*… This criterion is not meant to be used for guiding the reform of an unjust basic structure design: for judging the relative urgency of various institutional reforms by examining which reform would result in the least unjust design… The focus on ideal theory complicates the comparison among criteria, because it requires envisioning and assessing social worlds that are remote from our own. It also involves neglect of questions that seem important: Which of the social worlds envisioned through such candidate public criteria are reachable from where our society is now, and on what path?[32]

Responsibilities for *social transformation*, as distinct from rule-making, are therefore needed. Even within Rawls's just basic structure, agents must come to internalise a commitment to its principles:

> An important feature of a conception of justice is that it should generate its own support. Its principles should be such that when they are embodied in the basic structure of society, people tend to acquire the corresponding sense of justice and develop a desire to act in accordance with its principles. In this case a conception of justice is stable.[33]

Rawls leaves hanging, however, the important question of *how* to generate support, either for social conditions that can bring about more just institutions or to sustain such institutions when they are established. In reality, both challenges can only be understood through the lens of dynamic processes of social and political transformation brought about through the interactions of diverse agents within a *moral ecology* of competing and contested values, rather than static conceptions of one-off institution creation. In reaching for a stable institutional order, Rawls forecloses the depth of struggle for greater justice in a world in which unfreedom continually evolves and liberation is perpetually incomplete. This raises the question as to whether we can develop a viable theory of responsibility for justice that can cope with such dynamism.

The practical implications of my response can be understood in rather concrete terms. Social transformations, or what we might think of as social change in which certain moral perceptions or values go from being marginal to becoming mainstream, are evident in historical and

[32] Pogge 2007, 40-41; emphasis added.
[33] Rawls [1971] 1999, 119.

contemporary movements and "moral revolutions"[34] of various kinds through which large-scale normative changes have taken place. These point to the ways in which ordinary people, in diverse ways, and coming from different positions in a given social order, have deployed their power and influence to generate new demands and norms of justice. We might consider, for instance, the responsibilities taken up (or not taken up) by different slave-owners, slave-traders, diffuse beneficiaries of the slavery economy, and slaves themselves, to challenge the normative assumptions of slavery and remake the social order to fit certain ideals of justice and equality.[35] Such processes may unleash popular beliefs which are widely held but had been kept from the public sphere,[36] or generate new beliefs, preferences, and conceptions of self-interest. Broadly, these transformations show that collective normative beliefs are subject to social forces which are not easily predicted or controlled even by the agents seeking change, although their general direction can be promoted. What theoretical framework can make responsibility for such transformative projects promoting moral progress tractable? This is the question to which I now turn.

The preceding discussion indicates we need better theoretical grip on how to *motivate agency* to advance structural justice over time. Unlike Rawlsian ideal theory, this starts from our present circumstances and builds a theory of structural change from there. It also entails a rejection of the approach deployed by certain revolutionary theories such as some versions of Marxism or ideologies such as neoliberalism to the extent these retain a dogmatic commitment to wholesale change of social or economic order, based on predetermined blueprints, as a goal of participation in political life. This is in part because, following Roberto Unger, I reject the assumption there is a "closed list" of options for institutional systems, or that such systems form an indivisible whole such that each "stands or falls as a single piece."[37] For political economy in particular, the choice in this view is not over the role of the state versus the market but must include contestation over the values encoded in the market through its institutional features and ethical practices. In subsequent chapters, I try to show how re-envisioning the social purposes of finance illustrates the potential for this kind of experimentation and innovation in the market order itself.

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[34] Appiah 2010.

[35] See, for example, historical accounts in Sinha 2017; Hochschild 2005; Crawford 2002; Appiah 2010, 101-136. One of the lessons from these accounts is that the more granular our perspective, the more apparent it is that ordinary people are crucial to transformational change, even if less valorised than exceptional heroes or leaders. It might be easily forgotten, for instance, that in the 1790s, 300,000 English people participated in a sugar boycott to abolish slavery (see Hochschild 2005, 192-196); in my normative theory of responsibility, the story and reasoning behind each of those persons matters.

[36] Kuran 1997.

[37] Unger 1998, 22.

Given the centrality of motivating agency, a theory of responsibility for structural injustice should provide normative resources to connect the attitudes and practical identity of individual agents to structural processes of change. What we need is a theory of responsibility that maps onto the complexity of the problem being faced, that is, to support social transformation. In Chapter 3, I frame such transformation in terms of *moral progress* whereby human agents advance the realisation of ideals or virtues. There are different ways to plausibly conceptualise responsibility in this more expansive light. I will develop an approach that situates agency in a *moral ecology*. Such ecologies can degenerate and decay, creating greater injustice and inequality, but they can also propel moral progress in a dynamic and non-linear fashion. Crucially, a moral ecology affords a plurality of pathways for moral agency, while recognising the way in which one's individual agency is linked with that of others. Action against globalised kleptocracy and for broader economic transformation, then, are mutually reinforcing, generating space for progress on both levels as ideals of justice and equality are incrementally instantiated in economic practices and institutions. My approach emphasises the way in which individuals come to view themselves as having practical identities and commitments tied to the transformation of unjust social structures, even when their individuated contributions appear to be negligible, or the interests they have at stake are ambiguous. Moral imagination is thus crucial to this aspect of my account too, since it emphasises the capacity to situate oneself in the world in new ways, open to how contingent, human-made features of social reality can take a different form.

To flesh out my account and help conceptualise the inter-relationship between agency and moral progress, we can draw on research in the area of *complex systems* as well as theories of *associative democracy*. I do not adopt an algorithmic or predictive model of complexity, nor do I seek to derive normative principles from complexity theory. Indeed, I think we should reject a naturalistic version of such theory where it purports to identify laws of social evolution. Rather, I suggest the research on complex systems can highlight and destabilise the way in which reductive, arithmetical, or aggregative approaches fail to capture how social structures evolve and hence how these approaches restrict our imagination in contemplating models of transformation and how to allocate responsibility for attempting or influencing transformation. Similarly, I do not make a case for a model of associative democratic decision-making over rival approaches, but rather draw on the ontological material of this idea to register the untapped potential of associational life for people to participate in transformational projects. I frame my own multistakeholder approach, which seeks to crowd in constructive inputs to address large-scale societal challenges, as a *problem-solving democracy*. More broadly, my account of moral agency attempts to shift the focus from elite or technocratic institutional reform to social

processes that take seriously the capacity of citizens to reimagine and remake social ethos and institutions, including in domains where specialised expertise remains necessary.

VI. Globalised kleptocracy

My normative framework is an attempt to grapple with a new area of inquiry for real-world global justice: globalised kleptocracy. Since I am particularly concerned with the *linkage* between grand corruption and international markets, my focus is on transnational money laundering activity which circulates and shields corrupt wealth. Through my inquiry, I hope to illuminate the broad goals of the nascent social and political movement to address globalised kleptocracy and the constellation of actors sympathetic to its aims. In particular, I hope to denaturalise the current state of affairs – to reveal its contestable ideological, moral, and institutional basis – and elaborate a theory of moral agency which can reveal its transformative possibilities.

Globalised kleptocracy is part of a wider moral ecology of global finance. Those wishing to advance global justice have strong reasons to focus on this domain, not only because of its practical or material significance but also because it represents a kind of conceptual and normative frontier for moral progress in political economy. As Tamara Lothian argues, finance is "the part of economic activity that has traditionally been seen as the least open to progressive innovation and the least friendly to popular interests and democratic ideals". It is, she says, "the inner sanctum of a 'capitalist system' that is understood to be unforgiving of dreamy aspirations." I embrace her view that "[i]f the imagination of progressive alternatives makes sense in this most hostile terrain, it can make sense in every aspect of economic life."[38]

While it is understandable for policymakers and citizens to turn to liability as a default response to globalised kleptocracy, I want to demonstrate the limitations of that approach. In particular, I suggest that if the orthodox response crowds out efforts or motivations to develop an underlying and widespread *commitment to addressing the injustice* – a just *ethos* and concomitant *innovations* in market institutions – as opposed to policing the symptomatic *crime* or overt acts of *wrongdoing*, it seems those who benefit from the injustice will tend to adapt to evade enforcement action. Indeed, the current anti-money laundering regime is severely hampered by such a dynamic and remains unresponsive to kleptocracy at anything resembling a scale commensurate with the problem.

[38] Lothian 2017, 8.

The potential of structural change on globalised kleptocracy has been crowded out by a technocratic and legalistic discourse, resulting in the injustice being kept largely out of sight and out of mind in the rich world. In effect, responsibility has been politically, ethically, and psychologically *outsourced* to a small number of agents whose interests and perspectives are so closely tied to the status quo that it is unrealistic to expect significant behavioural change. Responsibility has become *insulated* from the potential for bottom-up moral pressure for structural change. I will try to show there is an alternative to a tactical cat-and-mouse game in which the compliance regime tries to keep up with new ways markets protect stolen assets, including through the legal coding of capital. Complementing the compliance regime, agents have a responsibility to construct a social ethos so that all agents – including those operating within the financial sector and other parts of the market – are able to internalise their connection to the injustice itself. This is a deeper response to a familiar collective action problem, premised on the possibility for agents to reconstruct how they perceive or understand their own interests, including through shifting notions of esteem and honour, in light of a new social ethos and institutional innovations. My conjecture is that this is crucial for making a liability regime effective and robust in cases where there is a persistent structural injustice in the background, thus illustrating the connection between ordinary commitments to justice and the pursuit of more just institutional arrangements.

VII. Method: Engaged philosophy and grand theory

Rather than developing an abstract theory of responsibility and then applying it to the case of globalised kleptocracy, my approach takes the inverse form: normative insights are generated by engaging with the real-world problem. This follows the "engaged philosophy" methodology proposed by Wolff,[39] though with some modifications to account for the fact that he is focused on the question of policy formulation whereas my assessment of the policy problem quickly leads me to ask wider questions about individual agency and broader social transformation. Despite this difference in scope, Wolff's methodology is instructive.

Wolff contrasts his approach with "applied philosophy" which seeks to apply an abstract philosophical theory to a public challenge. He notes this leads to problems of theoretical dogmatism, under-determination of policy outcomes, implausible recommendations, dependence on wholesale implementation which undercuts incremental steps, blindspots, and conceptual inadequacy (including due to lack of attention to ongoing debates). Interestingly, the main liability and institutional frameworks of responsibility in the literature seem like they

[39] Wolff 2019a.

could address the problem of globalised kleptocracy well from the perspective of *applied* philosophy. In particular, the need for holding culpable agents accountable, and the need for institutional reform in order to address perverse market incentives, is dealt with in such theories of global justice rather emphatically. Applied to the case of globalised kleptocracy, these theories would track real-world efforts quite closely; there is convergence between the dominant activist and state-led modes of action which emphasise liability (such as breaches of anti-money laundering laws) and rectification of wrongdoing (such as returning "stolen assets") with the most obvious candidates for applying philosophical models of responsibility.

What *engaged* philosophy reveals, however, is the importance of shared responsibility for *recognising* the injustice itself and motivating *agency* needed to gain socio-political traction so it can be addressed through a process of collective moral learning and structural change. In this light, what we lack is a conception of responsibility for tasks related to challenging a status quo which tolerates deep injustice – including through certain discourses, attitudes, and power relations – as distinct from the task of managing the symptoms of the problem. While applied philosophy can help us reason about who bears duties of remediation or the moral principles underpinning rules, engaged philosophy is more suited to navigating a social process in which accountability and compliance are components of a real-world response to structural injustice; that process is also characterised by struggle, disappointment, and incompleteness.

Engaged philosophy starts with the problem itself. "Hence in considering any policy issue," Wolff explains, "the first question is why has (or should) this particular issue come to public attention right now? And what are the positions in the debate and what drives people apart?"[40] In this regard, "The philosopher identifies relevant values, in the context of a problem, current facts, past history and contemporary alternatives."[41] More specifically, Wolff outlines six steps:

1. *Identify the issue and current state of affairs.* This involves setting out the legal, regulatory, and behavioural facts of the problem. I lay out the basic elements and scale of globalised kleptocracy, as well as the rise of a global anti-kleptocracy norm and mechanisms to enforce it. I will expose the gap between legal rules and norms to curb corrupt money flows and their effectiveness to address the injustice of kleptocracy.

2. *Identify the arguments and values.* This step draws out the underlying moral debate. Interestingly, there is little disagreement on the *principles* around globalised kleptocracy. This, paradoxically, reflects part of the problem. The anti-kleptocracy regime – its

[40] Wolff 2019a, 17.
[41] Wolff 2019a, 22.

underlying motivations and incentives – is largely detached from moral concerns, and justice in particular, and relegated to a narrow technical and legalistic discourse outside mainstream view. In my account, the lack of public disagreement reflects moral stagnation rather than a deep moral consensus. While some agents seek to rectify this, there are strong pressures to focus on existing accountability frameworks without connecting these to a wider process of moral learning. This step in my inquiry thus reveals a paradox in mainstream policy approaches towards globalised kleptocracy: the ethical focus on oppressive kleptocrats and their associates has obscured the underlying structural injustice and its potential for transformation. Much of the debate is not *over* liability versus structure but drastically *skewed* in its attention. Philosophical insights can help address the assumptions of the policy discourse by taking "the debate apart, to understand the values… that are relevant to [it], and understand how they figure in arguments for different positions. Gaps in the arguments, false assumptions, false dilemmas, and so on, may all become exposed once the debate is dissected."[42]

3. *History and comparisons*. This step considers examples of practice across time and place. The history of the global anti-kleptocracy norm reveals the problem has not been sufficiently confronted politically or morally, with its genealogy heavily influenced by geopolitics and the parochial interests of the development sector. Experience across jurisdictions is of great interest but in this case, tragically, not to show what works but to expose the shallowness of extant efforts, even in jurisdictions seeking to demonstrate leadership on fighting money laundering. In a forward-looking perspective, I will consider adjacent developments around the social responsibility of firms and how globalised kleptocracy can be integrated with a "stakeholder theory" of business.

4. *Create a profile of possible solutions.* While I will canvass existing proposals to address globalised kleptocracy, I suggest that seriously tackling the problem as it exists today does not hinge on a single policy solution but a piecemeal process of social transformation. This approach tethers the financial sector to its underlying social purposes and to emergent social expectations to address injustice. Collective agents such as states and corporations – and individual office holders within them – must *facilitate* and *respond* to this process. Moreover, as consciousness of the injustice grows and social expectations rise, states must be prepared to shed their complacency and vigorously enforce robust laws and international legal obligations, bringing regulatory action into conformity with purported policy objectives and closing loopholes where

[42] Wolff 2019a, 19.

needed. This would signal the liability approach in full flight, but rather than *starting* with this approach, as much of the current policy agenda tends to, regulation becomes one *reflexive component* of a deeper social process and the democratic impulse driving it. My inquiry brings this structural perspective, and the moral ecology shaping it, into the foreground.

5. *Evaluation of options.* I aim to highlight the limitations of a narrow liability approach, including due to persistent motivations to circumvent a regulatory regime that lacks strong socio-political support. Reframing the problem as one of structural injustice suggests the need for a distinct set of responses and priorities, of which liability accountability is only one part, and therefore a distinct set of measures for evaluating progress. My own approach will contrast those proposals which hew closely to the existing liability paradigm with those reflecting a structural paradigm.

6. *Policy recommendation.* Rather than providing discrete policy recommendations, I will suggest how my conception of moral agency might be translated into individual and institutional action on globalised kleptocracy, or what might be called a new *policy direction*. In particular, I will suggest the need for scaling up efforts to establish globalised kleptocracy as a mainstream societal concern, creating political space for state action and new market dynamics. This approach is closer to what Mariana Mazzucato has called "missions" in the context of tackling large societal challenges.[43] Translated to normative theory, I think this approach has the benefit of being "precise enough to guide policy and reforms given empirical assumptions", while retaining the virtues of being somewhat abstracted from detailed policy recommendations.[44]

Beyond these steps, Wolff retains a role for what he calls "grand theory" for at least three reasons. First, "these theories form part of the inherited intellectual stock of values and arguments."[45] Second, they can influence public opinion over time. Third, political and moral philosophy can, as branches of philosophy, be a "valuable activity in its own right independent of its effects."[46] One could add that the persistence of globalised kleptocracy on a large scale suggests it may be an area where political theory can constructively "be empowered to develop new public attitudes and not just to seek out and tinker with the prevailing ones."[47] In the

[43] Mazzucato 2021.
[44] Barry 2018, 481.
[45] Wolff 2019a, 22.
[46] Wolff 2019a, 23.
[47] Stears 2005, 341.

context of the present project, these points support a more ambitious, and necessarily more speculative, attempt to pursue a seventh step.

7. *Develop a theory of moral agency for progress against injustice.* In chapters 3-5, I respond to the phenomenon of globalised kleptocracy in three parts: the human freedom at stake in contributing to structural justice, individual agency in response to structural problems, and moral ecology in the domain of finance. Rather than respond to a discrete public problem, the structure of my response to globalised kleptocracy ends up closer to a grand theory of the relationship between responsibility, agency, and social transformation as it pertains to the realisation of justice in global markets. By linking moral agency and structural change, I make the case for how the imagination and action of ordinary people in their own contexts provides a basis for moral progress even in those areas of collective life, such as global political economy, that seem most resistant to it. My theory builds on the idea that there is intrinsic value in responding to injustice in our world. Rather than offer a formula for defining in-principle responsibilities, my claim is that a larger freedom for the self is realisable only through a struggle in the world to end the unfreedom of others.

This methodological split between the engaged philosophy of steps 1-6 and the grand theory of step 7 roughly corresponds to what Seyla Benhabib has described as two dimensions of critical theory.[48] The first dimension – "explanatory-diagnostic" – is located in chapters one and two. This part of the thesis provides a critical account of the status quo and moral reasoning that fits within the dominant normative paradigm. As Benhabib puts it, "Here the social system is viewed as having internal contradictions, limitations, and crises." The second dimension – "anticipatory-utopian" – is located in chapters three, four, and five. This mode of theorising "addresses the lived needs and experiences of social agents in order to interpret them and render them meaningful in light of a future normative ideal."[49] Given the connection between the specifics of the phenomenon in steps 1-6 and the ambition of step 7, elements of both will appear in the two parts of the thesis as I move between the details of the case and the larger theoretical project.

[48] Benhabib 1986, 142.
[49] Benhabib 1986, 142.

VIII. Thesis outline

The remaining chapters, and their order, will reflect the methodological approaches and normative concerns I have outlined. In Chapter 1, I introduce the phenomenon of globalised kleptocracy. I make a case regarding the nature of the moral wrong involved, describe the current state of affairs in terms of its basic elements, processes, and scale, and register central dilemmas and values at stake. This chapter aims to establish that what appears to be paradigmatically a liability-based problem of harm is in fact a much more complex case of structural injustice. Then, in Chapter 2, I examine responses to globalised kleptocracy, including from firms, civil society, and governments. In particular, I address the failure of a global anti-kleptocracy norm to prevent the ongoing harms of globalised kleptocracy. I distinguish between responses which hew to a liability-based paradigm and those which advance structural change, and suggest the latter has been neglected, at least in part due to an impoverished ideology of legalism which denies structural vision and ethics. The reasons for this neglect – especially the separation of values from economic practices – are considered, along with the implications for globalised kleptocracy. I take aim at the fallacy of value neutrality prevalent in the conceptualisation of contemporary market activity and the coding of global capital through law. The central claim in the chapter is that prevailing responses to globalised kleptocracy, reliant on either the invisible hand of the market (through reputational effects), or the iron hand of the law (through the imposition of legal penalties or regulation), have left the structural basis for injustice mostly undisturbed. On this basis, it is unsurprising that the existing international regime has failed to deliver for the victims of globalised kleptocracy even by the regime's own lights. This chapter therefore supports my claim that solutions based on pinning discrete wrongs on specific agents are necessary but insufficient to address globalised kleptocracy.

Chapter 3 pivots the thesis towards a structural response to globalised kleptocracy, which I frame in terms of moral progress and its relationship to human agency. I suggest we can generally frame the response to structural injustices in terms of the macro-historical realisation of moral ideals. I develop a concept of *restless freedom* which relates to the realisation of human capacities to contribute to processes of moral progress by responding to injustice in the world. The ideal of restless freedom articulates a thread which runs through the final chapters of the thesis: in practice and normative theory, we should repair and reimagine the relationship between an agent's interests in pursuing a good life with responsibilities to address structural injustices. This underpins my pluralist conception of moral agency, which emphasises the need for agents to integrate a response to structural injustice into their own roles and life projects. My four-part framework of the tasks of moral imagination reflects this holistic conception of

the agent. This framework is intended to account for the multiple pathways which should be opened to as many agents as possible to advance structural change.

This move to the level of agency raises two dilemmas of paralysis. I deal with these in the remaining two chapters of the thesis. Chapter 4 addresses the problem of powerlessness: when actions seem futile in the face of structural constraints. I develop an account of the phenomenology of agency which supports a viable conception of individual responsibility for global structural injustices. My argument emphasises the power of small acts and the role of moral imagination in the conception of agency. It also draws on the dynamic and non-linear nature of social change, including insights from complexity theory. The upshot of this chapter is that there are strong reasons for normative theory to consider the ordinary person an active protagonist in global structural transformation, including in their role as a "cosmopolitan patriot" in the national context.

Chapter 5 addresses the problem of elimination: when responsiveness to injustice is punished in the market. This chapter recasts globalised kleptocracy as a symptom of wider economic forces which themselves must be transformed, particularly beliefs about value creation and value extraction in finance. The central dilemma of globalised kleptocracy turns out to be a deeper problem of moral economy: ensuring agents internalise the social effects of their economic activity, and collectively build institutions that enable them to do so. I reconceptualise responsibility for globalised kleptocracy as part of a dynamic moral ecology of global finance. The key conceptual and normative contest in this moral ecology, I suggest, is over the question of *value* in the economy: its creation and extraction. Making progress on this fundamental level, and its potential implications for a radical shift in our understanding of the market, is propitious terrain in which to locate the struggle to root out the flow and protection of corrupt wealth. Crucially, the moral-ecological lens on how such a reformulation of value can be realised in practice offers the prospect of a viable pathway that counteracts the danger of elimination. In creating room for new mutualistic economic practices, morally progressive agents can ratchet up moral ambition even in the hostile terrain of finance. These agents could, in turn, become the harbingers of deeper structural change, including through institutional innovation and renewal. Unlike other theories of vanguard agency, my approach remains radically open as to *who* might lead change, *when* they might contribute to collective efforts, or *how* precisely they do so. The concept of radical reciprocity I develop thus pertains to all agents in the market, and the frame of problem-solving democracy I propose is open to diverse stakeholders.

In my Conclusion, I bring different threads of the thesis together by suggesting a way forward in conceiving a globalised moral economy. Drawing from the ideal of restless freedom, I raise the possibility of a rooted cosmopolitanism in which a disposition towards reciprocity in economic practices across borders comes to be viewed as an integrated part of a flourishing life.

Chapter 1: The Global Injustice of Grand Corruption

> To serve the totality is to fight for justice. The totality is constituted by violence and corruption.
>
> – Emmanuel Levinas (1998)

I. Introduction

The laundering of corrupt money is a significant global problem. Though precise numbers are notoriously difficult to pin down due to its hidden nature, total plundered wealth in circulation internationally is estimated to be at least hundreds of billions of US dollars, with only a tiny fraction having been repatriated.[1] To get a sense of the scale of the problem, consider that six years after the Arab Spring, only $1 billion of an estimated $165 billion stolen by *former* rulers in that region alone had been recovered.[2] Corrupt wealth is of course only one aspect of a bigger problem of illicit financial flows and specifically flows out of low-income countries. Depending on the definition used, these flows can include the movement of profits derived from other crimes such as illegal logging and tax evasion, where the capital being laundered is itself illegal, as well as tax-abusive and market-abusive practices, where the illicit flows can encompass capital of legal origin.[3] A credible estimate indicates illicit financial flows, including from corruption, cost developing countries around $1 trillion per year, dwarfing aid flows.[4] These flows are linked to another structural feature of the global economy: the economist Gabriel Zucman estimates $7.6 trillion is hidden in tax havens.[5] Despite the common perception, it turns out that low-income countries are a net *creditor* to the rest of the world.[6] What is actually tracked, however, is just the tip of the iceberg: the UN estimates that of all global illicit financial flows, only one cent per dollar is detected.[7] One prominent advocate has described the flow of illicit money from poor to rich countries, and the economic structures built up in the second half of the twentieth century which enable this flow, as "the ugliest

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[1] Sharman 2017; Gray et al 2014. As of 2014, Sharman estimates only $4.5 billion in stolen wealth had been repatriated; see Sharman 2017, 14.
[2] Global Forum on Asset Recovery 2017.
[3] Cobham and Janský 2020, 2. These authors suggest the term "illicit financial flows" covers the phenomenon of "*hidden, cross border flows, where either the illicit origin of capital or the illicit nature of transactions undertaken is deliberately obscured*." They consider "illicit" to include what is forbidden by law, rules and custom; see Cobham and Janský 2020, 10.
[4] Global Financial Integrity 2017.
[5] Zucman 2013.
[6] Global Financial Integrity 2015.
[7] United Nations Office on Drugs and Crime 2001.

chapter in global economic affairs since slavery."[8] It would not be hyperbolic to claim that the grand corruption-money laundering linkage represents the systematic pilfering of wealth and resources from some of the poorest and most vulnerable people in the world.

In this chapter I have two aims. First, to briefly lay out the basic elements of globalised kleptocracy, and money laundering in particular. Second, to demonstrate why the liability model of responsibility is inadequate on its own to address the problem of globalised kleptocracy. Indeed, I try to show that what appears to be a paradigmatically liability-based problem of harm and wrongdoing is in fact a more complex matter of structural injustice. While this chapter sets out the issue and aspects of the current state of affairs, Chapter 2 will discuss specific responses. I also briefly compare globalised kleptocracy conceptually here with the trade in coercively obtained natural resources as discussed by Leif Wenar in *Blood Oil*, although the overview of the global anti-kleptocracy norm I offer in Chapter 2 will make my contrasting approach clearer. Overall, this chapter paves the way for a normative discussion later in the thesis of potential responses to globalised kleptocracy as part of a deeper set of changes in the moral and institutional practices of the market economy.

Globalised kleptocracy has received little attention from political theorists and philosophers, even in the literatures on global justice or justice and finance.[9] Prima facie, the moral issues are perhaps so clear-cut as to render normative reflection superfluous. I hope to show in this chapter why this conclusion is too quick. Despite appearing to be a liability-based problem, I will argue globalised kleptocracy is in fact *also* an entrenched structural injustice. If a specific bank actively seeks to house corrupt money, then this is obviously morally problematic and philosophically uninteresting. The bank should be held liable for its behaviour. If the bank should have known it was holding such assets but didn't due to negligence, wilful blindness, or recklessness, then it would be similarly culpable. But I will argue it is only once there is a sufficient *collective sense of the moral wrong* in such cases, among many agents connected to the phenomenon, that this kind of legalistic reasoning can be deployed effectively as a response to an entrenched part of global economic life. In other words, if widely accepted and internalised norms, practices, incentives, and loopholes permit all behaviour short of falling *technically* foul of the law to be within the range of moral acceptability, then we can expect agents to push the limits of the law. In those circumstances, even laws that nominally exist to control behaviour will be hopelessly ineffective in reality. As the UK's Financial Services Authority found in that jurisdiction, the *risk of getting caught*, rather than the *risk of laundering money*, can readily become

[8] Baker 2007.
[9] On justice and finance see, for example, Herzog 2017; Hayward 2019.

the overriding concern for market actors.[10] In such cases, the normalised range of activity can also facilitate the law-breaking of others even if not illegal itself. Moreover, as the complexity of money laundering schemes has grown in response to new forms of regulation, relying on a narrow, reactive form of compliance has proven acutely inadequate to match the scale and nature of the harm from the perspective of its primary victims: ordinary people living inside kleptocracies.

The rest of this chapter proceeds as follows. First, I define grand corruption and kleptocracy, and identify the wrong it entails. Second, I outline the basic steps involved in money laundering and illustrate how these manifest on a spectrum of simple to more complex cases. Third, I raise the parallel with the trade in natural resources. Fourth, in light of complex cases, I try to show how a liability approach might be applied. Fifth, I argue that even a sophisticated liability approach, namely Christopher Kutz's complicity theory, runs into difficulties. Sixth, I go further with this line of argument to show how even a liability model that is sensitive to structure – Thomas Pogge's negative duties argument – remains deficient. Finally, I outline the broader set of factors – from market dynamics to geopolitics – which militate against effectiveness of the liability regime on globalised kleptocracy.

II. Grand corruption as an injustice

Grand corruption, as distinct from *petty corruption*, involves acts "committed at a high level of government that distort policies or the central functioning of the state, enabling leaders to benefit at the expense of the public good."[11] Grand corruption typically involves large amounts of money, with negative social outcomes disproportionately affecting the poor who are more reliant on government services. Grand corruption is also often closely linked to political oppression and authoritarianism. I use the term kleptocracy – or "rule by thieves" – to refer to a socio-political arrangement inside a country through which grand corruption is pursued by a small clique of senior officials, their families, and close associates at the expense of the wider citizenry.[12]

My working assumption is that grand corruption within nation-states is an example of *injustice* because, beyond its actual distortive impact on distributional equality, it is a form of state repression that benefits a small group while depriving ordinary citizens of opportunities to pursue their legitimate interests. Grand corruption turns the machinery of state into a vessel for

[10] See Financial Services Authority 2011.
[11] This fairly standard definition is provided in Transparency International 2020.
[12] For a historical overview of the term, see Bullough, 2018a.

the vested interests of a clique, simultaneously undermining potential well-being and prosperity in a society while eroding legitimate governing authority. I will not elaborate in detail on these claims as I understand them to be uncontroversial. While we could add, based on empirical evidence, that grand corruption is often a major barrier to economic development,[13] and that this view is bolstered by extensive insights from political economy analysis on the crucial importance of responsive state institutions to long-term development,[14] my claims here can also be read in exclusively normative terms centred on the wrongness of certain kinds of social and political relations. That is, regardless of the precise nature of the *consequences* of kleptocracy, I suggest there is something inherently, indeed crudely, unjust about a small, networked group unaccountably extracting, for its own enrichment, wealth from what are properly public resources – the wealth of citizens – including revenues from state taxation or derived from the exploitation of natural resources.[15]

The functional basis of a kleptocracy lies in the arbitrary power of a political elite. This represents a thoroughgoing repudiation of the civic republican ideal of freedom as non-domination, gravely undermining the potential organisation of human beings into "free peoples".[16] Indeed, the kleptocratic state operates according to what we could call an "alien will"[17] to that of its own people, namely the state's own unobstructed will and those of the corrupt individuals involved in its political and administrative functioning. Grand corruption is, then, a manifestation of oppressive hierarchy that should be morally condemned. In this sense, grand corruption as large-scale theft from the people of a country seems repugnant to *any* definition of justice along the lines of rendering each person their due.[18] The normative significance of framing grand corruption as an injustice becomes sharper as we identify the way in which money laundering is intimately connected to kleptocracy in the contemporary world. The strongly intuitive moral premise on which I build is that the economic gains of any firm or polity that depend on corrupt money flows – flows derived from the extractive and oppressive practice of grand corruption – are illegitimate and should be eliminated. As a matter of

[13] See, for example, Rose-Ackerman 1978 and Rose-Ackerman 1999. More broadly, the International Monetary Fund (IMF) has estimated that curbing corruption so as to match those countries that have lessened corruption over the last two decades would lead to a gain of $1 trillion in lost tax revenues; see Mauro, Medas, and Fournier 2019, 27. Note this is nearly twice the revenue which is estimated to be needed to meet the UN Sustainable Development Goals (SDGs).
[14] Prominent examples include North 1990; Collier 2007; Acemoglu and Robinson 2012; and Deaton 2013.
[15] For an illuminating account of the idea of "citizens' wealth" in the context of sovereign wealth funds, including the notion of the state acting as a fiduciary in relation to its citizens, see Cummine 2016.
[16] For a seminal account in the contemporary tradition, see Pettit 1997.
[17] Pettit 2012.
[18] As David Miller suggests, "The most plausible candidate for a core definition [of justice] comes from the *Institutes of Justinian*, a codification of Roman Law from the sixth century AD, where justice is defined as 'the constant and perpetual will to render to each his due'." See Miller 2017.

principle, we should follow Onora O'Neill where she suggests we owe ethical standing to any agents about whom we make implicit or explicit assumptions in our activities.[19] The normative implications of instantiating the goal of eliminating all economic gains premised on oppression inside kleptocracies, however, cannot be limited to the articulation of moral principles. Given the reality of prevailing norms, interests, and institutions, we must ask difficult questions about the nature of social transformation required to approach this goal and the kinds of agency needed within such a transformation.

III. How money laundering enables grand corruption

Grand corruption and money laundering have a "symbiotic relationship"[20]: as corrupt money flows out of countries into the global financial system, money laundering becomes the "correlate of corruption".[21] For a kleptocrat, money laundering has two aims. First, to conceal evidence of the original crime. Second, to protect the stolen wealth from scrutiny or seizure. Money laundering is about converting "dirty money" into "clean money". For corrupt wealth, the money laundering process can be broken down into four steps:[22]

1. The initial crime, which in the context of globalised kleptocracy can be characterised as *the theft of public wealth from the citizens of a state*. When we think of kleptocracies, we tend to think of this step, namely the theft of public resources *within* the country where corrupt officials hold positions of power. In this step, we can acknowledge the variation of social, political, cultural, historical, and economic circumstances inside countries that give rise to kleptocracies, and the varied effects on development outcomes in different contexts. The methods used to obtain illicit wealth also vary, encompassing the channelling of natural resource-backed loans or outright bribery payments outside state budgets into private accounts, through to the state's award of commercial entitlements to specific entities or embezzlement from a country's treasury. This step is not a focus of my argument, except insofar as it pertains to steps 2-4.

2. *Placement*. This involves the penetration of stolen wealth from its original source (step 1) into the financial system, such as through a bank, business, asset, or shell company.

[19] O'Neill 1996.
[20] Chaikin and Sharman 2009.
[21] Levi and Reuter 2009, 368.
[22] See Ferguson 2018. Experts normally describe three steps or stages of money laundering, which correspond to 2-4 in my list. I have added step 1 for clarity.

3. *Layering*. This relates to the movement of corrupt money in the economy *after* placement has taken place, especially through complex financial arrangements and transactions which target loopholes across different legal jurisdictions, including secrecy jurisdictions and tax havens, to make it harder to detect or uncover its illicit origins. This is where much of the transactional activity occurs in complex schemes. The aim of this step is to legally distance the stolen assets from their source, obscuring the beneficial owner.

4. *Integration*. This is the stage in which the now apparently clean funds enter the legitimate economy, including through investments such as in real estate, ensuring the stolen assets are fully intermingled with licit markets. This step enables kleptocratic networks to use corrupt wealth for seemingly legitimate purposes, while ensuring that its illicit origins remain concealed.

The *international* dimension of money laundering in grand corruption cases is especially noteworthy. The most obvious reason is that sovereignty tends to make law enforcement across borders extremely difficult. In this sense, cross-border flows of stolen assets greatly improve the prospects of achieving the twin aims of money laundering, namely concealment and protection. Moreover, kleptocrats are particularly keen to protect their stolen assets in countries where the rule of law is strong and efficient. These are often wealthy, liberal democracies which have built robust legal and regulatory institutions that will by default protect the private property rights of any owner. Even when it comes to formal compliance with global anti-money laundering standards, corrupt wealth is, paradoxically, predominantly held in jurisdictions that are better rated on this score. Finally, kleptocrats also tend to want the benefits and luxuries available to other plutocrats such as owning property in prestigious locales, obtaining access to high-quality healthcare, and enrolling their children in elite educational institutions. The desire for these benefits tends to increase the level of interaction between kleptocrats and wealthy societies.

To better understand the phenomenon, we can consider a spectrum of complexity in how corrupt assets are laundered, and how real-world cases reveal its various features as a policy challenge. In particular, we can notice that even relatively simple cases in which wrongdoing is concentrated rather narrowly among a distinct set of actors tend to evolve into more sophisticated money laundering processes that enmesh many agents, including those operating within mainstream market practices and institutions. In the wake of the regulatory regime which has emerged in recent decades (see Chapter 2), especially the obligations on banks to report suspicious transactions, contemporary cases of globalised kleptocracy increasingly exhibit the features of more complex cases. This increase in complexity follows the logic of

money laundering as it moves through the four steps outlined. We can start with an illustrative example of a relatively straightforward case and show how it took on more complex features before laying out aspects of higher-order complexity in money laundering schemes. My case is not intended to capture the essence of the phenomenon of globalised kleptocracy. Rather, presenting a stark example that is well-documented by existing legal and regulatory processes provides a starting point for seeing the phenomenon in a new light.

The Obiang regime's stolen assets

According to anti-corruption experts as well as evidence provided in legal investigations and proceedings, President Teodoro Obiang Nguema Mbasogo of Equatorial Guinea and his inner circle have long maintained an effective looting operation in that country. Through concerted efforts over several decades, Obiang and his clique are said to have "diverted to their own private benefit the overwhelming preponderance of revenue from Equatorial Guinea's natural resources," marking out the regime as "an almost perfect kleptocracy."[23] It is widely accepted by outside observers that Obiang's network has used its ill-gotten gains to finance a political machine that represses political rights and ensures the legal system is subservient to the regime's interests. Meanwhile, as of 2015, only one in four Equatorial Guinean newborns were immunised for polio and measles and one out of three for tuberculosis; roughly half the population lacks access to potable water; and, in 2012, four out of ten 6- to 12-year-olds were not in school.[24]

I should clarify that while I will largely use legal liability in the discussion of this case, there is of course a sense in which many things that are one's *moral* liability are not enforceable in law. But the limits of legal liability in the case of globalised kleptocracy sheds similar insight on the limits of moral liability, since the reasoning behind both operates in a similar way. On the key conceptual point I wish to illustrate, legal and moral liability in the current case both focus on addressing the harm of corruption by assigning guilt and blame to the conduct of specific agents; that is, both attempt to pinpoint which agents committed a wrong, either legal or moral.

For about a decade from 1995, Obiang's network deposited much of their ill-gotten gains in Riggs Bank in Washington DC. A 2004 report by the United States Senate Permanent Subcommittee on Investigations revealed that Riggs Bank – "a pillar of the Washington financial and political establishment"[25] – was repeatedly incompetent in its screening of dirty

[23] Open Society Institute 2010, 3.
[24] Bekele 2017.
[25] Sharman 2017, 61.

money and sometimes complicit in helping its clients hide corruptly obtained assets. The regulatory agency which had responsibility to enforce more stringent controls following the terrorist attacks of September 11, 2001 (the Office of the Comptroller of the Currency, or OCC) was also shown to have been ineffective and timid. The Subcommittee took an active interest in Riggs after an investigative reporter alleged links between the bank and the 9/11 terrorists. It found that Equatorial Guinea's "Oil Revenues Account" at Riggs was controlled by three people: Obiang himself, a son who was minister of mines, and a nephew who was secretary of state for treasury and budget. Two of three signatures were required to remove funds from the account.

Beyond this account, Riggs and Obiang's network had established an extensive relationship.[26] This included opening around fifty accounts for members of the family, their associates, or connected companies, totalling around $700 million. Riggs took unusual and illegal steps to facilitate the flow of money into the United States, and facilitated money transfers from US oil firms to the family. One Obiang-connected account received several cash deposits worth over $1 million, including two involving suitcases with $3 million in cash. These deposits went unreported to regulatory authorities, despite the legal requirement to supply "suspicious activity reports". The bank ran its own investigation in 2004, finding that only 15 percent of 15,000 embassy and international private accounts had proper "know your customer" (KYC) documentation. Meanwhile, regulatory authorities during the period generally suffered from regulatory capture and a pattern of unresponsiveness to money laundering risks. The OCC repeatedly decided not to take action, despite being aware of Riggs's practices. One official wrote in an email, "if not Riggs who and if not now, when?".[27] A key OCC official who advocated a lenient approach took a job with Riggs less than two months after leaving their government role. The Obiang accounts were eventually closed in 2004, and after paying relatively modest penalties of $41 million, Riggs was taken over by another bank in 2005.

This is a straightforward case of money laundering by well-known kleptocrats. We might think the details are rather stark and so of little interest to serious moral inquiry. Sadly, however, there is a sense in which the international system and national governments are only just beginning to grapple even with this obvious type of wrong. "[M]uch kleptocracy is a fairly public affair," Jason Sharman explains. "Because impunity for so long has been the rule and accountability the exception, up until quite recently leaders have not really had to take many precautions to hide their crimes."[28]

[26] The following details are found in Sharman 2017, 18.
[27] Cited by Sharman 2017, 62.
[28] Sharman 2017, 15.

Nonetheless, the law does now clearly recognise this kind of wrong in the sense that the crimes and corresponding regulatory standards involved are typically covered by legislation in the world's major economies, even as loopholes persist. I will discuss the details of the anti-kleptocracy regime in the next chapter; for now we only need to acknowledge that in broad moral terms there is little ambiguity about the institutional response which is required to better police such situations. The harms of the Obiang regime were systematically supported by Riggs, which in turn exploited the international system of rules governing global finance and the weaknesses of national law and regulation, including lax enforcement. If one accepts any major account of global justice in the contemporary philosophical discourse,[29] I suggest one would also have to accept that Riggs collaborated in perpetuating an injustice: it was complicit in the gross moral wrongs of the Obiang regime, incentivising and enabling the persistence of domestic wrongs inside Equatorial Guinea, and benefiting from them. So we can say, quite emphatically, that Riggs itself committed a moral wrong for which it should have been held liable. I think it would also be correct to say that the regulators who failed to take issue with such an obvious wrong were blameworthy for their failure to act. Without going into further detail, we can say the process described provides an illustration of the force of the liability model in this simpler kind of case.

In practice, simple cases like this one often evolve into more complex schemes, especially since banks have instituted more stringent anti-money laundering measures. This is consistent with the logic of the four steps outlined, namely theft, placement, layering, and integration. Returning to the Oil Revenues Account held in Riggs,[30] for example, it was revealed that for several years the three signatories moved approximately $34 million into shell corporations located in secrecy jurisdictions. Over $26 million of that sum was transferred via 16 operations into a Spanish bank account, held in the name of a Panamanian corporation which civil society investigators found had also spent several million on property in Spain. More than $8 million was transferred via ten transactions into an account at HSBC Luxembourg owned by a second shell company.

[29] This includes those accounts of global justice which extend a Rawlsian basic structure framework to the global sphere, notably Beitz [1979] 1999 and Pogge 1989; highlight the principle that agents have negative duties to not support institutions that violate the rights of the poor, notably Pogge 2008; develop a republican account of global non-domination, notably Laborde 2010; emphasise coercion, notably Valentini 2011; promote a thoroughgoing egalitarian cosmopolitanism, notably Caney 2005; or ground duties of global justice in national responsibilities to remedy past injustices and ensure fair terms of cooperation, notably Miller 2007.

[30] The following details are found in Open Society Institute 2010.

To get a better sense of what complex money laundering processes looks like, we can turn to President Obiang's son and the vice president of Equatorial Guinea, Teodoro Nguema Obiang Mangue (known as Teodorin). Teodorin's activities provide a vivid illustration of the way in which kleptocrats engage with the global financial system in complex ways. This case is a departure from similar ones, however, because of the vigorous law enforcement campaign involved, even while Teodorin has been in office. This campaign means more information is publicly available than is typically the case, throwing into sharper relief the limits of liability-based mechanisms to tackle globalised kleptocracy.

Teodorin was made a minister for forestry and agriculture in 1994 and a vice-president in 2012. As minister, he instituted a "revolutionary tax" for logging firms with the proceeds channelled into a shell company corporate account he controlled. Teodorin then set about spending this money – just to speak of activity in the United States – on luxury cars, property (including a $30 million property in Malibu, California), a Gulfstream jet (costing $38.5 million), and other valuable items. The US Justice Department estimated he spent over $314 million between 2004 and 2011 alone.[31] Despite awareness of Teodorin's likely corruption, action was not taken by US authorities for several years. Some commentators have suggested this was for geopolitical or geoeconomic reasons. However, regardless of such considerations, legal experts noted that obtaining the sort of evidence needed to prosecute Teodorin and prove his guilt beyond a reasonable doubt would be extremely difficult without the cooperation of Equatorial Guinea (which, unsurprisingly, was not forthcoming).

Meanwhile, increased levels of anti-money laundering screening by US banks forced Teodorin "into ever more elaborate ruses to gain access to the financial system."[32] With the assistance of two California-based lawyers, from 2001 Teodorin began wiring money from Equatorial Guinea to accounts held in the name of shell companies under his control or to his secretary's accounts at the Union Bank of California and Bank of America. Prompted by Equatorial Guinea's high-risk status as determined by its anti-money laundering software, Union Bank closed Teodorin's accounts by 2005. Bank of America similarly cut him off. Undeterred, Teodorin then moved money from Equatorial Guinea, in the name of companies he controlled, to his law firm's trust accounts. His lawyer then moved Teodorin's money via cheques from the trust accounts to US accounts held by California shell companies established for this purpose, with the lawyer acting as the signatory but under Teodorin's instructions. Union Bank cottoned on to the scheme and closed the exposed accounts. Bank of America was less vigilant, however,

[31] My summary of events draws on Sharman 2017, 71-78. I focus on US-based activities, though Teodorin was allegedly active in channelling money to several other jurisdictions.
[32] Sharman 2017, 73.

and did not act until Senate investigators approached them in 2008. At least three further attempts to open accounts for Teodorin at other banks were reversed relatively quickly upon those banks realising the potential risks involved, including in the wake of the public Riggs Bank case. Even given the notoriety of that case, Teodorin was still able to use two confederates to set up shell companies and open accounts at Wells Fargo (in 2008) and J.P. Morgan (in 2010), which received wire transfers from his companies in Equatorial Guinea to pay for upkeep of his US property.

Despite the high profile of risks associated with Teodorin, the effectiveness of some screening processes, and the information held by US prosecutors and their determined efforts to pursue prosecution, the complexity of the case was confounding. For the legal prosecution to work, it was necessary to point to specific incidences of corruption in Equatorial Guinea, specific assets in the United States, and the links between the crime and the assets, all while Equatorial Guinea was determined to kill the case. Even as US prosecutors sought to act, Teodorin fled the country, was promoted to second vice-president, and declared to have a clean record by Equatorial Guinea's supreme court. In 2011, a California judge threw out the first case taken against Teodorin by the US Justice Department on the basis of insufficient evidence. In 2012, the Justice Department filed an amended claim, drawing on many years of investigation and cooperation with law enforcement agencies in France, Spain, and Italy, all countries where Teodorin's corrupt assets had traces. Teodorin's lawyers were accused of fraud, though no charges were ultimately pursued. Despite the extensive detail provided, the judge found that demonstrating Teodorin was living well beyond his means was insufficient to prove criminality. In 2014, the sides settled the case. The US government took control of the Malibu property and one luxury vehicle, along with some other items. The proceeds were assigned to help Equatorial Guinea through a charity jointly selected by the parties. Meanwhile, a Washington-based public relations firm was hired to improve the Obiang family's image, and President Obiang sponsored a $3 million UNESCO research prize in the family's name.

Sharman provides a useful evaluation of the saga:

> To what extent was the result a victory or defeat for the campaign against kleptocracy? The investigation and legal proceedings, lasting from 2006 until the end of 2014, represented an enormous commitment of time and resources, and yet failed to win the day in court. This was despite the spectacular and unexplained discrepancy between Obiang's official earnings and his spending and despite the painstaking investigations by journalists…, Global Witness, the Open Society Foundations, the Senate subcommittee, and US and foreign law enforcement agencies. The Justice Department obtained less than half of the funds targeted, which themselves represented a relatively small share of Obiang's plunder. Obiang is of course at liberty to continue to enjoy his profligate lifestyle.

> *The public and private consensus from expert observers, however, was that the US government had done the best it could in the case under difficult circumstances*. The results were not trivial. The US government had in some way held Obiang accountable for his crimes in a manner that was impossible in Equatorial Guinea. Depending on how the money is spent, $30 million may actually make a notable difference in the victim country, given that the majority of its 700,000 people live on under two dollars a day. The investigation and the result… sent a signal that the US government is willing to go to great lengths to take action against the proceeds of foreign corruption held within its borders.[33]

This balanced conclusion carefully and helpfully weighs the costs and outcomes according to the short- and medium-term consequences. But it is striking that even a relatively stark case – pursued vigorously by the vast governmental machinery of the most powerful state in the world – had such mixed success. We must ask whether the liability approach, *on its own*, will *ever* be able to get much traction on a problem like this – and especially whether it can rise to the level of effective deterrence – commensurate with the scale of the harm. If scepticism on results is warranted for high-profile, relatively clear-cut cases involving relatively weak states, what of the majority which are less overt and have less profile and resources directed to them? Indeed, given current incentives and social attitudes, most cases will receive little to no public or political attention, making this kind of full-court press by rich democracies an exception.

Higher order complexity in money laundering schemes

The logic of money laundering encompassed by the four-step process outlined (theft, placement, layering, integration) points to potentially increasing levels of complexity involved in moving and protecting stolen assets. Part of the challenge arises from a paradox: tighter regulation – the obvious response to activity at the less complex end of the spectrum – can unintentionally incentivise more complex schemes as corrupt actors seek out loopholes and more creative measures to evade detection and regulation. Sophisticated money laundering schemes have generally fed off the creation of complicated legal, technical, and institutional features of the contemporary global economy. These features are linked to the rise of less restrictive cross-border capital flows, initially in the 1960s as a way for bankers to make profits by circumventing the controls of the Bretton Woods gold standard system and later, from the 1980s, as a result of deregulatory policy reforms. It is important to register the ways in which these reforms came to be supported by, and materially benefit, economic elites inside the rich countries. The rise of offshore secrecy jurisdictions, for instance, allowed high-net-worth individuals to limit their taxes compared to fellow citizens.[34]

[33] Sharman 2017, 77; emphasis added. Obiang here refers to Teodorin.
[34] Saez and Zucman 2019.

Money laundering schemes that exploit regulatory gaps can impose a cost on the corrupt actor, to be sure, but this tends not to be prohibitive. According to a study in the UK, for instance, the estimated cost of laundering money is at most around 5-15 percent of the principal.[35] More fundamentally, to get a handle on the way in which illicit financial flows thrive off the general complexity of global economic rules and practices, consider the succinct descriptions found in five of the ten "fundamental laws" of money laundering identified by a 1998 UN report:

> Law One: the more successfully a money laundering apparatus is in imitating the patterns and behavior of legitimate transactions, the less the likelihood of it being exposed.
> Law Two: the more deeply embedded illegal activities are within the legal economy, the less their institutional and functional separation, the more difficult to detect money laundering.
> Law Three: the lower the ratio of illegal to legal financial flows through any given business institution, the more difficult will be the detection of money laundering.
> Law Seven: the greater the degree of financial deregulation for legitimate transactions, the more difficult will be the job of tracing and neutralizing criminal money flows.
> Law Ten: the worse becomes the current contradiction between global operation and national regulation of financial markets, the more difficult the detection of money laundering.[36]

Despite reforms since these points were articulated, the underlying dynamics still hold true. The central point is that the money laundering process leverages the mainstream market economy in a variety of ways, increasing the level of intermingling or ambiguity between corrupt and non-corrupt assets in order to eliminate the tainted character of the corrupt assets. It is thus worth considering in more detail the mechanisms used to ensure corrupt money maximally leverages the legal economy in search of legitimacy. A review of 150 grand corruption cases conducted by the UN and World Bank identified a number of common characteristics among the vast majority of such cases:

> (i) a corporate vehicle was misused to hide the money trail;
> (ii) the corporate vehicle in question was a company or corporation;
> (iii) the proceeds and instruments of corruption consisted of funds in a bank account; and
> (iv) in cases where the ownership information was available, the corporate vehicle in question was established or managed by a professional intermediary.[37]

A crucial attribute these mechanisms or procedures bestow on a stolen asset is a *lack of transparency* on its ownership or illicit origins, or both. This lack of transparency hinders regulators. Crucially, it also undermines the epistemic capacity of the citizenry: citizens do not have an accurate picture of the systematic pattern of financial flows or corrupt asset ownership. Most of the relevant information needed to address the problem, or raise consciousness about it, remains locked up in private market actors.[38] Beyond the fact that private actors hold the

[35] Cited in Chaikin and Sharman 2009, 20-21.
[36] United Nations Office for Drug Control and Crime Prevention 1998, 22-23.
[37] van der Does de Willebois et al 2011, 2.
[38] Chaikin and Sharman 2009, 74.

relevant information, four related features of the global financial system are particularly important with regard to non-transparency:

1. *Shell companies, trusts, and other misused corporate vehicles.* A shell company is a "non-operational company" that does not have "independent operations, significant assets, ongoing business activities, or employees."[39] Critically, shell companies and other corporate vehicles can be used to disguise the true owners of an asset – including assets derived from corrupt activity – by technically separating the legal ownership of assets from the natural persons benefiting from them (those persons with "beneficial ownership"). This creates "legal distance" between an asset and its beneficial owner. Through "anonymous companies", kleptocrats can use a "corporate veil" to conceal their corruption.[40]

2. *Intermediaries*. Corrupt elites use intermediaries to break the link between stolen assets and themselves through complicated chains of ownership. These intermediaries include lawyers, private bankers, and corporate service providers (CSPs) who specialise in establishing, servicing, and selling shell corporations, trusts, and other corporate vehicles. These intermediaries leverage their own credibility to reduce suspicion or detection of their anonymous clients.

3. *Secrecy jurisdictions.* Secrecy jurisdictions are those which provide "legalized secrecy"[41] facilities to nonresidents (often combined with low tax rates, lax regulation, and weak international judicial cooperation), thus often attracting illicit financial wealth.[42] These include "offshore financial centres" which specialise in financial services for nonresidents or "tax havens" where the minimisation of tax is the key attribute (often jurisdictions are offshore financial centres and tax havens simultaneously). Secrecy jurisdictions provide an effective base for establishing legal entities such as anonymous shell companies that underpin many major cases of corruption.[43] The amount of financial wealth currently held in offshore centres and tax havens is large, with one major study estimating that it stands at 10 percent of world GDP.[44]

[39] van der Does de Willebois et al 2011, 34.
[40] See OECD 2001; van der Does de Willebois et al 2011.
[41] Christensen 2012.
[42] Cobham, Janský and Meinzer 2015.
[43] Cobham and Janský 2020, 8.
[44] Zucman 2013; Alstadsaeter, Johannesen and Zucman 2018.

4. *Banking secrecy*: This is the practice in some jurisdictions, protected or mandated by law, that restricts banks from revealing information about their client, even for legitimate purposes.[45]

These features of the financial system were dramatically, if only partially, exposed in the 2016 "Panama Papers" leaks, which revealed internal documents of a Panamanian law firm, Mossack Fonseca.[46] While deliberately non-transparent and thus creating various kinds of risk for global society and order, the core elements of these kinds of arrangements are a largely normalised part of global economic life. As one of the journalists who covered the Panama Papers, Luke Harding, remarked:

> Previously, we thought that the offshore world was a shadowy, but minor, part of our economic system. What we learned from the Panama Papers is that it *is* the economic system…. It's easy to think kleptocracy is a problem of faraway, nasty countries, about which we don't want to inquire too deeply, but it turned out that we're the biggest crooks of all, actually, in that we facilitate this.[47]

A leading advocacy group has described the current state of affairs in this way:

> A global industry has developed involving the world's biggest banks, law practices, accounting firms and specialist providers who design and market secretive offshore structures for their tax- and law-dodging clients. 'Competition' between jurisdictions to provide secrecy facilities has become a central feature of global financial markets, particularly since the era of financial globalisation really took off in the 1980s.[48]

With the preceding analysis, we now have a picture of the complexity which characterises globalised kleptocracy, and its embeddedness in the mainstream economy. A recent account by journalist Oliver Bullough describes the world of global finance that protects kleptocratic wealth as "Moneyland", a place where "Maltese passports, English libel, American privacy, Panamanian shell companies, Jersey trusts, Liechtenstein foundations, all add together to create a virtual space that is far greater than the sum of the parts."[49] This notion of "virtual space" captures the way in which stolen assets exploit laws across jurisdictions on a transnational scale to maximise obfuscation (making stolen assets hard to trace) and legal protection (making stolen assets hard to recover), and combine these in a single process. The outcome is to ensure that corrupt assets are treated by market actors as if they are legitimate.

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[45] For an overview of this issue in one prominent jurisdiction, Switzerland, see Tax Justice Network 2020.
[46] Obermayer and Obermaier 2016.
[47] Cited in Rusbridger 2016.
[48] Tax Justice Network 2020.
[49] Bullough 2018b, 21.

As mainstream banks have implemented new anti-money laundering laws and regulations, laundering schemes have become more sophisticated in evading international rules and practices. One such pathway was exposed in the so-called "Luanda Leaks" of 2020. This case involved major Western firms *legally* supporting the extensive global business and investment interests of the daughter of a former Angolan president who leveraged deep ties to her father's regime to build private wealth.[50] This kind of case reveals that the complexity of globalised kleptocracy extends even further than the legal, jurisdictional, and financial dimensions discussed so far. As business associates and family members leverage the corruption of high-ranking public officials to gain access to lucrative deals and licences, what emerges is a nexus of private and public power which poses a grave threat to freedom from domination inside countries as well as global inequality and instability. Analysts have pointed to the risks kleptocratic networks pose to democracies directly as these networks use "dark money" to influence politics and policymaking for geopolitical ends,[51] to national and global security,[52] and more fundamentally to an international order hospitable to open societies and democracy itself.[53]

Elements of simple cases will also be present in complex schemes. So, for instance, there will always be an initial act of theft and likely an inner circle which facilitates the initial transactions which enable stolen wealth to penetrate the financial system. Once those initial transactions are complete, however, *the market is geared towards turning dirty money into clean money*. The mechanisms used to legitimatise corrupt capital are not an aberration but ultimately the same as those used by other actors in the legal market economy, for reasons ranging from convenience and ease of moving capital, through to (legal) tax minimisation and privacy protection.

Yet the temptation to focus on individual perpetrators while neglecting their structural backdrop is immense. The existing liability regime presses the moral attention of agents connected to the social process of money laundering towards the initial theft and the most direct acts of placement in the legitimate economy. Take the following four examples. *Journalists* might report episodically on the scandalous nature of a kleptocrat's profligacy in those rare instances when a case is taken to trial or exposed through leaks but hardly ever about how banking culture, professional codes, standard real estate practices, or the pedagogy of business schools enable globalised kleptocracy. *Regulators and law enforcement* in even the most forward-leaning jurisdictions are resourced and empowered to only tackle the most egregious cases, if any, of

[50] Forsythe et al 2020.
[51] Zelikow et al 2020.
[52] Chayes 2015.
[53] Sutton and Judah 2021; Sitaraman 2019.

corrupt foreign wealth sheltered in their jurisdiction. The organisational and regulatory frameworks they work within provide few options or resources for pursuing corrupt wealth which stems from noncooperative foreign jurisdictions, including due to difficulties in obtaining sufficient evidence of corruption crimes. *Corporate boards* are largely removed from, or wilfully neglect to consider, the internal organisational dynamics in banks, as well as law and accounting firms, which tend to downgrade the status and power of compliance teams relative to profit-making parts of the business. Even when compliance is prioritised, this is generally understood in a narrow legal sense rather than as a minimal requirement of a deeper social responsibility to curtail corrupt wealth. *Individual investors* may only discover that a bank in which they hold shares has lax money laundering procedures once a scandal erupts, and are unlikely to feel a connection to the wrong committed. The responsiveness of these four sets of agents illustrates the way a liability-based paradigm can crowd out structural vision and motivations. The liability paradigm shifts the focus away from rooting out corruption as an element of global economic life, and instead treats it as an aberration which can be eliminated in an individuated fashion.

The prevailing conception of liability responsibility has underpinned a compliance regime that seeks to outlaw the initial crime and the transfer of corrupt wealth into the financial system, in theory providing a mechanism to hold the agents involved in these steps accountable. However, to the extent this regime is enforced – that is to say, partially – it merely polices individuated acts of wrongdoing while neglecting underlying structural features of the phenomenon. It largely ignores the cumulative consequences of unquestioned norms, business practices, incentives, regulatory timidity, and the core assumptions behind market rules and institutions, such as those pertaining to competition, profit, and the definition of relevant stakeholders. It is implausible to expect agents engaged in theft or knowingly servicing kleptocratic networks to challenge the status quo social process as they are the ones *brazenly* benefitting from systemic weaknesses to advance their narrow self-interest. Theirs is the type of moral wrong for which we need robust liability accountability. The liability model of responsibility must be made to work effectively in such cases to modify behaviour and practices. To achieve this, liability enforcement needs to be highly pervasive in responding to specific instances of wrongdoing, otherwise it would be difficult for accountability to be delivered or a deterrence effect to emerge.

But to whom can we turn to bring about structural change so that the liability regime can serve as an effective component of a comprehensive response? This is the crucial question of agency which will be central in subsequent chapters. For now, consider how widening our aperture on moral ecology can offer a clearer sense of how in steps 2-4 of the money laundering process there may be potential to motivate the kind of agency that can disrupt the pattern of injustice

itself, targeting it at the level of prevention, rather than policing its symptoms retrospectively. At each step, but especially 3 (layering) and 4 (integration), we can identify agents – perhaps only a few initially – who are more open to recognising a link between their own values, esteem, and integrity on the one hand, and the injustice of globalised kleptocracy on the other. Among agents encountering the more ambiguous aspects of the money laundering process – a banker helping a family member of a kleptocratic ruler to make an investment in a legitimate business; a lawyer tasked with creating a corporation that obfuscates its true beneficiaries; a real estate agent who makes a purchase on behalf of a legal entity without knowing the natural persons behind it; a regulator who notices a loophole being exploited under their watch; a politician representing a jurisdiction which has become a haven for corrupt wealth – there is likely to be variability in the willingness to reconstruct perceptions of the situation and the way it engages agential interests, values, and moral identity. Some of these agents are either individually close enough to the process or a part of collectives such as a national citizenry or professional association, to have an opportunity to develop relevant knowledge and connection to the harm being produced. Yet they are distant enough from directly imposing harm to recognise that their responsibilities can best be fulfilled through structural change, including through the state. They have reasons to want a liability regime that works and they have a vantage point from which to recognise that such a regime can only be brought about through a wider transformative process; they can see that a compliance regime is not a free-standing solution to a structural problem.

IV. A parallel with the trade in natural resources

The circulation of corrupt wealth creates transitive legal links in financial and other markets. This is analogous to Leif Wenar's account of transitive legal links in the supply chains of coercively obtained natural resources, meaning here that if legal ownership is conferred between agents in one market transaction, all subsequent transactions also confer exclusive ownership in relation to all other agents. As Wenar explains his inquiry:

> Americans… who have bought smart phones containing minerals pillaged by Congolese warlords own every molecule of their phones under American law. We probe how consumers come to be legally chained to distant warlords. For surely those warlords had no legal right to their plunder? Moving laterally, we consider a driver in Kansas buying a tank of gas. How, after all, does the atrocious authoritarian of Equatorial Guinea have the right to sell that country's oil so that a Kansan can buy that oil legally?[54]

[54] Wenar 2016, xliv-xlv.

Just as authoritarians or militia groups that gain control over natural resources benefit from the international legal principle of "effectiveness" which ensures that property rights can be legitimately conferred regardless of the original source of the extracted resources, the flow of the kleptocrat's loot operates in an analogous manner. By effectiveness, Wenar means an international rule which stipulates that

> coercive control over a population ('might') will result in legal control over that population's resources ('right'). 'Might makes right' is as much true for an autocrat in coercive control of an oil-rich country as it is for a band of militants who seize a mine by force. In both cases, *the alchemy of effectiveness transmutes the iron of coercion into the gold of legal title*. Whoever can gain coercive control sends resources down through sale chains to consumers, and consumers' cash flows back up to the coercive actors to help them maintain their power. Effectiveness puts consumers into business with bad actors abroad.[55]

It is this "alchemy of effectiveness" that is most relevant for my inquiry, analogous to turning dirty money into clean money in the case of globalised kleptocracy. With grand corruption, once the original wrong of theft from the public has been carried out, the capital which flows from the kleptocrat's loot is actively – through placement, layering, and integration – given recognised legal title in global markets. The tainted character of capital from the original wrong dissolves and the capital can thus flow without hindrance in the market. Banks, accounting, and law firms help ensure that legal title over capital is protected and transferred smoothly among agents in the market, while the underlying system of cross-border financial flows makes this dissolution of wrongness possible. And since different jurisdictions have differing rules, the placement, layering, and integration process can push capital through jurisdictions which will ensure the alchemy of turning dirty money into clean money is most effective.

Capital works differently to the natural resource case of course because no product akin to oil or minerals exists, and the original act of theft is formally outlawed, as is the laundering of the proceeds of corruption. The parallel is nonetheless striking. Based on Wenar's insight, what we actually confront with globalised kleptocracy is the efficient transferral and intermingling of tainted capital in markets. The driving logic of money laundering is to create and diffuse layers of legal rights. We can say that the original stage of money laundering (in our case, theft) is dependent for its effectiveness on the expectation that subsequent transactions involving some amount of stolen wealth will enable that wealth to shed its tainted character and eventually find a haven. This is what happens in the world today. We do not question the legitimacy of the general pool of capital as a result of corruption because there is no boundedness to this concept. It seems counter-intuitive to do so because the tainted pool of capital would eventually extend to all capital in the world, and this would lead to paralysis in our moral thinking on what steps

[55] Wenar 2016, xlv; emphasis added.

should be taken to address the problem at hand. In fact, the dominant normative principle could be described as *diminishing responsibility*: corrupt money is gradually cleansed of its tainted character as it moves through the market. Through the market's complexity, illicit money becomes increasingly detached from regulative control over the original moral wrong. By the integration stage, most agents in the market will likely feel they have no responsibilities whatsoever. The intuitive response is a familiar one: to isolate the primary perpetrators involved in the harm. This is in fact the basis of the present international regime, embodied in the UN Convention against Corruption, and mirrored in legislation across the world (discussed in Chapter 2). Yet it is a view with great limitations as becomes evident when we take a structural perspective that reveals the harmful effects of unquestioned norms and practices, and which challenges the normative assumptions of existing institutional arrangements.

V. Liability and globalised kleptocracy

The contrast between simple and more complex cases, and the steps involved in money laundering, allow us to evaluate globalised kleptocracy in light of the liability model of responsibility. Its limitations seem readily apparent: many agents, often acting in legitimate ways, end up entrenching – indeed dissolving traces of – the wrongs of kleptocrats and those actively aiding them. In broad terms, we could divide liability in the money laundering process along a spectrum with four reference points, from most severe to least:

(i) *Intentional wrongdoing* – active complicity (e.g. theft by the Obiangs; Riggs Bank safeguarding corrupt money).
(ii) *Knowingly, but perhaps reluctantly, complicit* (e.g. regulators failing to reign in Riggs).
(iii) *Causally complicit, perhaps unaware, but negligent* (e.g. foreign banks taking transactions from Riggs without sufficient due diligence; shareholders in Riggs with capacity to track its conduct but neglecting to do so because of a focus on profit-making activities).
(iv) *Connected through markets, unaware, and not negligent* (e.g. other depositors in Riggs; ordinary shareholders in Riggs; other banks dealing with Riggs).

We can try to map this spectrum of liability onto the four steps in the money laundering process, namely theft, placement, layering, and integration, although there is no one-to-one correlation. Liability reference point (i) usually covers steps one (theft) and two (placement), while (ii) touches on the blameworthy *responses* by agents to activities done by *other* agents. Liability reference points (i), (ii), (iii) and (iv), however, could all be invoked with regard to step three (layering) or even step 4 (integration), depending on the circumstances. For example, a lawyer who sets up a trust that he knows will be used to facilitate money laundering would come under (i) but if he

sets up a complex corporate structure unaware that one component of this will be used to conceal corrupt money, this action may come under either (iii) if he was negligent in conducting appropriate background checks, or (iv) if he took appropriate steps but was still unable to determine if the ultimate beneficiary was a kleptocrat (perhaps because the stolen money was already hidden through several other layers). Reference point (iv) will arise frequently in steps three (layering) and four (integration) of the money laundering process, encompassing many more agents than we would normally consider liable.

With this sort of liability mapping in hand, it seems that a powerful response to complex money laundering cases is to *extend* liability, either to the institutional arrangements which underpin the status quo (for example, by issuing blame towards agents who resist closing institutional loopholes or more stringent enforcement) or to the vast array of agents who are complicit in its perpetuation, not simply the most obvious culprits, thereby spreading attention from reference point (i) towards (iv). We might want to give greater scope to our definition of negligence, for example. Alternatively, we could introduce strict liability for specific conduct, even where agents are not intentionally committing any wrong – where there is no assignable culpability – but nevertheless some harm has occurred to which they can be traced. The push for strict liability, however, would raise difficult questions around what the threshold should be and whether it would be politically feasible to introduce meaningful strict liability without a dramatic shift in market practices. In short, we can extend our conception of liability by developing more sophisticated and nuanced versions of it. I will discuss two promising strategies that ultimately reveal the limits of this approach to addressing globalised kleptocracy. The first, developed by Christopher Kutz, reconceptualises complicity. The second, offered by Thomas Pogge, boldly asks who we can blame for unjust global institutions.

VI. Extending liability 1: Kutz's complicity theory

The conception of *complicity* developed by Kutz seems to point us in the right direction because it addresses the systemic nature of global harms.[56] Can an expanded conception of liability help address the conceptual and practical concerns of globalised kleptocracy by revealing the way agents are complicit in the harm produced? This seems plausible. As we have seen, there are a series of agents involved in perpetuating globalised kleptocracy for whom registering complicity seems apt. Moreover, as one human rights scholar puts it, "we are complicit in the grip that

[56] Kutz 2000.

greed holds over finance, if only because we seem so inclined to appreciate its convenience and covet the wealth it can deliver."[57]

Kutz's nuanced theory of complicity extends the concept beyond its ordinary usage in a manner that aims to make it more relevant to structural challenges. Since Kutz's approach represents perhaps the most sophisticated attempt in the philosophical literature to extend complicity in this way, it is worth considering in greater detail. Kutz initially provides an account of complicity in collective action scenarios where many people are involved such that not all agents are directly *causing* harm and there is *overdetermination*. He provides the example of the Allied bombing of Dresden in World War II in which more bombs were dropped than needed such that not everyone's role was causally distinct in ways that had a bearing on the harmful outcome. In Kutz's view, what joined those agents together was a *common enterprise* that in turn made them complicit – and thus individually accountable – because the *goal* of all agents was aligned and each had *participatory intent* towards achieving that goal.

Kutz then moves to discussing cases which lack coordination, describing these as *unstructured collective harms*. He gives the example of global environmental challenges in which the combination of many actions results in harm without the agents being involved in a collective project that produces it. This aligns in important ways with the Youngian understanding of structural injustice. Although full participatory intent is lacking in such cases, Kutz adjusts his model to accommodate a *quasi-participatory* connection to the outcome. In this modified version of his original framework, agents begin to see themselves as participants in something akin to a collective endeavour and thus open themselves up to being individually accountable for the unintended consequences of collective outcomes. As Kutz notes, the agents

> share an objectively determinate and highly interdependent way of life. For the socioeconomic structures noted by the victims are neither self-originating nor self-sustaining. They emerge, rather, from unreflective confluences of habit and sentiment, tacit agreements upon, for example, the value of private transportation. These manifest themselves in myriad public policy choices and private behaviors.[58]

There is much in favour of this approach. In particular, it creatively links individual participation in collective activity in a way that opens possibilities for individual normative responsibility. To the extent that accountability for complicity is a powerful source of human motivation, Kutz is able to leverage this to promote action on difficult problems of collective life. Why then is complicity an insufficient basis for a conception of responsibility that can

[57] Kinley 2018, 79.
[58] Kutz 2000, 188.

empower or compel moral agents to play their part in preventing a structural injustice such as globalised kleptocracy? What are the limits of complicity in promoting large-scale, real-world social change? There are at least five limitations to Kutz's approach on these distinctive questions concerning structural change.

First, we can say that Kutz's conception of unstructured collective harms does not contain within it the *intention* by agents to promote a particular collective end – something crucial to Kutz's basic complicity theory – and so his framework loses its force. Following Young, we can say that Kutz extends complicity in a way that relies on issuing blame inappropriately. Even under his modified theory, all complicit agents are "blameworthy *in the same sense* as those who have planned and directed [the harm], though perhaps not to the same degree."[59] This is problematic. Consider, for instance, the shareholders of a company which benefits at the integration step of the money laundering process. Under prevailing norms, they might welcome a successful deal linked to a chain of corrupt money flows (because of a desire for profit) without being cognizant of this connection, thereby contributing to kleptocratic interests without the intention of doing so. In this instance, every shareholder fixated on short-term profits in any company whatsoever may be said to be "complicit" because they are reinforcing the actions of others engaged in money laundering. It is difficult to see how this complicity frame could gain much traction as a basis of individual responsibility for changing the background structure producing harm. As Chiara Lepora and Robert Goodin point out, Kutz elides "the essential distinction between participatory and contributory actions."[60] The problem arises because Kutz's original model relies on agents *understanding themselves* as being part of a collective enterprise which their actions advance; they must see how the collective end and their individual actions have some alignment in order for blame to be effective. As we have seen, however, the logic of money laundering is to intermingle corrupt capital with legitimate capital so that the two become indistinguishable. In the absence of intent to produce a given structural outcome, the basis for applying individual accountability to specific agents dissolves under Kutz's model. As Andrea Sangiovanni observes, "the very element that explains one's accountability in the intentional cases is *missing*."[61]

Second, from a psychological perspective, we can plausibly assume that in circumstances where complicity is ubiquitous or nearing ubiquity, the *motivational pull* it has on agents to take up responsibility tends to dissipate. An inherent feature of the complicity frame is that it signals that we can ascribe responsibility to the *most* complicit agents. In practice, this tends to

[59] Young 2011, 103; emphasis added.
[60] Lepora and Goodin 2013, 80.
[61] Sangiovanni 2018, 471.

downplay the constructive power of many others involved in a social process – including those who might consider themselves "bystanders" – when what we need for its transformation is for their sense of agency to be enlivened. We want agents to be empowered to *take up* responsibilities to cultivate a sense of collective purpose – the project of structural renewal in a given domain – rather than expending their energy transferring responsibility to others. In contrast, Kutz has already conceded collective purpose does not exist in cases of "unstructured collective harms". He adjusts his conception of complicity without sufficient attention to how these circumstances might instead call on agents to recast responsibility itself so that it can be channelled towards *developing a common project* in a given domain.

In this more constructive view, the emphasis is on moral agents as potential resources for realising justice, especially through their contributions to reconstructing social ethos and supporting institutional innovation, rather than reduced to their individuated contributions to a collective wrong. The moral psychology of the complicity frame tends to downgrade this constructive sense of agency because it motivates and incentivises agents to pin responsibility on *more* complicit agents. So, for instance, an emphasis on complicity may induce agents involved in steps 3 (layering) and 4 (integration) of the money laundering process to outsource and downgrade their own sense of responsibility for collective outcomes given that agents engaged in steps 1 (theft) and 2 (placement) can plausibly be identified as *more* blameworthy. We should be worried if our moral framing of a public problem generates complacency and paralysis as agents perpetually outsource complicity, creating the opposite effect we want from an expanded conception of responsibility, that is, to empower agents to actively *find ways to help prevent wrongs* that arise from complex social processes.

Third, and closely related to the previous point, given the nature of structural injustice where causality is diffuse and competitive market pressures (real or perceived) are pervasive, even powerful or overtly complicit agents will have plausible *arguments from effectiveness* for outsourcing or minimising liability responsibility. So, for instance, each jurisdiction's finance minister or each bank's CEO could plausibly argue, on empirical grounds, that if their entity aggressively clamps down on money laundering, the corrupt money will leak elsewhere. They might sensibly argue that we should therefore focus on the worst offenders, namely those banks or jurisdictions found to be significant sites for corrupt money. At a structural level, however, this narrow focus on the worst perpetrators of an injustice can stall structural renewal by downplaying the constructive role many other agents can play to change market assumptions and perceptions of interests, and to strengthen norms and rules. From a forward-looking perspective, what we need is *some* movement towards tackling the injustice in order to generate momentum. The complicity frame is less helpful in this regard and, by reinforcing implicit assumptions about

the social order, could reinforce status quo conceptions of agential interests that limit collective action.

Fourth, complicity promotes institutions designed to compensate for injustice *after it occurs*, rather than to constructively promote its *prevention* through structural change. It is biased in favour of the status quo. This is the case even when complicity focuses on prevention through deterrence. Widely accepted social norms or moral baselines underpin structural injustice in a given domain. In that light, a complicity frame can become a check on the imaginative work required to reconstruct social ethos or generate institutional innovation; it shifts our attention and energy to identifying complicity rather than remaking background structures which produce injustice. This has been a significant obstacle for the anti-kleptocracy norm. For example, the mechanism of returning "stolen assets" (corrupt wealth) to their country of origin, which I discuss in Chapter 2, faces tremendous barriers in its effectiveness, even as its existence can engender an inflated sense of progress, and thus constrict critical attention to prevention-oriented reforms and practices.

Finally, complicity risks *crowding out* moral agency in the market if we incorporate its implications crudely into public policy. Here my concern is less with the nuances of Kutz's theory than with its implications for policymakers who might be encouraged to pursue accountability for complicity at the expense of a holistic strategy. In *The Moral Economy*, Samuel Bowles highlights the downside of a policy paradigm which focuses exclusively on incentives and constraints, without due regard for ethical and other-regarding motivations – or social values – agents might have. Bowles points out that this paradigm has come about through a certain way of thinking about markets: "As long as everything has the right price, one's pursuit of self-interest in a market setting is constrained (by these right prices) to take appropriate account of the effect of one's actions on others."[62] This could encourage *moral disengagement*, for example – a process described in psychological theory, derived from experimental evidence, that suggests the moral framing of social interactions provides agents with cues on acceptable behaviour, helping explain why ethical reasoning sometimes recedes.[63]

Public policy on money laundering has largely taken a one-dimensional complicity-based approach which expects banks to manage potential violations of the law and to be held accountable if they fail to do so. So, for instance, a bank may be fined – often a relatively trivial amount – for a money laundering breach. In light of Bowles's argument, we should be

[62] Bowles 2016, 28.
[63] Bowles 2016, 89-97.

concerned with what sort of signal such a fine may unintentionally send. Could it, perhaps, signal that money laundering activity has a market price and therefore can be bundled alongside other kinds of risk or cost? Could the fine unintentionally become a way for bankers to cash out their social values by assuming these are already factored into a market transaction? Michael Sandel helpfully distinguishes between a fine and a fee. "Fines register moral disapproval," Sandel explains, "whereas fees are simply prices that imply no moral judgment."[64] "When people treat fines as fees," he points out, "they flout the norms that fines express."[65] It is vitally important, then, for societies not to allow norms to emerge which ignore the moral dimension of a fine, where this is an essential feature of it. In private law, too, we sometimes see the application of "punitive damages" if the defendant has taken account of a possible compensation payment in a cost-benefit analysis and then proceeded with their course of action. Such damages are sometimes used to deter others from similar conduct in the future. In the context of prevailing banking culture, these concerns around the instrumentalisation of legal or regulatory violations need to be taken seriously. It would be deeply problematic if our conception of responsibility turns out to downplay the salience of morality altogether – in this case, by outsourcing it to market prices. To tackle globalised kleptocracy, we want, for example, to motivate bankers to develop new innovations that can repel the flow of corrupt money beyond what is legally defensible, or to contribute to a professional discourse on tackling money laundering, rather than encourage them to factor the risk of getting caught into the cost of doing business. Repelling money laundering should become associated with the meaning and identity of a successful or respected banker. These examples suggest that congruence between professional roles and social values can take precedence over a complicity frame, and that this congruence should be deepened rather than crowded out.

I should reiterate that these five points are *limitations* to the complicity frame, not arguments that such a frame is problematic in confronting every aspect of a structural problem. The basic problem of the complicity frame in addressing structural injustice is that it relies on a sense of guilt or liability to do *too much* work in identifying how agents might be motivated to seek change in collective outcomes. We need an account of positive moral agency, and complicity is only one, relatively narrow, possibility for getting such agency off the ground given that agents are entangled in a web of moral considerations and relationships in their everyday lives and in particular social domains. To sharpen the implications of these limitations of the complicity approach to structural injustices, consider briefly a strategy I call *exit* from a social domain.[66] Under the complicity frame, an agent can fulfil their moral duty by purposefully taking steps to

[64] Sandel 2012, 65.
[65] Sandel 2012, 66.
[66] The notion of "exit" is borrowed from Hirschman 1970.

leave or avoid a social domain altogether. A banker or lawyer may, for example, having discovered the scale of the money laundering challenge, choose to switch professions so they are no longer tainted by market transactions that potentially reproduce injustice. In my suggested approach, withdrawal from the system in this circumstance could *itself* become irresponsible, in some instances, if it eliminates a potential source of structural renewal, for example by contributing to reforms based on unique epistemic insights or organisational roles. Withdrawing from unethical activities would of course be the right thing to do, but a general approach that obscures the many possibilities agents have to direct their lives and projects to help change an unjust social order, would be problematic. The ambition here is to make a link between the agent's interests in integrity and their participation in a moral struggle for change; to find the connections between these two aspects of an ethical life. Prioritising withdrawal from a social order or domain simply to avoid complicity, I suggest, may be superficially self-satisfying but a morally perverse outcome, and corrosive of those aspects of freedom which demand an apt relation between the self and the world.

VII. Extending liability 2: Pogge's argument for institutional reform

A different way to extend liability can be derived from the theory of global justice developed by Thomas Pogge. As I've discussed, Rawls argued for a division of labour between the normative principles needed to regulate justice at the level of the "basic structure of society" – "the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation"[67] – and the activities of ordinary citizens. By providing a just framework to live within, this conception suggests social institutions can liberate people to go about their own life projects in a legitimate way. Charles Beitz subsequently argued that the emergence of a basic structure at the international level similarly generated a demand for institutional justice,[68] though Rawls himself never made such a move.[69]

Pogge's prominent institutional account of global justice in relation to global poverty builds on the Rawlsian approach to institutional justice though in a revisionist fashion. Pogge argues that the existing international system violates the negative duties of those who impose it, especially political elites in rich countries, along with affluent citizens since "these governments are elected by us, responsive to our interests and preferences, acting in our name and in ways that benefit us."[70] His account hinges on a causal explanation that links cooperation on international

[67] Rawls [1971] 1999, 6.
[68] Beitz [1979] 1999.
[69] Rawls 1999.
[70] Pogge 2005, 21.

institutional arrangements with foreseeable and avoidable rights violations of the poor in developing countries: "[W]e are *harming* the global poor if and insofar as we collaborate in imposing an *unjust* global institutional order upon them. And this institutional order is definitely unjust if and insofar as it foreseeably perpetuates large-scale human rights deficits that would be reasonably avoidable through feasible institutional modifications."[71] He explicitly counters the notion that precise allocation of responsibility for "complex collective harms" is required to generate negative duties of justice as people may still be "failing to compensate for their share of the collective harm."[72]

In fact, grappling with such complexity underlies Pogge's focus on institutions. As he notes, the effects of our conduct

> reverberate throughout the world, intermingling with the effects of the conduct of billions of other human beings… Thus, many morally salient features of the situations of human beings… arise from the confluence of the often very remote effects of the conduct of vast numbers of human beings. We as individuals have no hope of coping with such complexity and interdependence if we take the existing ground rules for granted and merely ask 'How should I act?'… We can cope only by attending to the scheme of ground rules which shapes the way persons act and co-determines how their actions, together, affect the lives of others.[73]

In the case of globalised kleptocracy, then, rather than expecting agents to show constant vigilance in their potential connection to collective wrongdoing, the anti-kleptocracy regime itself – the ground rules for managing global financial flows – should guard against potential harms of financial systems and compensate for them if they occur.

But how can we establish an institutional regime that can achieve these outcomes? Who should bring it into being and ensure its success? Pogge ultimately falls back on something like a liability model but in relation to the *institutional scheme* itself. As mentioned, he specifically blames elites and, in turn, relatively affluent citizens in democracies for not producing feasible alternatives – the "buck stops" with them.[74] In Pogge's view, contemporary institutional arrangements ultimately represent the violation of these citizens' negative duties. But there are at least four problems with Pogge's account of responsibility when we consider its implications for moral agency in light of globalised kleptocracy.

First, it minimises the potential *epistemic gap* between designated decision-makers and ordinary citizens, as well as the *ambiguity of interests and preferences* at the level of the citizenry, and how these

[71] Pogge 2005, 60.
[72] Pogge 2005, 80.
[73] Pogge 1989, 9.
[74] Pogge 2005, 21.

factors shape the nature of normative responsibilities. Ordinary citizens of rich countries (even affluent ones) are not typically involved in formal decision-making processes associated with the practices or regulation of globalised kleptocracy in a way that would make Pogge's liability account a viable basis for bottom-up participation in reform. There is of course an important connection between the citizen and statecraft, especially in a democracy, and this does generate weighty responsibilities, but we must be attentive to the complexity and character of this connection. Ordinary citizens may even have epistemic advantages insofar as they possess less motivated reasoning (a tendency to reason about evidence based on predetermined preferences or goals) in assessing globalised kleptocracy due to their relatively indirect material stake in the overall flow of corrupt wealth. However, the details of globalised kleptocracy currently do not feature as a prominent democratic concern and few citizens are aware of what it practically entails, let alone what their governments might do about it. Indeed, a feature of the phenomenon is its opacity, and addressing its relative marginality in the social and political agenda is one of the emerging objectives of reformers. Under these circumstances, emphasising how citizens in the rich world are actively imposing harm on outsiders seems to mischaracterise the nature of the moral problems we must address. Rather than understanding citizens in the rich world solely as beneficiaries of globalised kleptocracy, we could also view them as disadvantaged by the same non-transparent, offshore structures used by economic elites (to avoid tax) and kleptocratic networks, both being antagonistic to common interests. Moreover, formal democratic processes are responsive to a multitude of public problems, making it difficult to isolate an issue such as foreign corrupt money so that it gains sufficient political attention. Whatever the in-principle obligations we could rationalise abstractly, it seems negative duties not to impose harm would only fit coherently into a citizen's normative framework for action *after* globalised kleptocracy has been sufficiently acknowledged in public discourse and consciousness. At that point, the citizen's voice and preferences could intelligibly be conceived as having some influence on decision-making processes, whether inside states (as citizens) or firms (for example, as shareholders or customers).

Second, the sources of *motivation* for individual agents are weak or unspecified in Pogge's account. It is unclear, beyond awareness of a negative duty among citizens of affluent countries not to harm the poor by depriving them of their basic needs or imposing significant rights violations, and perhaps a sense of shame in failing to fulfil such a duty. This may seem like an unfair criticism because one might contend Pogge's analytic philosophy only aims to derive normative principles, not actually motivate real-world action. I think such a view would evade what is really at stake in this kind of normative theory: the hope of this argumentation is plainly to shape how we respond to real-world injustice, not simply to develop abstract principles. What is the alternative? We might instead ask how normative theory on a challenge like globalised

kleptocracy can engage with citizens in their own circumstances, namely as complex moral beings with diverse life projects, values, community ties, talents, aspirations, social roles, and so on. How do Pogge's claims help overcome the moral psychology of people who presumably tend not to relate to global institutional harms in the way they might to direct, interactive harms in their immediate context? Is the theory expected to help orient ordinary citizens towards becoming full- or part-time political activists for global change? If so, on what basis can we identify who are the right activists to get behind and which are the right causes to prioritise? Can we be blamed by other activists for not taking up their vision of global justice? On an agential level, this seems like the wrong path for the theorist to pursue. For large-scale processes of structural change, we require a conception of responsibility that can be internalised by moral agents themselves. To be sure, the rational and affective arguments of visionaries and activists can play a powerful role in this process, and Pogge's analysis may help equip these agents, but this is not enough for conceptualising a participatory process of social transformation.

Third, like Wenar's proposal on the natural resources trade, Pogge ultimately proposes reforms that are *institutional* in focus, conflating this with structural change that can tackle the underlying harm. Social structures encompass all aspects of how a society hangs together, including, but not limited to, its institutional arrangements, and extends to patterns of relationships between people, including through groups, organisations, and associations of different kinds. Structural change can therefore involve scrutiny and transformation of social ties, practices, discourses, emotions, culture, moral norms, and so forth, which in turn shape the trajectory and robustness of institutions. For Pogge, the focus of responsibility is the governing rules of international political and economic life. But this assumes there is something like a global constitution – even if it is not articulated in that way – which can be tweaked to resolve global injustices.[75] As Joshua Cohen notes in the context of Pogge's concerns regarding global poverty:

> What we need now is not a replacement recipe [to the Washington Consensus] – 'get the global rules right,' instead of 'get the prices right' or 'get the institutions right' – and least of all a recipe backed by speculations about possibilities, presented as social science. Instead, the circumstances call for a mix of moral conviction about the importance of addressing the issue of extreme poverty, an open-minded, empirical, and experimental spirit about how best to deal with it, and institutions, both domestic and global, organized to foster such learning.[76]

Cohen's emphasis on experimentation and learning is better matched to the dynamics of structural change, as it points to the interrelationship between various social forces and institutions. This approach is apt for the challenge of globalised kleptocracy. So we might suggest Pogge relies on an overly simplistic view of global political economy, both in terms of

[75] Young 2011, 142.
[76] Cohen 2010.

understanding the effects of international rules and how real-world change takes place. One indication of this is that he does not account for second-order effects of changing rules. Rather, Pogge implicitly assumes that the changes he promotes won't be undermined by new forms of resistance or backlash from parties whose material interests could be undermined in the transition. Such reactions can enable rules or practices to mutate without addressing the underlying harm. Though once again the criticism here may appear to be methodological, it points to a significant limitation of using the notion of negative duties to build a normative theory of globalised kleptocracy. At a minimum, such a normative theory should accommodate a theory of change that has some grip on who needs to be doing what in social processes that support robust institutional reform. We should avoid assuming normative outcomes are dependent on pressure that is brought to bear on a handful of powerful elites in a narrow range of institutional settings.

Finally, in taking an institutional approach to justice, Pogge relegates an *ethos of justice* – what G.A. Cohen defines as "a structure of response lodged in the motivations that inform everyday life"[77] – made up of individual practices and social conventions, which shape unjust outcomes. Consider, for instance, that his account leaves out responsibilities associated with the reproduction of structural injustice through business culture and incentives, media discourses, and the habits of ordinary people.[78] Pogge wants law to do all the heavy lifting but as I have shown and will reiterate below, this has severe limitations in the case of globalised kleptocracy. An ethos of justice would help address those limitations but Pogge deliberately does not want to promote this so as to make his framework more feasible. I do not think there is a plausible way to avoid the question of ethos, however. This is not because I endorse a thoroughgoing monism that does not distinguish between the normative demands of social structure and those of interactions, but because a broad view of structure – encompassing, but not limited to, institutional arrangements – means recognising the way in which ordinary attitudes and small acts reproduce and normalise the structure itself. In other words, there is a connection between individual agency and social structure which cannot be ignored, and challenging the prevailing ethos is how that connection can be transformed in morally progressive ways.

In short, Pogge's structural account helpfully highlights the importance of global institutional reform but falls short by not addressing what would be needed to make a phenomenon like globalised kleptocracy tractable as a collective problem so that diverse agents are empowered to address it in the course of their own lives. His argument to fix systemic rules remains vague

[77] Cohen 2008, 123.
[78] Young 2011, 142.

on the process of collective moral learning needed to enact reform and deepen commitments to its aims.

VIII. The multidimensional constraints on liability-based reform

The discussion so far has identified the limits of the liability model in relation to globalised kleptocracy most clearly along at least one dimension of the phenomenon:

1. *Causal and legal complexity*. As corrupt money flows in global markets it becomes ever more fragmented and intermingled with other capital and legal structures such that the relationship between the initial wrong and subsequent activities becomes obfuscated. Moreover, besides transactional complexity, the mechanisms used are supported by many powerful and putatively legitimate interests such that it is hard to pinpoint who should bear responsibility for the institutional dimensions of the problem. The widespread moral agency needed to pursue reform as a social and political project tends to fall out of accounts focused on pinning wrongs on the most culpable agents.

This complexity promotes mutation of the money laundering process as kleptocrats deploy new tactics in response to measures to curb the flow of corrupt money. To more fully elaborate why significant curtailment of globalised kleptocracy is so difficult from within the existing liability regime, we can specify at least six further constraints which similarly promote problem mutation, generate unintended regressive consequences, and block moral learning and action at a structural level.

2. *Incentives*. The profit motive is an obvious locus of concern given its micro and macro effects. At the individual level, bankers, accountants, and lawyers, for example, face pressure to hit targets to advance their careers or increase bonuses. Incentives currently flow in one general direction: it is unlikely a banker will receive a bonus for more vigorous anti-money laundering measures. Moreover, there tends to be strong incentives to ensure profit-making activity can continue while remaining technically within the bounds of formal compliance with existing regulations. Similarly, states and their bureaucracies have incentives to enact and enforce formal processes without aggressively seeking to repel or control the domestic presence of foreign corrupt wealth. After all, from a certain (reductive) perspective, such wealth improves the prospects for domestic economic growth, while the negative consequences are only experienced beyond one's borders. In short, incentives are currently skewed heavily towards short-

term profit-making or economic growth in ways that make it extremely difficult to adopt a genuine commitment to cutting off the flow of corrupt money.

3. *Regulatory capture and weakness.* Regulatory responses to problematic behaviour in the market are notoriously subject to capture and unanticipated loopholes. And under certain circumstances, regulatory rules can even make the problem of globalised kleptocracy harder to address by giving rise to sophisticated money laundering schemes to disguise the illicit origins of corrupt wealth. A compliance regime without the *social mandate* to systematically reduce harm will likely be either insufficient (in terms of resources) or too timid (in terms of enforcement) to address the injustice at the necessary scale. This is for at least two reasons. First, at a broad level, regulators rely on political backing which in turn flows from the expectations of citizens, especially in democracies and even to some extent in non-democracies. This backing can translate into concrete measures such as more adequate resources and greater latitude to vigorously pursue an agency's regulatory function. Second, without sufficiently internalised support for a regulation, the agents being regulated will likely find ways to circumvent or thwart its practical effectiveness in a myriad of ways and be able to justify their stance to themselves and others more easily. As Melissa Lane argues: "Voluntary obedience and action beyond what is required play a key role in human action generally… Humans are social and communicative animals, and commitment in a communicative and collective endeavour feels very different from mere external compliance – with results that will, it seems likely, be very different as well. Regulation which fails to engage with the habits, ideas, passions, and appetites of the people being regulated is unlikely to work very well."[79]

4. *Global competition*. The global nature of the problem precludes simplistic solutions that fail to consider the possibility of corrupt money flowing to more lax jurisdictions. In this sense, globalised kleptocracy reflects a classic global collective action problem. Tackling stolen wealth in central nodes of the global financial system, either in key financial or real estate centres – such as New York, London, and Geneva – is vitally important, yet even this can have the unintended consequence of pushing corrupt money into other, harder-to-reach corners of the system. Moreover, even when countries recognise that acting decisively against the inflow of corrupt wealth may be in their long-term interests, they may feel constrained to act out of fear of losing out on global capital investments or other economic opportunities.

[79] Lane 2012, 11.

5. *Market competition*. A similar dynamic exists between firms. A bank, for example, may fear losing business to its rivals if it pursues what are perceived to be overly aggressive anti-money laundering actions. Conversely, if the bank does pursue such an approach, kleptocrats might simply bank elsewhere.

6. *Economic pervasiveness*. Jurisdictions which shelter corrupt wealth or provide services which enable it to flow more easily have sometimes become economically dependent on it – or at least perceive this to be the case – making the cost of acting decisively seem prohibitive. Consider the following example, which is indicative of a wider phenomenon. Based on a conversation with the former head of real estate regulation for New York state's department of financial supervision, the journalist Adam Davidson recounted in 2018 that "[the former regulator] told me that there was a genuine conversation, at the highest levels, and the decision was we cannot come down too hard on money laundering because it would devastate the New York economy."[80] This sort of frank admission is rare but the concern behind it, at least for some jurisdictions, is real. Consider that 22 percent of the US state of Delaware's revenue is derived from the company formation business.[81] A 2018 article in *The Economist* cited similar concerns about a crackdown on money laundering in the UK. "Some people in the governing Conservative Party and the City argue that a big clean-up would be harmful just when British finance risks losing its lustre because of Brexit," the magazine noted. "People give all sorts of reasons not to strangle this golden goose. The ancillary industries that depend on all that wealth would suffer. A clampdown risks scaring away legitimate investment, especially if it is seen as targeting entire nationalities... Some fear it would clobber the property market and the pound, just when a Brexit-bound Britain needs all the investment it can get."[82] There is a serious perverse risk that as the problem of corrupt money becomes more entrenched in a local or national economy, decision-makers – and communities – will become more reluctant to address it because of their increased material interests in preserving the status quo.

7. *Geopolitics*. A fully impartial and comprehensive push to tackle globalised kleptocracy would likely create significant geopolitical upheaval by disrupting diplomatic relations. It is thus unsurprising that political will to act is often limited and cautious, even if we bracket the question of economic interests. States can plausibly argue there is a trade-

[80] Klein 2018.
[81] See Bullough 2018b, 95-96.
[82] 'Dirty Capital' 2018, 17.

off between justice and stability at stake in the calculus of tackling kleptocracy. While we should be sceptical of this sort of reasoning since it can be self-serving, it does point to a genuinely thorny challenge: if a jurisdiction takes strong measures against the interests of foreign kleptocrats, it risks a potential backlash with spill-over diplomatic and geostrategic consequences not captured in the initial decision. Moreover, if the elites in a significant number of countries are engaged in grand corruption, this makes it extremely difficult to seriously implement impartial accountability across the board – including through any international mechanisms – not least because corrupt governments might be provoked to use their sovereign powers to undermine the current consensus on the basic anti-kleptocracy norm.

Rather than suggesting we are condemned to the status quo, the cumulative assessment of these constraints (or perceptions of them) point to the need for change at a more fundamental level: that of normative values, ethos, and institutional renewal. Agents must engage in a struggle to address the underlying injustice of globalised kleptocracy. Even a nominally responsive liability regime sitting atop uncongenial and unreconstructed ethical commitments will likely be fatally overwhelmed by entrenched political and economic interests, commercial incentives, and persistent habits and norms of the existing order.

IX. Conclusion: towards a structural account of globalised kleptocracy

This chapter has argued that ascribing liability – even when linked analytically to institutional failures – is insufficient, and sometimes misdirected, in terms of motivating moral agency to address the phenomenon of globalised kleptocracy. One of the reasons for this, I argued, lies in the logic of the money laundering process itself: status quo market norms mean that market activity is structurally geared towards turning corrupt money into ordinary, legitimate capital as it moves further away from the original source of theft. This reveals the inadequacy of trying to eliminate, in an individuated fashion, problematic parts of a chain in corrupt money flows. Bullough argues the globalised protection of corrupt wealth does not have a centrally controlled organisational structure. The key problem, in his view, is that money moves freely, laws are fixed in place, and some seek to profit from the mismatch. The right image to understand this conception of a virtual "Moneyland" is an ant hill. "In an ant hill," Bullough explains, "individual ants are not obeying instructions; there aren't middle manager ants arresting wrongdoers who keep grass seeds for themselves... The ants are responding in a predictable manner to external stimuli." Bullough argues that individual lawyers, accountants, and politicians are similarly "responding in a predictable manner." The facilitators of corrupt money flows are responding to the lure of profit, without regard to the public interest. "If you

squash one ant, or arrest one crooked lawyer," Bullough suggests, "the activities of the rest will continue unaffected. It is the whole system that must be changed, and this is hard."[83]

How should we proceed in the face of such constraints? This chapter has argued the problem of globalised kleptocracy is one of *structural injustice*. Rather than extending liability to capture diffuse complicity, or insist on institutional reform through fulfilling negative duties not to harm others, we must grapple with the real-world complexity of globalised kleptocracy and consider normative responses geared towards transformation which can be integrated into the aims and projects of moral agents.

The moral challenge of confronting globalised kleptocracy is so difficult, it turns out, because it is bound up with a central feature of modern markets, namely the free flow of capital in the pursuit of economic gain. The liability model of responsibility masks broader questions of moral and political economy, thus exposing the conceptual limits of its approach to addressing injustice. A liability regime that treats corrupt money flows as an aberration cannot realise significantly greater justice on the contemporary challenge of globalised kleptocracy because it does not grapple with the underlying normative assumptions reproducing this phenomenon. By focusing narrowly on which agents to blame, the liability frame downplays, obfuscates, or ignores the deep-rooted and normalised nature of globalised kleptocracy in the markets of contemporary democracies. Moreover, this framework sheds little light on the implications for moral agents who confront such injustice and want to make the world less accommodating to it.

This chapter therefore foreshadows a key move I will make, namely to highlight responsibilities of justice which cannot be reduced to blame for the symptoms of globalised kleptocracy, or adherence to institutional arrangements which ameliorate its effects, but rather are part of a *process of social transformation* that can confront the injustice itself. Without moral progress, the demands of justice are likely to be overawed by narrow interests and compliance measures will remain impotent. Our conception of responsibility should therefore be expanded to provide a conceptual frame which empowers all those who are part of an unjust social domain to contribute to its progression towards greater justice. We must develop, then, a deeper conception of moral agency in the face of injustice. Before attending to that constructive agenda, though, we should probe the dominant responses to globalised kleptocracy and why they have been insufficient.

[83] Bullough 2018b, 25-26.

Chapter 2: Values, Markets, and the Limits of the Anti-Kleptocracy Norm

> I sit on a man's back, choking him and making him carry me, and yet assure myself and others that I am very sorry for him and wish to ease his lot by all possible means – except by getting off his back.
>
> – Leo Tolstoy (1886)

I. Introduction

In the previous chapter, I sought to give a sense of the scale and constitutive features of the phenomenon of globalised kleptocracy, that is, the intersection of financial flows and grand corruption. I argued that what appears to be a paradigmatic case of liability-based harm, inflicted by a small number of identifiable agents, was, from a certain point of view, a structural phenomenon of injustice. On this basis, I argued that a liability-based model of responsibility was insufficient – and in certain respects in tension with – a conception of responsibility geared towards addressing the underlying injustice.

I now want to extend this argument further by assessing the moral dimensions of existing *responses* to globalised kleptocracy, including those of firms, civil society, and governments. In particular, I will address the apparent gap between the emergence of a global anti-kleptocracy norm at the level of law (both international and national) and the failure to prevent globalised kleptocracy. I suggest that a liability-based paradigm has stifled the emergence of an alternative paradigm which advances structural change. The reasons for this are considered along with its implications. While my goal is not to make a definitive causal claim, I do suggest that the neglect of a structural perspective in key discourses and reform projects – especially those of finance, law, and global diplomacy – has limited their effectiveness against the injustice itself. Ascribing discrete wrongs to specific agents turns out to be necessary but insufficient to address the phenomenon from the standpoint of its victims.

The central claim of this chapter is therefore straightforward: the prevailing responses to globalised kleptocracy, reliant on either the invisible hand of the market (through reputational effects) or the iron hand of the law (through the imposition of legal penalties or regulation), have left the structural basis for injustice mostly undisturbed. This has led to a state of affairs in which normative progress of some kind has visibly taken place (via legal reform) while ultimately failing to deliver for the victims of injustice even by the legal project's own lights. Such a state

of affairs needs to be better understood if we are to identify a way forward that matches the scale of the harm being done.

My constructive normative argument is rooted in the relationship between human agency and the dynamics of moral progress. The critique articulated in this chapter, like the previous one, lays the groundwork for that approach. My aim for now is to show the way in which the background moral, ideological, and sociological assumptions of the anti-kleptocracy norm – the ways it is conceived by relevant agents and its socially-embedded reality – press against its effectiveness as an instrument against injustice. I argue the norm is primarily a legal construction of states and their technocrats, mostly shorn of moral content, politically weak when it comes to driving practical outcomes, and with little ethical salience for those it seeks to regulate, namely market actors who facilitate, move, and protect stolen assets. I show this is the case by focusing on the practices which perpetuate the injustice, and the way agents perceive their own role in them.

While this chapter partly takes the form of a descriptive account of moral failure, this is not its main aim. I am not interested in demarcating clear lines of causality or the proportion of moral responsibility different agents might hold. Rather, my goal is to provide a sufficient basis to make diagnostic claims about the moral and ideological climate in which existing responses have been countenanced, and thus reveal alternative pathways that are both necessary and possible. In short, the anti-kleptocracy regime is a kind of frozen politics. What is needed is for it to be unfrozen, not through a series of technocratic solutions, but through an open-ended struggle for a more just order and ethos to manage corrupt wealth flows.

I will develop a critique of the anti-kleptocracy norm and its associated regime from four increasingly abstract vantage points. First, I provide some historical context for the emergence of the anti-kleptocracy norm. Second, I outline key agents and critique basic elements of the current international regime. Third, I interrogate the broader institutional principles and practices underpinning the flow of global capital, on top of which the anti-kleptocracy norm is grafted. In that light, I offer a view on the social function of law when it is used to evade structural ethics and politics, and suggest this has led to particular problems in the case of globalised kleptocracy. Fourth, I broaden this critique in light of a problematic separation which has emerged in this domain between economic practices and questions of value – a separation which underpins a broader false belief in the market's value neutrality.

II. The genealogy of an inconvenient norm

Anti-corruption experts claim, based on incontrovertible evidence, that there now exists an anti-kleptocracy norm in global politics. This has been described by a leading political scientist on this topic in the following terms:

> As of only a few years ago, there is an international moral and legal responsibility for states to prevent the proceeds of foreign corruption offenses from entering their financial systems and, to the extent that such illicit wealth does filter through, to trace, freeze, and return it to the source or 'victim' country.[1]

This anti-kleptocracy norm is articulated in widely adopted international law, most notably the United Nations Convention against Corruption (UNCAC), which entered into force in 2005. It is also reflected, in turn, in the law and regulatory standards of national governing authorities. To some extent it is not only a *legal* norm but also a *social* and *moral* one, in the sense that we can expect there to be a certain stigma or reputational damage attached to agents who flout the legal norm. So, for instance, a bank or banker that knowingly opens an account for a foreign dictator to shelter stolen wealth would potentially be liable to regulatory breaches, criminal prosecution, *and* subject to negative attention by mainstream media outlets and condemnation by civil society organisations for its immoral conduct.

The failure of the anti-kleptocracy norm to significantly reduce the prevalence of corrupt money flows is a pressing global challenge and an inconsistency at the heart of globalised kleptocracy. There is a prior question, however, as to how the issue managed to become a policy concern in the first place. The historical development of a global anti-kleptocracy norm is itself a matter of both moral and social scientific interest, not least because it is difficult to identify materially powerful states who would have been willing to accept the new norm, let alone push for it. And material power is generally considered to have even greater importance in international politics due to the absence of a world sovereign to promote global collective action. Countering kleptocratic networks can also complicate diplomatic relations between states, which further suggests there were strong disincentives for states to create this norm.

Consider the presumptively strong interests or reasons powerful actors had to prevent the emergence of an anti-kleptocracy norm from emerging:

[1] Sharman 2017, 4.

1. *Wealthy states* have interests in retaining their ability to attract foreign capital without external constraints.
    a. These states feel *domestic private sector* pressure – such as from finance, law, accounting, and real estate – to resist introducing onerous restrictions on capital inflows or burdensome regulation.
    b. *Political leaders* in democracies are (for now) unlikely to feel pressure from *citizens* to prioritise curbing money laundering over other national economic interests.
2. *Kleptocratic elites* have interests to continue their activities unhindered and to retain effective immunity from prosecution or accountability internationally.
3. *Banks* have strong interests in making profits while avoiding additional regulation.
4. *Enablers* of financial flows such as lawyers, accountants, and real estate agents also have strong interests in making profits while avoiding additional regulation.

Given this set of powerful actors, their material interests, and their potential reasons for resisting reform, there is a genuine puzzle as to how the fight against grand corruption made it onto the international policy agenda and became widely encoded in law and regulation. An array of interests were stacked against any such progress.

The most likely candidate to explain the development of the anti-kleptocracy norm would be an active civil society movement, led by anti-corruption activists, that fought to bring the norm into existence. Indeed, the paradigm cases of normative shifts in global politics presented by international relations theorists emphasise the role of "norm entrepreneurs" who initiate a process of change and intensify social pressure over time. In these accounts, norm entrepreneurs, working through advocacy networks across the domestic and international levels, advocate a new standard, especially among powerful states, shifting a commonly accepted practice into something morally unacceptable.[2] This sort of analysis documents how new norms gain traction, eventually reaching a tipping point where the violation of the old practice must be defended against a new normative standard, thereby entrenching the new norm as the unremarkable, taken-for-granted way of doing things. Political scientists have documented normative shifts ranging from the outlaw of slavery and the rise of human rights through to more specific cases like the taboo around landmines or use of nuclear weapons.[3] Other studies of how norms evolve in global politics reflect the "realist" school of international relations and emphasise the rational, usually material, self-interest of states. In these accounts, shifting norms are simply new ways for powerful actors to advance their interests. Both the

[2] Finnemore and Sikkink 1998.
[3] Price 1998; Tannenwald 2007.

constructivists who emphasise social norms and the materialists who emphasise interests tend to "explain the social world and political outcomes as the result of deliberate action by strategic actors."[4] However, Jason Sharman argues both accounts of strategic action – one motivated by normative ideals and the other by national interest – fall short of providing an adequate explanation for the emergence of the anti-kleptocracy norm.

In his account, which fits with plausible explanations from anti-corruption analysts, Sharman suggests "rather than change being the result of revolutionary vanguards" or "entrepreneurial genius," the progress that was made on the anti-kleptocracy norm reflected "a more decentralized, undirected, and coincidental process of change."[5] Sharman traces the emergence of the global norm during a period of rapid normative and international legal change in the mid-1990s across a range of different contexts – a "corruption eruption" – back to two processes. First, the end of the Cold War loosened support among Western states for corrupt anti-Communist client governments. Second, and quite separately, a view gained traction among international development experts that corruption is a key cause of poverty. This judgement helped these experts make sense of the failure of much international aid during the preceding decades, and, presumably, to placate their political masters in donor governments. These two "converging currents" led, in Sharman's view, to the emergence of the global anti-kleptocracy norm. Rather than activists leading from the front to urge powerful actors to make significant reform, powerful states took several steps of their own volition. Indeed, prominent anti-corruption NGOs have often been funded by Western governments. After the United States enacted anti-foreign bribery legislation in 1977, and organisations like the Organization for Economic Cooperation and Development (OECD) began to tackle the issue, corruption broadly moved from being considered "a purely domestic issue to one at the center of the international policy agenda."[6]

An important shift within the broader development of the anti-kleptocracy norm was the recognition of the role played by richer countries in perpetuating corruption inside poorer countries. In the negotiations of the UNCAC from 2000, for instance, developing countries specifically sought to expand the perspective of corruption to include its transnational elements.[7] This built on growing recognition among public policy elites of the problems caused by bribes from Western firms and the flow of corrupt money into the advanced economies. The advocacy of NGOs also helped reveal these connections. In contrast with what we might expect,

[4] Sharman 2017, 10.
[5] Sharman 2017, 10.
[6] Sharman 2017, 36.
[7] Sharman 2017, 43.

Sharman points out that rich and poor countries were largely united in the UNCAC negotiations over the importance of addressing these linkages between the rich world and grand corruption in poor countries. This was particularly notable in negotiations over the treaty's asset recovery provisions (which I discuss below).

What are the implications of this genealogy for our normative inquiry? Despite its momentous achievement, and what is undoubtedly an important development in how countries treat corruption, the historical development of the anti-kleptocracy norm suggests that the emergence of institutional reform in response to globalised kleptocracy was deprived of its more radical potential from the outset, namely to remake market activity in ways that are sensitive to the demands of justice entailed by the grand corruption-money laundering linkage. We can characterise the reform project as reflecting a *technocratic mode* of social change: adjustments to rules were enacted with less consideration given to whether they matched the scale of the problem they addressed or how such rules would fare given the multitude of interests likely to evade or undermine their formal objectives. The broad objectives of international reform have not been matched by the practical determination from states, firms, or the professions necessary to realise them. To the extent the converging currents genealogy holds true, the absence of a robust social movement or *struggle in the rich world* – especially at the level of ordinary citizens inside national polities – or an ethical restructuring within *private markets* (including the professional ethos of banking, law, accounting, or real estate), has meant the *moral* wrong of kleptocracy was never fully internalised as a *global* challenge among ordinary people, bankers, professionals, or political elites. In that light, the moral potential of the new norm was never realised. Financial transparency, for instance, has not been recognised as an urgently needed global public good. This gap between bottom-up transformation and techno-legislative change has had significant implications because overcoming structural injustice – transforming the background social conditions that shape interactions and behaviours – depends significantly on mobilising many parts of a relevant social ecosystem against the injustice. In short, the contemporary anti-kleptocracy regime purchases institutional stability at the steep cost of foreclosing transformative possibilities for curbing kleptocracy; it justifies certain modes of rationality and behaviour over others, and inadvertently reinforces some of the pathologies which underlie the phenomenon.

In contrast to the technocratic mode, we can think of social change in a *democratic mode*. Political theorists have sometimes sought to ground their normative claims in either existing social

movements[8] or potential new ones.[9] However, there has been less attention paid to the weaknesses of institutional or legal reform arising in the *absence* of a robust social movement for justice or equality. Any quick view on this is complicated by two seemingly contradictory positions. On the one hand, progress of any kind should be welcomed, in part because it provides a basis for further progress. On the other, legal reform shorn of moral and political content seems to risk creating the illusion of progress, as well as new opportunities for evading or deflecting the need to confront background structural injustice. The opportunities generated by progress at the legal or institutional level should be built upon, then, while agents remain vigilant with regard to persisting social and moral failure and the particular challenges thrown up by evolving institutional settings. In this sense, injustice is a moving target, with new normative resources and opportunities needed to meet new challenges. These challenges can take various forms, including by way of failing institutions, norms, law, practices, and ways of life. The emergent dynamics of injustice may be linked to new conceptual and ideological formulations which public and common ethical discourses have yet to catch up to; this is one reason why normative political theory can play a constructive role in such debates.

It is not enough, then, to isolate individuated wrongs of money laundering. The *process* of recognising the *injustice* and reforming social structures in response to it – not only how that response is crystallised in legislation – matters a great deal for generating *collective ethical and moral learning* which can embolden a multi-dimensional response with new commitments at different levels of action. We can distinguish here between the moral value associated with a process of change (movement towards a good) and the moral value of the result (the good itself).[10] In cases of structural injustice, the former is vital to the success of the latter.

The inter-relationship between the recognition of injustice through a process of collective moral learning and the demise of that injustice can be defended in four theses:[11]

> *Thesis One*: Globalised kleptocracy undermines the interests of citizens of kleptocratic states with regard to well-being, dignity, and freedom.
>
> *Thesis Two*: Globalised kleptocracy is a phenomenon of structural injustice.
>
> *Thesis Three:* The conflict between globalised kleptocracy and the interests of citizens in kleptocratic states limits the long-term viability of globalised kleptocracy. This is because

[8] Young 1990; Young 2011.
[9] Anderson 2010.
[10] Jaeggi 2018, 19-20.
[11] This framework, particularly theses three and four, is inspired by one developed by Joshua Cohen (1997) in relation to the historical demise of slavery. In contrast to Cohen, my account is forward-looking, though his account also has important theoretical and conceptual implications, not only historical ones.

the conflict can be expected to generate opposition to it from the victims of globalised kleptocracy, or on their behalf, and because there are wider costs of globalised kleptocracy, some of which may only become apparent over time. These costs include those stemming from political instability, geopolitical loss of influence among democratic states relative to authoritarian states, and losses to economic productivity as rent-seeking activity rises and resources are increasingly diverted to shielding capital from scrutiny or implementing cumbersome (but ineffectual) regulation. Conflicting interests, then, can generate practical problems that hasten the demise of globalised kleptocracy.

Thesis Four: Characterising globalised kleptocracy as *unjust* conveys information relevant to the potential demise of globalised kleptocracy that is *not otherwise captured*, including when registering that globalised kleptocracy conflicts with the interests of citizens in kleptocratic states. This thesis registers the difference made by the fact that the interests of the victims of globalised kleptocracy are *legitimate and morally weighty*.[12]

Theses one and two were addressed in Chapter 1. In this chapter, I defend theses three and four. In particular, I want to argue that something of normative and political value is lost when those entangled in a social process fail to recognise the *injustice* caused by it (an intrinsic bad), even where the problem of corrupt financial flows is acknowledged and steps are taken to rectify or remedy the market's failures (an instrumental bad), and that this in turn has a bearing on collective capacity to address the problem. This is because the instrumental approach does not provide *sufficient* grounds – in terms of reasoning, affect, or motivation – to mobilise agents against the background *structure* producing the injustice.

III. The global anti-kleptocracy regime

While the anti-kleptocracy norm emerged from a contingent, largely undirected set of circumstances, it is necessary to more systematically consider the related laws, rules, regulation, practices, and organisations. Cumulatively, I call this the *global anti-kleptocracy regime*. I borrow Stephen Krasner's definition of a regime as the "[i]mplicit or explicit principles, norms, rules and decision-making procedures around which actors' expectations converge in a given area of international relations".[13] We can distinguish at least five broad sets of actors or institutional

[12] Joshua Cohen suggests two ways moral weightiness played a role in limiting the viability of slavery. First, it shaped the moral convictions of slavery's opponents; the recognition of injustice allowed agents to recognise that slaves had legitimate interests which were being violated. Second, "to convey information about the features of the system and of the alternatives to it in virtue of which the moral reasoning condemns it as unjust and to claim that those very features are a source of instability." See Cohen 1997, 128-133.

[13] Krasner 1982, 186.

processes that make up the contemporary regime: global governance and stolen asset recovery; national governance and citizenries; the private sector; civil society; and journalists and intellectuals. It is important to outline this global landscape before engaging in critical normative evaluation because it helps show that the structural injustice of globalised kleptocracy occurs within a social ecosystem which simultaneously enables it and has the potential to overcome it. Critically engaged moral or philosophical inquiry can support this structural transformation by helping reveal the moral failures, inconsistencies, and alternative possibilities immanent in the status quo. It is only possible to do this, however, once we have some sense of the actual dynamics of how globalised kleptocracy is already being addressed.

(i) *Global governance and stolen asset recovery*

The heart of the global anti-kleptocracy regime is perhaps the United Nations Convention against Corruption (UNCAC). Ratified by most countries, the UNCAC provides a basis for international cooperation on corruption and money laundering. It sets a normative benchmark in these domains and codifies the global anti-kleptocracy norm which had previously emerged in some form only within various national and sub-national jurisdictions. The UNCAC process now includes a review mechanism whereby governments conduct peer reviews to evaluate how fellow countries are tracking on treaty implementation. Reviews, which are technical and non-punitive, are conducted by two randomly selected peer countries.

On its face, it is remarkable that state elites have voluntarily chosen to explicitly constrain their self-seeking activity in treaty law via the UNCAC. There is a great deal of scholarship on the question of why states might choose to constrain their sovereignty, but here the matter is more directly personal: the constraints are imposed on activities that pertain to particular individuals operating within a state apparatus. The fact that the UNCAC does not have a transnational enforcement mechanism only partially explains why political elites would be willing to accept the new standard; it cannot account for the general shift towards tightening controls on kleptocratic money laundering, unless corrupt elites nominally supportive of the treaty framework believe they will continue to be able to evade accountability.

A central pillar of the current anti-kleptocracy regime, enshrined in the UNCAC, is a mechanism known as *stolen asset recovery*. This entails a practical set of arrangements that enable a government to have stolen assets returned from another country in which they are being held.

In general, stolen asset recovery is facilitated through a formal state-to-state process resting on legal and diplomatic relations between countries.[14]

While potentially providing a direct way to rectify a historical injustice or crime, actually returning stolen assets (and ensuring they are used for legitimate purposes) turns out to be difficult to achieve. One key challenge is establishing a link between particular crimes and their associated assets, let alone doing so in a timely fashion. This can be very difficult to do, especially from the perspective of the source, or victim, state that often has limited (if any) visibility of the money trail. This lack of visibility is heightened in cases where the assets never circulate in the source state's economy, for example, when foreign bribes are paid directly into international accounts.

The disappointment of asset recovery efforts in the wake of the Arab Spring starkly illustrates these difficulties. In post-Mubarak Egypt, Sharman explains, "there was often little or no evidence supporting the claim that the suspect had acquired assets through corruption. Similarly, there was often little guidance as to where assets might be found." The implementation of mutual legal assistance between countries, "does not work on the basis of receiving governments trawling through the records in relation to every bank in their jurisdiction, every company, and every property in order to find if, for example, some member of the Mubarak family holds an interest." In fact, it is the victim state which is "expected to provide most of the information to their foreign counterparts, allowing for a very narrow, targeted search and at least suggesting why these assets are likely to be the proceeds of corruption".[15] Compounding these difficulties, the rule of law in the country sheltering the stolen assets typically means kleptocratic networks are entitled to due process provisions and legal rights that can be exploited to delay or thwart asset recovery.

In addition to these technical difficulties, the source country may simply have limited expertise or resources to pursue complex cases of asset recovery. This kind of capacity may be hollowed out precisely to protect the interests of kleptocratic elites. The challenge of weak capacity in the source jurisdiction is particularly problematic of course in a context where the political and regulatory authorities in the country housing the stolen assets typically do not see it is as their responsibility to conduct extensive or proactive investigations.

[14] For a detailed guide to stolen asset recovery in practice, see the UN/World Bank's handbook, Brun et al 2020.
[15] Sharman 2017, 139-140.

To this list of challenges, we can add a troubling background assumption: the reliance on victim governments to sound the alarm means the recovery of kleptocratic assets is typically initiated *after* the collapse of a corrupt government, leaving little recourse for countries *currently* at risk of kleptocracy. Asset recovery, at least in hard cases, tends to wait for a new government to be in place before serious counter-corruption measures are taken in the country housing the stolen assets because that is when requests for cooperation start to be made. Given that most kleptocracies experience some kind of political repression, the idea of waiting for a new government can be tantamount to waiting for significant political upheaval before making kleptocracy a priority in foreign relations. Alternatively, if a receiving state becomes aware they are housing a potentially corrupt asset, for example through media or civil society investigations, the current asset recovery process will still tend to be ineffectual since national authorities may decide not to pursue the matter due to diplomatic sensitivities, or because they conclude they will not have the cooperation of counterparts in the kleptocratic state, either because of a lack of capacity or political will. It is generally implausible to expect cooperation in confirming the corrupt origins of wealth with a counterpart government if that wealth extends to the most powerful elements of the state. Yet this is the operational premise for much of the existing regime. In practice, this means that the most powerful kleptocrats will often be in a position to evade enforcement action by regulatory and law enforcement authorities, that is, they will operate with impunity.

Even when a receiving country tries to address the technical obstacles to asset recovery, there is a deeper problem still: the original condition of the victim society has already morphed by the time the stolen assets are being recovered, including potentially the breakdown of legitimate state institutions and the fraying of the social contract, such that the return of stolen capital is insufficient and potentially unsuited to address the new set of challenges. Reversing the injustice by reversing the process by which it occurred – in this case, returning stolen money – may not actually do much to address the most significant features of injustice faced by its victims.

Many of these problems persist in some form even in rare cases where they have been partially acknowledged. For instance, Swiss law now allows its national authorities to freeze suspect wealth quickly, relaxes requirements to link assets to specific corruption crimes, does not require a conviction in the source country, and reverses the onus of proof so that defendants may have to demonstrate that their wealth is from legitimate sources or else risk confiscation.[16] And these changes are not just rhetorical or legislative: Switzerland has in fact begun returning stolen assets. Given the persistent scale of the globalised kleptocracy problem and the results achieved

[16] Sharman 2017, 87.

through asset recovery, however, such changes in individual countries have been insufficient. Moreover, they focus on remedial action rather than prevention, even via a deterrent effect, as demonstrated by a lack of willingness to take robust action on improving transparency of financial flows. It is crucial to acknowledge "that by the time tainted funds have entered the system, it is almost too late to do anything about it."[17]

Returning stolen assets should thus be viewed as a component of repairing a wrong, like a mafia being made to return money to victims it has fleeced. This seems morally uncontroversial. But consider what sort of wrong this mechanism leaves unaddressed and, worse still, what its creation might do by way of distorting the political response to the phenomenon of globalised kleptocracy. Since countries can point to the legal mechanism of stolen asset recovery, there is an option of either explicitly or implicitly highlighting the fact that a mechanism for reparative justice already exists, even if in practice the mechanism is badly underutilised, ineffective, and fails to address the damage done in the process of kleptocratic looting prior to a recovery process commencing. There is the potential here for what we might call the *displacement of politics*,[18] whereby a techno-legal solution – instantiated by the settled institutional order – serves as a substitute in the collective imagination and discourse for addressing the substantive democratic concern around the laundering of corrupt assets.

The practical and political limitations of the asset recovery process suggest it would be far more effective to focus on *preventing* corrupt money entering a financial system in the first place. This is preferable in terms of realising justice, too, since prevention in one jurisdiction would close down one haven for corrupt wealth, while simultaneously reinforcing a global norm that counteracts the leakage of corrupt wealth anywhere. The demands of prevention, however, require us to expand our focus to the way harms are produced by opaque aspects of the global financial system that enable and facilitate the flow of corrupt money. Stolen asset recovery has easily identifiable targets for action, while the structural challenge of financial transparency and integrity is inherently more diffuse. And while blame may be necessary in cases of complicity or failure to prevent the flow of corrupt money, prevention must be framed more widely since it is not only about one-off actions but the deployment of power to shape social structures over time.

Stolen asset recovery closely tracks the liability model of responsibility as it relies on legal or regulatory mechanisms to find fault, assign guilt, and provide some sort of rectification. The

[17] Sharman 2017, 149.
[18] I borrow this conceptual frame from Bonnie Honig, though she uses it to critique liberal political theory whereas I use it here for more practical purposes in a specific domain; see Honig 1993.

most obvious flaw in the associated political narrative is that it obfuscates how the injustice emerged. It treats harm as a contemporaneous condition, as if it emerged from nowhere, without historical or political context. It treats the financial system of the receiving state as a black box, immune from critique, and fixes attention on the problematic money in isolation from the practices and norms inside that box. Even if the decision to *return* stolen money is well motivated, there are undoubtedly strong incentives to frame the overall state of affairs in a way that guards against asking hard questions as to why the money was allowed to *enter* the receiving state in the first place. The politics of displacement must be destabilised if we are to successfully recast the collective narrative in a way these difficult questions imply we should.

(ii) *National governance and citizenries*

Governments of countries hosting major financial centres are likely to worry either for political reasons (damage to domestic political support) or economic ones (damage to domestic economic prosperity) that aggressive action against globalised kleptocracy could hurt their local financial sector. A similar dynamic might hold in other parts of the market too, as when there is a concentration of corrupt money in the property market of a particular jurisdiction. In light of the politics of displacement arising from an over-emphasis on retrospective asset recovery, the moral risks are not hard to spot: the financial sector is sometimes powerful enough to strike an implicit bargain with a state whereby the sector is tacitly allowed to shelter corrupt money, so long as it cuts corrupt clients loose "if and when their grip on power slips."[19] From the perspective of the victims of injustice, however, this is a catastrophic moral failure.

That states should shun such as bargain is another core feature of the global anti-kleptocracy regime. Mirroring the global legal norm is a series of national laws designed to curb the laundering of corrupt assets. Once some advanced economies, particularly the United States, took steps to enshrine anti-money laundering laws in their domestic legal frameworks, including specifically in relation to corrupt foreign money, it became untenable for other countries not to follow suit. A key practical principle, reinforced by international standards, is that banks must screen for clients exposed to a high risk of corruption under "know your customer", or "KYC", provisions and conduct "customer due diligence" to monitor risk on an ongoing basis. These measures are especially important with regard to a "politically exposed person", or "PEP". States have also enacted regulations that require financial institutions to provide "suspicious activity reports" or "suspicious transaction reports" to a designated authority when

[19] Sharman 2017, 88.

encountering suspicious activity. These authorities, typically known as Financial Intelligence Units (FIUs), are supposed to receive and analyse these reports, and share the results as needed.

Beyond the UNCAC, there is considerable pressure flowing from the multilateral to the national level to at least follow minimal international standards. The Financial Action Task Force (FATF), and to some extent the OECD, is especially important in this regard. These forums set standards and aim to pressure, isolate, and shame recalcitrant actors who fail to meet them. Initially created by the G7, the FATF monitors progress against money laundering using a set of compliance standards (known as the "FATF Recommendations"). While the FATF only has 39 members, over 200 jurisdictions have committed to the FATF Recommendations, effectively making the FATF a global standard setter on combatting money laundering. There are also eight FATF-style regional bodies. The FATF monitors countries' progress in implementing the FATF Recommendations, reviews money laundering measures, and promotes global adoption of its standards. For several years, the FATF issued a list of Non-Cooperative Countries or Territories for jurisdictions deemed to be falling short of its standards. It continues to identify some countries as "High-Risk Jurisdictions subject to a Call to Action" (also referred to as the "black list") and others as "Jurisdictions under Increased Monitoring" (also referred to as the "grey list"). The OECD, meanwhile, acts as a kind of club for encouraging better behaviour from its own members. It has developed an active agenda to address tax evasion, but has also addressed corruption and corrupt financial flows, especially through the OECD Anti-Bribery Convention.

A major problem at the national level is the unwillingness to rigorously prevent corrupt money entering the financial system. Even as countries have gradually become more willing to repatriate stolen wealth they have been much less willing to make institutional changes – such as robust transparency measures – that would make prevention more effective. As a result, only a small proportion of stolen funds is recovered compared to what is credibly suspected to be laundered with impunity. Many governments have been unwilling to take meaningful action against banks and other intermediaries to hold them accountable for their role in facilitating money laundering, perhaps out of concerns they will damage a strategic sector (finance) their economy.[20] Despite these limitations, the national response to international stigma continues to be an impetus for reform, including as a result of review and monitoring processes at the multilateral level. Yet whatever the costs of stigma, national governments continue to struggle with a problem of *prioritisation*, or how to *trade off* the values and interests at stake in hosting stolen assets within their jurisdiction with other interests and values. For the most part, their

[20] Sharman 2017, 115.

priority has been to maintain the inflow of foreign capital since this is seen as supporting local private sector and macroeconomic interests, and to preserve stable diplomatic relations with other nations, including those led by corrupt elites.

How these trade-offs are calculated and priorities decided is largely determinative of how successful the current anti-kleptocracy norm will be in practice. The surge in activity to cut off the flow of terrorist financing in the aftermath of the September 11, 2001 attacks on the United States – including legislative reform, longer investigations, and introduction of new multilateral standards – along with the general success of that effort, provides an indication of the potential for effective action to flow from determined political will to regulate financial flows more stringently. In a world without a sovereign to enforce global norms, national law and regulation are critical to the anti-kleptocracy norm's effectiveness. This inability to enforce cooperation is a well-recognised constraint on moral progress at a transnational level. But as with other global injustices, the national context can also be a domain for democratically contesting and reformulating the structures of global injustice, and building the impetus for cooperation from the bottom up.[21] This is especially important given that some states are able to wield greater global influence than others. For instance, Sharman notes that the UK, US, and Switzerland "dominate the international financial system and hold more foreign wealth than the rest of the world combined," thereby making them "the key actors if the campaign against grand corruption is to succeed."[22] Such dominance can be measured in terms of capital flows but it also applies to transnational regulation and who can most readily influence rules. Power need not be overtly deployed in these processes since powerful actors can set the parameters of the agenda or influence background assumptions about what is possible or feasible.[23] More obviously, some countries are able to set standards which others are effectively forced to follow if they wish to continue participating in transnational economic exchange of various kinds.[24] Against this backdrop, political and moral contestation *inside* some societies will be of great significance to the broader struggle against globalised kleptocracy.

A democratic polity has potential epistemic and communicative strengths to address globalised kleptocracy. Since the individual interests of ordinary citizens entangled in a situation of global structural injustice may be relatively trivial (at least compared to the aggregated interests of, say, the state or a corporation), individuals may have greater room for discretion and openness to *moral* arguments. This advantage is *epistemic* because at least some citizens are able to gain a

[21] Ypi 2012; Erez and Laborde 2020.
[22] Sharman 2017, 17.
[23] Lukes [1974] 2005.
[24] Grewal 2008.

vantage point that reflects a degree of moral judgement more open to encompassing the entire phenomenon being confronted, rather than an instrumentalised, transactional perspective on it. An epistemic advantage arises, then, because the force of motivated reasoning and other biases that affect powerful actors is relatively muted for ordinary citizens. Whereas my critique of Pogge's argument suggested it would oversimplify the ordinary citizen's connection to specific policy decisions to ascribe negative duties for the imposition of harm, here my focus is on dynamic collective efforts to constructively shape the moral ecology and values in a given domain. The citizen's critique need not be of specific rules or decisions, but can be aimed at the moral parameters in which those rules or decisions are enacted. In this view, we do not need to assume what individual citizens know about a specific social phenomenon. Some citizens or civil society groups may also possess specialised knowledge, which raises the question of how best they can communicate moral concerns on policy issues among citizens. More generally, though, there will be a range of normative reasons for citizens to engage in the wider framing of major policy questions, and these should not be reduced to the question of complicity with moral wrongs or the violation of negative duties.

The citizenry's epistemic advantage can then be converted into a *communicative* advantage when the public sphere affords opportunities to deliberate over the nature of an injustice, and how to overcome it, that are not bound by particularistic agendas. A national civic republican commitment to nondomination, for instance, can provide a basis for citizens to critique their state's foreign policy where it deviates from this value, and thereby advance global justice. A similar relationship might hold with a republican critique of market actors such as corporations operating transnationally. Since citizens as a whole are more independent from the narrow interests of these group agents, they generally have more room to engage in value-laden contests over what matters to them, how to define their interests, notions of honour, and so on. Whatever preconceptions its officeholders may have of what constitutes the national interest, the democratic state must be sensitive to the evolving attitudes of citizens and facilitate reforms to meet expanding conceptions of justice.

(iii) *The private sector*

Much of the practical work of the anti-kleptocracy regime has been outsourced to market actors. Anti-money laundering regulation has been arranged to be largely dependent on banks to screen their own customers, create risk profiles, and report suspicious activity to state authorities. The hazard is not difficult to spot in this arrangement: these entities have strong incentives to interpret ambiguous situations in ways that sustain their profit-making activities. A further problem is the relatively weak and patchy regulation of non-bank market actors such

as lawyers, accountants, and real estate agents when it comes to their role in servicing corrupt wealth. Finally, we should also factor in professional associations which can play an influential role in sharing knowledge, cultivating professional norms, and representing the interests of firms or professionals in policy debates and processes.

Given the complexity of transnational financial flows, it can be difficult for financial institutions to operationalise "know your customer" and "customer due diligence" provisions effectively. This is for at least two reasons. First, the beneficial owner – the natural person behind a corporate vehicle actually benefitting – may be difficult to identify. As an OECD report points out:

> Identifying the ultimate beneficial owner is not always a straightforward task, given that many corporate vehicles have complex multiple layers of owners and shareholders, often themselves corporate vehicles, and sometimes spanning multiple jurisdictions. Practically, this can be a complex, costly and time-consuming process, as some jurisdictions may not be able to share company information in a timely manner, and sometimes the necessary information may not be available in the first place. Some jurisdictions do not require beneficial ownership information on all types of legal structures. This is particularly the case for trusts, but is also the case for other legal structures, such as limited liability companies.[25]

The second reason is that the extra scrutiny of a "politically exposed person" (PEP) runs into practical difficulties when banks struggle to determine whether a person falls into this category.[26] A bank should have special procedures in place for dealing with a PEP, including requirements for establishing a client relationship (such as requiring managerial approval and efforts to determine the source of wealth), as well as monitoring arrangements. However, there is no universal list of PEPs, and ambiguity over the definition of a PEP can make it difficult for banks to identify (or states to regulate) those who are not active in politics themselves but closely associated with political elites. These risks are compounded by an over-reliance on self-reporting by the potential client, and a lack of universal adherence to implementing rigorous PEP screening and monitoring.

Looking inside the black box of a firm such as a bank, we can also begin to distinguish between parts of the organisation that might pull in different directions. A board of directors, for instance, will have reasons to want to ensure a firm has stringent formal compliance standards and procedures in place. A wealth manager whose bonus depends on attaining a certain level of profit, however, will have reasons to interpret those standards in ways that are formally in compliance but self-serving. The board, in turn, will have incentives to turn a blind eye to such behaviour. Financial institutions can set up procedures so that they can *show* regulators that

[25] OECD 2014, 36 .
[26] OECD 2014, 29.

they are following the law, while simultaneously avoiding investing in procedures or practices that would determinedly stem the flow of corrupt money. This is especially significant in light of new technologies capable of tracing illicit financial flows further upstream: banks may avoid fully utilising such capabilities if the information obtained complicates their official risk assessments on where to draw the threshold on corrupt money since the increased ambiguity could threaten their ability to demonstrate regulatory compliance. Moreover, it is widely perceived that the compliance arm of banks and other firms suffer from a lack of status and influence when engaging with other parts of the business.

While financial institutions like banks clearly have legal and moral obligations, it is also important to look at the relationship between these agents and the states that are supposed to regulate them. Here the evidence points to violations of what Onora O'Neill calls "second-order obligations", or when states fail in their obligation to enforce the obligations of others.[27] This is evident in at least two ways. First, states have not typically held banks and other entities sufficiently accountable when they fail to adhere to regulatory rules designed to prevent the flow of corrupt money. Second, states continue to prioritise their financial sector and inward foreign investment in ways that are inimical to deterring the entry of corrupt money. The effect of these twin features of the public-private relationship is that robust action to prevent the flow of corrupt money is trumped by other interests, even while systems are put in place to demonstrate such preventive action is taking place. Moreover, there are indications that despite large volumes of suspicious transaction reports being passed from banks to regulators, including on PEPs, regulators do not have the resources, capacity, or will to take sufficient follow-up action.[28]

The ability of banks to adapt to anti-money laundering laws and regulation in ways that are congenial to their profit-making interests was starkly captured by a 2011 report by the UK's Financial Service Authority (FSA). Despite a legal obligation to establish the source of wealth and funds of PEPs, banks systematically failed to obtain meaningful information or apply risk-sensitive measures to verify information. For instance, three quarters of banks were found to have failed to obtain adequate information about their customers' source of wealth or funds. Nearly half the banks visited were found to accept the information provided by their customers at face value, and a quarter "stopped asking questions at the first obstacle, for example where the customer explained that their command of English was insufficient to explain where their

[27] O'Neill 2005, 428; 433-436.
[28] This specific concern was brought to fore by publication of the 'FinCEN Files' on the activities of the Financial Crimes Enforcement Network (FinCEN), the FIU of the United States. See Leopold et al 2020.

wealth had come from, or where cultural sensitivities meant 'it was unacceptable' to ask questions about the source of their private wealth and funds."[29]

The FSA report also revealed the way in which relationship managers (RMs) are incentivised to attract new clients, and focus on profitability in business relationships, rather than enforce compliance. In a fifth of banks reviewed, for example, RMs had omitted or downplayed negative allegations against customers in internal processes, sometimes dismissing allegations because a customer seemed "very nice", "trustworthy" or "from a respectable family". These findings are illustrative of a wider pattern we can expect when constraints on short-term profit-seeking are viewed instrumentally. Under these conditions, we can expect private actors to pursue the limits of the law, and to find creative ways to remain technically compliant even if violating the law's intent.

Even if banks or other market actors were compelled to take a more stringent approach to preventing the inflow of corrupt money, there remains an extremely difficult question with regard to how far upstream such measures can or should go. The relevant thresholds are unclear. For instance, to what extent should efforts be made, and what parameters should be used in ambiguous cases, to determine whether or not an asset has corrupt origins? Consider what a World Bank-UNODC study found with regard to determining the true ownership of corporate entities:

> Beneficial ownership is a concept that is relatively straightforward in theory but difficult to apply in practice. The essence is to identify the person who ultimately controls a corporate vehicle. This identification always will be a highly context-dependent, de facto judgment; beneficial ownership cannot be reduced to a legal definition. Even when a service provider takes a substantive approach (that is, goes further than a purely formal approach would require), the provider can do only so much to determine control. With few exceptions, service providers do not have the resources or the access to information they need to really *investigate* a corporate vehicle. Certainly, they can ask questions, search databases for information, and compare whether a vehicle's financial conduct matches its profile. But they cannot do much more than that. In the end, any due diligence system can be beaten.[30]

This suggests that simplistic measures to establish liability will struggle to be effective. Complex schemes to move and protect corrupt money allow corrupt assets to be obscured and intermingled with other capital. This is an extremely difficult challenge for market-oriented actors to address without a more fundamental shift in market practices, norms, and institutions.

[29] Financial Services Authority 2011, 27-28.
[30] See van der Does de Willebois 2011, 29.

One of the implications of the reception of the global anti-kleptocracy regime at the national level is the false sense among ordinary market actors that the legal and regulatory reforms enacted by the state are already sufficient. This can encourage a sense of complacency and generate a false level of confidence that *other* market actors with whom they interact are acting in compliance with relevant regulations, and therefore apply less scrutiny than they might otherwise. For instance, a real estate agent might assume a lawyer that is acting on behalf of a client is doing so in compliance with relevant laws and regulations; a bank dealing with a corresponding bank might assume that the other bank is following anti-money laundering guidelines to an adequate level, and so on. Scaling outwards, these attitudes can generate complacency at the societal or political level if citizens, regulatory bodies, or politicians falsely assume market actors are broadly compliant. These challenges resemble a phenomenon Jonathan Wolff describes as one of the ways in which "a regulation that aims to reduce a risk can fail to do so", namely to *increase* the level of risk "by making us falsely believe the risk has been dealt with and thereby lead us to lower our guard." As Wolff explains, there are situations "where a regulation can be believed to be effective but because it is not, it makes us complacent and thereby subject to higher risks." Whether applied to society as a whole or more narrowly to market interactions, this insight suggests that the level of vigilance that might otherwise be applied could in fact decline with growing awareness of a regulatory regime if proper consideration is not given to its actual effectiveness. As Wolff says: "The general idea is that regulation enhances trust, and thereby leads us to let down our guard and our focus. This can be a good thing when regulation is highly effective, but disastrous when it is not."[31]

(iv) *Civil society*

Despite not playing as decisive a role in the creation of the anti-kleptocracy norm as one might expect based on comparable cases of transnational norm emergence, civil society at the national and transnational level has nevertheless been important in supporting the norm and calling for its proper implementation. This advocacy has come from several different directions. Though heavily repressed and facing grave risks, civil society groups representing citizen interests from inside kleptocracies persist. These groups typically display great courage and can serve as a powerful source of accountability. At times, they use creative methods to get their message out and link with sympathetic international partners. There is also undeniably influential work being done by NGOs and activists inside rich countries, where corrupt money tends to end up, to call out the weaknesses and failures of the current regime. Among the most prominent are Global Witness, the Tax Justice Network, Transparency International (TI), and Global

[31] Wolff 2020, 162-165.

Financial Integrity, as well as the Financial Accountability and Corporate Transparency (FACT) Coalition, an alliance of over 100 organisations. The work of civil society, and expert research under its auspices, has been crucial to advancing legal and technical reforms in the area of financial secrecy and transparency, including measures to improve public information on beneficial ownership. These civil society efforts have been reinforced by growing engagement on globalised kleptocracy in mainstream think-tanks across the conservative-progressive spectrum, particularly in the United States.

Some prominent anti-corruption organisations such as TI are well-established, while others have emerged in the wake of the anti-kleptocracy norm. The FACT Coalition includes NGOs of various sizes working across corrupt financial practices and tax evasion, while another coalition, the Financial Transparency Coalition (FTC), focuses on illicit financial flows. Expert non-governmental organisations often have formidable anti-corruption and financial transparency policy expertise; some enjoy access to multilateral bodies like the World Bank, OCED, and FATF, as well as influential governments.[32] Several receive funding from donor governments through their aid budgets or from philanthropies such as the Open Society Foundations. Despite these strengths, and growing momentum on some fronts, the civil society movement fighting globalised kleptocracy faces many limitations, including due to a lack of popular understanding of the nature and depth of globalised kleptocracy. This situation is gradually changing, however, including as a result of the efforts made by our fifth category of agents: journalists and intellectuals.

(v) *Journalists and intellectuals*

The media has been a vital part of the anti-kleptocracy regime's capacity to make a difference, both by exposing specific scandals and raising awareness of the crimes of globalised kleptocracy, thus putting pressure on other agents in the ecosystem. Journalistic reporting is traditionally the way in which specific acts of grand corruption and associated money laundering are exposed. Courageous local reporters are often on the frontline of exposing corruption from within a country, though their ability to report on the transnational financial dimension is typically more limited. International reporting groups such as the Organized Crime and Corruption Reporting Project (OCCRP) and the International Consortium of Investigative Journalists (ICIJ) have successfully produced high-profile, targeted anti-corruption reporting. In the digital age, the potential for innovative investigative and reporting techniques give the traditional role of reporters new promise. To some extent, however, this potential is dependent on reform in

[32] Sharman 2017, 39.

other parts of the regime. Transparent and accessible databases of beneficial ownership of companies, for example, would allow automated searches that could feed real-time alerts to journalists in every country,[33] but this requires government reform on beneficial ownership reporting requirements.

Despite its critical role, media reports on money laundering framed in terms of scandals can inadvertently reinforce the notion that money laundering breaches are an aberration – a violation of stable and legitimate rules and practices – and thereby downplay the structural nature of globalised kleptocracy. Even major revelations on systemic weaknesses, such as the Panama Papers, tend to generate a spike in public interest which is hard to sustain. Episodically exposing corruption and the trail of corrupt financial flows can be a powerful instrument to drive accountability and reform, but alone it is not enough to produce structural change. Reporting on specific episodes or entities needs to connect to longer-term processes of moral learning. Such reporting could productively be viewed as a spur for sustained social and political action, and public discussion regarding the need for deeper reform.

Academics and public intellectuals have also played a role in raising public consciousness and policymaker knowledge of the workings of globalised kleptocracy. For instance, political scientists have done groundbreaking empirical research revealing the laxity of many jurisdictions on corrupt money laundering risks.[34] As mentioned, several think-tank researchers are also addressing the problem, offering a bridge between academic or journalistic work and policymakers.

IV. Legalism and the code of capital

The code of capital

As outlined in Chapter 1, secrecy jurisdictions, banking secrecy, intermediaries, and companies or trusts can be used to obscure the trail of corrupt money by hiding the true owner of an asset. "Given that companies and trusts can be easily and cheaply created, dissolved, and renamed at will," Sharman explains, "they can provide an invaluable concealment function."[35] But stopping our analysis there would understate how financial markets are systematically skewed in favour of effectively moving and protecting corrupt money.

[33] Radu 2016.
[34] Findley, Nielson and Sharman 2014.
[35] Sharman 2017, 29.

This is because *normalised* legal instruments underpin the *ordinary* practices attached to the criminal elements of money laundering processes. If a corrupt leader wants to place their stolen money in the United States, for example, they have historically been able to use specialist "one-stop real estate firms that act as agent, attorney, and shell company provider."[36] Using their own trust account, these firms receive foreign bank transfers of corrupt money and then commingle that money with that of other clients. Crucially, this unlocks the legitimacy bestowed on subsequent transactions. Laws requiring banks to "know their customer" are effectively made obsolete in practice if that regulatory barrier can be neutralised in the first transactional step in the chain of money flows. This can occur because the "customer" is no longer the natural person behind the asset, but rather the representatives of the artificial intermediary, such as the real estate firm or another anonymised legal entity. Natural persons are at least one step removed, though typically more than that, since the money can be sent through a shell company or a foreign law firm in a third country, and a separate shell company or trust can be established to legally own the property.[37] The persistence of these kinds of mechanisms suggests why the anti-kleptocracy regime has failed to live up to its purported ambitions. Core features of the global financial system bear greater scrutiny from a moral and political perspective, while accounting for variance across specific countries, firms, and tactics.

At a general level, we can characterise the current state of affairs in two related theses. (1) The way in which *private property rights* have come to be conceived, prioritised, and enforced has helped shield the stolen assets of kleptocrats held in the rich world from effective social and moral scrutiny. (2) The access to this process of *constituting and protecting property rights is hierarchical* since it denies legal avenues of democratic control over (what should be) public wealth to the citizens of kleptocratic states. Together, these two theses produce a moral failure which I call *asymmetric codified injustice*.

How is it that some assets gain protections which can be weaponised against some of the poorest and most oppressed people in the world? To understand the practical social and legal dynamics of asymmetric codified injustice we must attempt to answer this question. Consider the legal scholar Katharina Pistor's description in *The Code of Capital* of how "certain legal institutions have been combined and recombined in a highly modular fashion to code capital." These modules include contracts, property, collateral, the law of trusts and corporations, and bankruptcy law. Pistor explains how these "bestow critical attributes on an asset" – "priority,

[36] Sharman 2017, 82.
[37] Sharman 2017, 82.

durability, convertibility, and universality" – in service of wealth creation.[38] These can be understood as follows:

1. *Priority*: The claims of secured creditors over an asset trump other claims, such as those of unsecured creditors.
2. *Durability*: Priority claims extend in time.
3. *Universality*: Priority and durability apply to all, not just those parties who agree to be bound by those attributes.
4. *Convertibility*: Asset owners have the ability to freely transfer property, and in particular to convert their assets (especially financial assets) into state money, which is a reliable store of value.

These attributes pertain to *global* capital too, though they are not explicitly documented in one place. Rather, the process of coding capital "occurs in small, incremental steps, in the context of private transactions and deals, by regulatory forbearance, and only in the occasional court case."[39] Moreover, the "inherent incompleteness" of the law "makes for fertile ground for legal creativity and imagination in every possible direction."[40] The cumulative result of these incremental steps has led to a structural situation: states have turned "stationary capital into roving capital" by giving capital holders greater private autonomy and choice over the laws governing their assets, while at the same time continuing to offer coercive law enforcement.[41]

Pistor's account of how capital is coded supports a view that the legal hierarchies built into global finance's institutional arrangements promote an institutionalised asymmetry between the law's ability to serve the victims of kleptocracy (ordinary citizens in oppressed societies) and kleptocratic networks (the political and economic elites controlling kleptocratic wealth). My asymmetry claim can thus be restated as follows: *kleptocrats have been able to code their capital in global markets – convert it into a legally recognised and protected form – while ordinary citizens have not enjoyed equivalent privileges with regard to their collective public wealth*. The victims' claims, enacted for instance through the asset recovery process, are viewed as retrospective and geopolitically sensitive, and thus have little prospect of being realised when pitted against the priority, durability, universality, and convertibility bestowed on layers of capital which they might legitimately seek to reclaim.

[38] Pistor 2019, 13.
[39] Pistor 2019, 216.
[40] Pistor 2019, 210.
[41] Pistor 2019, 220.

In some cases, the coding of capital is straightforwardly used to bypass money laundering regulation, as when banks view corrupt money as legitimate after a period of time because it has been turned into wealth through more legitimate ventures.[42] Often the coding of corrupt capital is more subtle and complicated, wrapping stolen wealth in legal guises that make it difficult to identify beneficial ownership or reclaim it for the public.

Since the anti-kleptocracy norm must function transnationally, the operation of state sovereignty – and the lack of a world state or other mechanism to enforce a common global standard – further opens the door to its subordination to other norms in the market. The most important of these are those associated with the legal protection of capital via property rights. The political difficulty of formally harmonising law across jurisdictions makes it difficult for common rules to emerge. This has led to a kind of regulatory arbitrage whereby private actors can pick and choose between more favourable national regulations or regulatory enforcement cultures. The negative implications of this then become entrenched as countries come to recognise the rights of other jurisdictions through conflict-of-law rules which endorse private arrangements. These rules are "so arcane, their passage ruffles few feathers in the day-to-day political process."[43] When it comes to contract and corporate law, the rules applied to conflict-of-law situations have "converged to a remarkable extent on the principle that the parties to a contract or the founding shareholders are free to choose the law by which they wish to be governed."[44] This helps explain why the laws of England and New York State became central to coding global capital.[45] States have retained formal legal sovereignty while making large concessions in practice.

My focus is narrower than Pistor's but her account is illuminating because the underlying legal principles she identifies, and the dynamics driving them, can also be discerned in the case of globalised kleptocracy. The key move I want to make is to recognise the way in which corrupt assets function *as a form of capital* that benefits, like capital more generally, from regulatory competition between states, even as the citizens of states from which wealth has been stolen remain confined geographically and their power to resist the theft is severely limited. The legally coded capital of their corrupt elites can roam the world in search of legal security and financial enrichment, while insecurity and poverty reign for ordinary citizens at home.

[42] Financial Services Authority 2011, 27.
[43] Pistor 2019, 135.
[44] Pistor 2019, 135.
[45] Pistor 2019, 135.

For Pistor, the law itself is a social phenomenon which needs to be understood if we are to understand power in the market. She suggests that both Marxian analyses (focused on distinct classes and class struggle) and rational choice theorists (focused on individuals and bargaining) suffer from a blindspot since both "ignore the central role of law in the making of capital and its protection as private wealth."[46] She stresses the way in which power and wealth are generated "in the process of bestowing legal protection on select assets" through *private* choices.[47] In practical terms, pursuing wealth and power translates into enlisting the services of "good lawyers who master the code of capital."[48]

The construction of a legal edifice to protect *stolen* wealth carries over from the creation of legally protected capital in general. The robustness and entrenchment of these protections have deepened over time through a series of activities which have obfuscated or made invisible their moral and social dimensions. Pistor describes the process of legally constructing capital as doing something similar:

> When new assets are coded as capital or established practices are extended beyond existing boundaries, every little step is carefully argued by the asset holders and their lawyers, the code's masters. They tend to be blind to the social implications of their actions, if only because the rights they claim can be traced to a legal order that had separated content from form – not the substance of a right, its purpose, but the form itself is what matters...[49]

Lawyers rely on the coercive power of the state to enforce such property rights, but they also want to avoid the courts, preferring arbitration or settling disputes over litigation.[50] This is especially important in the case of corrupt capital: kleptocrats wish to avoid legal complications altogether – including downstream from their original plundering – so that their corruption remains beyond public scrutiny. This helps explain a paradox: corrupt elites and their enablers exploit the rule of law while avoiding formal entanglement in *open* legal processes.

The dynamics of coding capital can, I suggest, be a particularly pernicious force in the case of globalised kleptocracy. Reforms that make money laundering more difficult generate counter-responses which involve constructing more elaborate and creative legal instruments to circumvent accountability. Attempts to enhance enforcement can spur innovation in the legal and normalised features of the market – and innovative exploitation of regulatory loopholes – to continue the harmful activity of moving and protecting the proceeds of corruption. Following this logic, the compliance-based model can actually make the problem of globalised kleptocracy

[46] Pistor 2019, 208.
[47] Pistor 2019, 208.
[48] Pistor 2019, 208.
[49] Pistor 2019, 212.
[50] Pistor 2019, 180.

harder to address as it gives rise to increasingly sophisticated laundering schemes to disguise the illicit origins of plundered wealth. Viewed instrumentally, rules are open to co-option and circumvention by powerful interests. Indeed, following Milton Friedman's famously influential view that the single goal of firms is to deliver for their shareholders,[51] some may reason that company officers have a fiduciary responsibility to their owners to lobby for self-serving laws and to implement existing ones in ways most favourable to profits even if this violates the law's underlying intent.

Structural denial legalism

There is a tendency in the mainstream discourse of contemporary global finance to conflate what is legal with what is morally acceptable. This conflation leads to a kind of moral complacency as "[t]he aura of authority immunizes the legal production of wealth in society from political scrutiny."[52] A version of this translates to the specific context of globalised kleptocracy: the aura of authority immunises the legal *protection* of *stolen* foreign wealth in society from political scrutiny. I want to suggest here that this conflation of law and morality takes a particular shape in the case of a structural injustice such as globalised kleptocracy. I call this *structural denial legalism* (SDL). SDL is a version of what we can call *structural denialism*: when agents enmeshed in a social phenomenon that produces structural injustice are unable or unwilling to perceive or articulate the phenomenon's injustice because their attention is directed to its component parts in a way that obscures the phenomenon's overall structural dynamics.

SDL has several elements which can be schematised under four propositions, the first three being premised on the notion that the law props up a false belief that the status quo is just:

1. Laws concerning behaviour can actively *obfuscate moral responsibility* of entangled agents.
2. Laws concerning behaviour can *mask power relations* between the beneficiaries and victims of a social phenomenon in determining the phenomenon's shape and possible direction.
3. Laws concerning behaviour can *demotivate moral agency* needed to bring about necessary social transformation for overcoming injustice.
4. Despite propositions 1-3, the law *becomes* a powerful instrument for advancing justice through liability and accountability *as the moral and political dimensions of a structural injustice are internalised* via a new conception of justice in the relevant social domain.

[51] Friedman 1970.
[52] Pistor 2019, 222.

There is a demarcation, then, between the negative effects of the law in 1-3 on the one hand, and its constructive effects in 4, on the other, once the conditions for 4 gain momentum. A normative upshot of SDL is thus that progress on 1-3 is necessary so that proposition 4 can be realised. Changes to the law or lawyering practice can contribute to this transition, for example through the law's expressive function or by helping shift social dynamics in a particular direction by revealing the pattern of an unjust relationship between agents. So long as the new conception of justice is weak or non-existent because of a deeper moral failure, however, the law risks not only impotence but exacerbating moral failure. In the case of globalised kleptocracy, it is as if society has asked lawyers to solve the problem while tying their hands behind their back: the anti-kleptocracy regime expects the law to curb corrupt money flows but the social and political conditions for the law's success are mostly absent.

SDL is, then, a particular kind of *legalism*, a concept defined by Judith Shklar as "the ethical attitude that holds moral conduct to be a matter of rule following, and moral relationships to be a matter of duties and rights determined by rules."[53] Shklar observed that legalism is a "very common social ethos" in Western countries, though not the only ethos.[54] She considers legalism to be a political ideology, by which she means it reflects "political preferences" which come to shape all our categories of thought.[55] Legalism as an ideology denies that the law and legal system are socially embedded; it insists these reflect *the* rule of law rather than a particular (and problematic) theory and practice of it. Under legalism, the law is perceived to be based on a kind of correct, Weberian rationality.[56] According to Shklar, lawyers as a contemporary profession tend to embody this ideology of legalism. In practice, legalism can translate into a "social outlook" constituted by a "dislike of vague generalities, the preference for case-by-case treatment of all social issues, the structuring of all possible human relations into the form of claims and counter-claims under established rules, and the belief that the rules are 'there'".[57]

The SDL which pervades the global anti-kleptocracy regime tends to strip practical judgements by agents of their wider ethical and political context. This runs counter to what structural injustice demands, namely the unlocking of new practices, ways of life, and institutional arrangements, including through claims made in the public sphere. One problem with SDL, then, is that it hews to the status quo, even when the status quo is failing the victims of structural injustice. Indeed, the everyday ethical discourse of globalised kleptocracy has been *reduced* to legal-based blame, only occasionally punctuated with a sense of scandal around high-profile

[53] Shklar 1964, 1.
[54] Shklar 1964, 1.
[55] Shklar 1964, 4.
[56] Benhabib and Linden-Retek forthcoming.
[57] Shklar 1964, 10.

cases. This has, in turn, made it harder to frame the problem in terms of structural injustice or to develop a sense of alternative market practices and institutional arrangements.

Instead of an ideology of legalism, Shklar argues that the law must be seen as "part of a social continuum", encompassing questions of morality and politics. Legalistic values, after all, can appear in more or less pure form, from courts through to personal morality.[58] This vision of the law enables Shklar to take a stance on the close connection between law, morality, and politics, thereby rejecting the problematic urge to "draw a clear line between law and non-law" which leads to isolating law "completely from the social context within which it exists."[59]

The reductive focus on rule-following can, I want to argue, have several negative effects in cases of structural injustice. First, it can serve as a *distraction* where it fails to draw a link between formal rule-following and outcomes for victims; that is, the link between the purpose of the law and its effectiveness is broken but this is not properly recognised either by the agents involved or in the public discourse because attention and energy has fixated on rule-following. Second, and relatedly, the rules themselves can *displace the voice of victims*. When rules crowd out broader morality, the way in which actions or practices should be sensitive to the evolving and dynamic perspective of the victims of injustice is downplayed. Third, it can *constrict the sense of relevant moral agency* if the rules signal to those not directly targeted by them that the injustice in question is someone else's concern. Fourth, it denies *the ways in which social structures are constructed* by forces that extend beyond the law (even if these forces are themselves also shaped by law), thus constricting the space of moral agency. Such forces include cultural norms, organisational dynamics, ways of life, social practices, power and political dynamics, and so on. The effectiveness of law to realise socially productive aims is constrained or expanded by such forces.

My point here is not to diminish the creative potential of the law or to downplay the value of the rule of law. To the contrary, we should be intentional and determined about how the ethos of the law can be aligned with the goal of overcoming structural injustice. Shklar supported the idea of a legalistic ethos, the rule of law, and the creative potential of law, all while remaining sceptical of legalism as an ideology. She challenges an ideology of legalism which, paradoxically, undercuts the creative potential and ethos of legalism, especially through "the characteristic institutions of the law."[60] For Shklar, the value of the rule of law was to free people from the oppression of rulers, but I want to derive a distinct normative insight from her argument. A reconciliation between the rule of law and a scepticism of legalism is, I propose,

[58] Shklar 1964, 3.
[59] Shklar 1964, 2.
[60] Shklar 1964, 112.

especially apt in relation to the phenomenon of globalised kleptocracy: the challenge posed by globalised kleptocracy is, to a great extent, to *generate sufficient respect for the rule of law* so as to hold blameworthy agents accountable, *alongside a scepticism of the limits of rule-following to generate the moral and social bases for such respect*. This is the move highlighted by the transition to the fourth proposition in my SDL schematic.

In contrast with legalism, a structural approach would bring wider considerations surrounding the phenomenon of globalised kleptocracy into view, meaning agents would have to situate (to themselves) and justify (to others) their actions as part of a web of interactions. Answering for the structural effects of globalised kleptocracy from a social ecology view is clearly distinct from narrow rule-following behaviour that ostensibly considers cross-border moral obligations but in effect downplays the cognitive or affective connections to the victims of injustice.

When law becomes detached from social context or ethical purpose it can be used to uphold social structures and particular interests that perpetuate injustice. If powerful economic interests are able to convert legal norms into mere formalities, then it is not difficult to see the way in which juridification of anti-kleptocracy efforts can slip into patterns of denial, obfuscation, and complacency. Under those circumstances of co-option, the legal code can provide moral and political cover for the persistence of economically self-interested behaviour. After all, the indeterminacy of the law makes it "gameable".[61] Powerful agents can shield themselves from moral and political criticism by staying technically within the law. As with the liability model, the ideology of legalism tempts us to assume that fixing the rules and prosecuting a discrete set of criminals will be a sufficient response to a social phenomenon, even when the moral failure has built up over a longer period. In short, an acute moral risk arises when the law is offered as a solution to a structural problem but the adjustments offered cannot dislodge the incentive structure, social practices, and norms which perpetuate the underlying injustice.

Broadly, we can expect the traction and effectiveness of legal mechanisms to be tied to broader political and moral change which is not reducible to financial or liability-based incentives. Once a robust legal regime is in place, then its proponents and practitioners can deploy liability-based tools, such as the threat of criminal sanctions or financial penalties, to induce compliance. But to be robust in this way, law and regulation relies on an underlying moral conception of what should be promoted. If the articulation of the latter is feeble, especially in the public sphere, then this will limit the effectiveness of the former. This is despite the fact that the law itself can usefully signal thresholds for moral behaviour (its expressive function), help drive institutional

[61] Pistor 2019, 212.

reform, and encourage new norms to take root. The point is that it can also be marginalised, exploited, or instrumentalised at the behest of wider social forces or sources of power.

The focus on the legal details of the anti-money laundering regime can sometimes obscure the nature of these trade-offs, either by keeping them closed to critical scrutiny or by creating an illusion of action or reparation. This obfuscation may be linked to an unwillingness to seriously confront the structural nature of the challenge and whether existing efforts are sufficient to turn the tide. As Sharman argues, "The actors most involved in fighting kleptocracy are sometimes susceptible to getting drawn into the minutiae of various legal provisions and specific policy reforms without asking the bigger and more important questions relating to general effectiveness." He links levels of effectiveness to "the extent to which governments have really 'got religion' in fighting grand corruption." Moreover, this has to happen in a context where the leaders of the powerful, rich states hosting corrupt wealth have "many other competing and conflicting priorities," including economic and diplomatic interests.[62]

The narrowness of vision commonly adopted among powerful agents on the challenge of globalised kleptocracy is at least partly explained by the genealogy of the anti-kleptocracy norm. Given the importance of top-down, contingent circumstances in propelling the legal norm relative to the role of bottom-up social struggle, the moral and political dimensions of the anti-kleptocracy norm have only recently begun to resonate (modestly) in the public sphere in the rich world. Once structural denialism is refuted, agents may increasingly come to critically view corrupt money flows as "seamlessly woven into our normal routines" the way that some ordinary activities contribute to what Judith Lichtenberg calls the "New Harms" of our globalised world.[63] Our apparently negligible contributions to the functioning, legitimacy, and sustenance of financial markets can start to appear relevant to the reproduction of market norms and social pathologies which sustain the harms of globalised kleptocracy. This can induce a sense of complicity in global harms, as Kutz suggests, but it can also lead to a more transformative kind of reckoning. The basic premise of the global anti-kleptocracy regime is that the market functions soundly and that money laundering is an aberration, when in fact market institutions and practices have enabled core features of globalised kleptocracy. An ideology which divorces moral considerations from market activity is irreconcilable with a legalistic ethos that function in support of improving the social consequences of markets. This tension presents an opportunity for agents to critically examine a deeper set of assumptions which insulate markets from questions of value, and the false presumption of value neutrality which dominates global finance.

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[62] Sharman 2017, 51.
[63] Lichtenberg 2014, 73.

V. The separation of markets and values

Debunking the myth of value neutrality

Beyond SDL and the coded formation of capital, there is a further layer of moral scrutiny which needs to be brought to bear on the response to globalised kleptocracy. This is the way in which market practices and social or legal norms, such as the way wealth is managed or trusts are created, the activities of professionals like lawyers and accountants, and the buying and selling of real estate, are typically perceived or framed as *value neutral* by the agents engaged in these practices. The dominant mode of these practices takes a naturalised form such that the pursuit of profit or delivery of a service is abstracted from its moral and social context and consequences. Under the prevailing conception of markets, these activities tend to be viewed as simply the way things are done; moral and social scrutiny is outsourced as an *extrinsic* responsibility, typically to the state, rather than *intrinsic* to the economic practice itself. Moreover, markets as a whole are often naturalised and reified as value neutral, including by states that have adopted and promoted a particular ideological view of what constitutes a market. This helps explains why a value such as competition is considered an inherent characteristic of markets, or why certain patterns of corporate ownership are an ingrained norm in some societies, when in reality there is a great deal of variability in patterns of cooperation and competition, or corporate models, which can be enacted and institutionalised within different market forms.

One approach for overcoming the myth of the market's value neutrality, employed by various theorists such as Elizabeth Anderson, Debra Satz, and Michael Sandel, is to show why certain aspects of individual and collective life should be *protected* from market practices and norms.[64] These different domains are shown to have rival values, such that collapsing them would be a betrayal of our full selves as moral beings. For instance, Anderson argues that if market norms that govern the circulation of a particular good "undermine ideals such as freedom, autonomy, and equality, or important interests legitimately protected by the state", then the state may "remove the good from control by market norms."[65] These theorists are interested in the moral *limits* of markets; they want to circumscribe the market's scope in society. Jürgen Habermas echoes these concerns at a more fundamental level when he critiques the way in which the "lifeworld" (everyday social life) is colonised by the "system" (the realm of strategic action, including market institutions).[66]

[64] Anderson 1993; Satz 2010; Sandel 2012.
[65] Anderson 1993, 144.
[66] Habermas [1981] 1987.

Such an approach is less helpful for a problem like globalised kleptocracy which is entangled with market norms by its nature. Here the problem of value lies *inside* the market. What we are interested in is *changing* market norms, not simply guarding against them. A better approach for this task, therefore, is to think about economic activities as social practices. By making this move, we open up such practices to the full range of values which are at stake, including those which have been considered outside the market but may resonate in a wider view of a way of life. Anderson does roughly this kind of restructuring when she considers the possibility of "developing hybrid social practices that combine features of different spheres of life".[67] The key conceptual move I want to make here is to view economic life as being constituted by social practices, which are in turn related to other practices within a particular, but malleable, way of life and social order. Rahel Jaeggi argues social practices congeal into institutions, "which can then take on a certain dynamic whereby they appear to take on a life of their own."[68] We might say that such practices can also congeal into structural injustices. In this light, we must question the relationship between markets and values which sustains the normalised practices of globalised kleptocracy.

Applying a social practice lens to the case of globalised kleptocracy helps reveal the way in which this phenomenon, with its mix of criminal and non-criminal elements, is embedded in a social world and legal infrastructure that undergirds contestable norms of global finance. The active use of corporate vehicles and trusts which separate legal and beneficial ownership, for instance, is based on an artificial creation which can be channelled towards the protection of capital in general but also of capital that incorporates the assets stolen from publics. Once we focus on the incentive structure and criterion of esteem that generally applies to the professional staff of corporate service providers, lawyers, or wealth management professionals, it is relatively straightforward to recognise why a culture that pushes the limits of law and regulation when it comes to handling corrupt wealth might emerge. Widely and deeply internalised assumptions about the norms of global finance and banking writ large are what make intelligible the specific ways in which globalised kleptocracy is reproduced and normalised. In this light, the myth of value neutrality which pervades several dimensions of the dominant conception of markets poses an obstacle to structural change. Once agents view the economy as a realm of systematic moral inquiry, however, a plurality can productively contest its constitutive elements. By revealing that economic practices are not value neutral, these agents would advance the social transformation needed to address globalised kleptocracy.

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[67] Anderson 1993, 166.
[68] Fraser and Jaeggi 2018, 53.

For profit-seeking entities, complying with money laundering laws is usually framed as a burden or obligation to be adhered to reluctantly, based on the potential for blame or culpability. An alternative conception among relevant agents could view such compliance, along with other initiatives to rid markets of corrupt wealth, as buttressing moral agency in response to a moral crisis, role incoherence, social or political failure, and so on. This alternative conception can provoke and inspire agents to *take up* responsibility for reconstructing the prevailing ethos and strengthening institutional capacity to promote justice. Recall Young's conception of social structures: they "are not a part of the society; instead they involve, or become visible in, a certain *way of looking* at the whole society, one that sees patterns in relations among people and the positions they occupy relative to one another."[69] This way of seeing is not only important or feasible for the theorist or the activist, I want to suggest, but for *all agents enmeshed in a social process producing injustice*, including market agents such as bankers (and banks) or lawyers (and law firms). They must resist and overcome structural denialism, and the social order must support and induce them to do so.

VI. Conclusion

Mirroring the analysis of the phenomenon in Chapter 1, we can now characterise two broad ways to think about the project of *overcoming* the challenge of globalised kleptocracy. The first is a *minimalist, liability-based* approach which hews to the existing normative and institutional arrangements of global finance but uses scalpel-like interventions to identify and remove money laundering activity. It leaves the background structures, including the relevant norms and institutional features, untouched by its analytical approach and normative prescriptions. It lacks structural vision in part because it excludes structural analysis.

A second approach is *structural*: it connects moral agency with the need for structural change. It views the seemingly narrow problem of globalised kleptocracy in its wider normative and institutional context. It refutes the assumption that market interactions are value neutral, or that they embody only a fixed, preordained range of values. It asks what kind of structural change would be required to gain control over the problem not by adjusting behaviour through cost-benefit calculations around compliance, for example, or the breakdown of virtue or integrity among rogue actors, but by taking on the entire edifice – epistemic, conceptual, perceptual, ideological, institutional – which enables globalised kleptocracy to remain a widespread and partly normalised feature of contemporary markets. The main worry about the structural approach arises from a confusion. This is the worry that a structural approach aims

[69] Young 2011, 70.

for reform which is overly ambitious – and therefore difficult to achieve – for the problem. This is mistaken, however, because structural change can take place through incremental, experimental, and fragmentary steps, firmly rooted in the motivation, psychology, vision, and everyday practices of ordinary, real-world agents – people and organisations in their existing contexts. There is a range of relevant values which these agents can access and internalise as they seek to make progress against the injustice of globalised kleptocracy.

The evolution of the anti-kleptocracy norm in global politics and law reflects progress but hitherto remains bound to the minimalist approach. It has put the challenge of grand corruption on the policy agenda and has adjusted some behaviour in response to it. The merits of this minimalist approach are tied mostly to its perceived feasibility. On its face, it is easier to assume the prevailing norms and institutional arrangements of the market, including the incentive structures these generate for individual agents, and then use the coercive means of law to adjust behaviour. However, the impact of the minimalist approach has not been nearly as deep as the scale of the injustice demands. Part of the reason for this, I have suggested, is the absence of significant social struggle in support of the norm's underlying aims, and the failure this represents for the emergence of collective moral and ethical learning on injustice. In the next chapter, I propose an alternative response based on the idea of moral progress and a larger conception of human freedom.

Chapter 3: Restless Freedom

> Morality is after all the great central arena of human life and the abode of freedom.
>
> – Iris Murdoch (1953)

> Action is, in fact, the one miracle-working faculty of man.
>
> – Hannah Arendt (1958)

I. Introduction

I have so far provided a diagnosis of the phenomenon of globalised kleptocracy as well as an account of structural injustice which foregrounds moral agency. Regulating market transactions is not enough because corrupt money is easily disassociated from the wrongdoing of grand corruption – corrupt assets can be legitimated and insulated from moral and political scrutiny. Powerful incentives to ignore a connection with the initial wrong have typically sustained a chain of activity that, cumulatively, buries the injustice altogether. What appears to be a problem of a few recalcitrant actors turns out, then, to be intertwined with our fundamental social, political, and economic structures. Advocacy in the public sphere is necessary but not sufficient for the task of structural transformation, however, because it does not reach far enough into the legal and relational dimensions of economic life. What is needed is transformation at a wider and deeper level – a reckoning with the underlying bases of market interactions that enable corrupt money to move and find protection. The structural problem of globalised kleptocracy is, in this framing, a challenge of *moral progress*. By using this frame to anticipate pathways for moral agency, this chapter marks a pivot in the thesis away from the details of the phenomenon of globalised kleptocracy towards its potential transformation.

Human agency is the driver of moral progress. When it comes to structural injustice specifically, there is a liberatory aspect about our contribution to such progress. I call this *restless freedom*. Restless freedom draws on moral imagination and is realised through action; that is, the capacity to understand the world and our place in it in ways that transcend accumulated patterns of thought and action. In this chapter, I thus reframe responsibility for justice in terms of an enlarged conception of human freedom. First, I introduce the idea of moral progress and situate the problem of structural injustice within it. I then develop the concept of restless

freedom. Finally, I offer a four-part framework on the pursuit of restless freedom through moral agency in the context of responding to the structural injustice of globalised kleptocracy.

II. The idea of moral progress

The connection between injustice and moral progress has been neglected in contemporary normative theory. Indeed, major liberal theories of justice have, at least since Rawls, tended to avoid discussion of moral progress altogether. This has deprived such theories of a rich layer of normative insight: the connection between individual self-realisation, imagination, and agency on the one hand, and the macro dynamics of social change on the other.

Overcoming structural injustice is a paradigmatic form of moral progress. A central feature of structural injustice is that the injustice is unrecognised or misdiagnosed in the common understanding of a social phenomenon. The status quo is naturalised as how things are, or the phenomenon is perceived as consisting of individuated acts in insolation from one another rather than a feature of social order. When we address structural injustice, then, we puncture common misperceptions and reorient moral agents towards transformative action. Such action could be to identify a moral wrong and remediate it, or it could, more promisingly, be channelled towards the transformation of norms and institutions so as to prevent future wrongs. Overcoming structural injustice is the *process* whereby human agents make a seemingly entrenched social arrangement legible to change, and then set about realising that change by remaking norms, practices, and institutions; that is, they *make* moral progress. Moral progress encompasses processes in which forms of life or domains of human activity which produce injustice are recognised as producing injustice and are opened to reconstruction. The success of collective projects to address an injustice represents the gradual, fuller – though not linear – realisation of such progress over time.

The philosophical literature on moral progress is a fertile place, then, to locate our discussion of large-scale behavioural and institutional change. The idea of moral progress is especially relevant when we think about transformation in what counts as a domain of justice and injustice. The lens of moral progress allows us to adopt a perspective in which the ecology of emergent norms and institutions comes into view. Far from being detached from pressing questions of agency to overcome structural injustice, this lens provides conceptual resources to directly address the challenge of large-scale change. It prompts us to ask, for instance: How and why do agents become motivated to participate in experimental and improbable causes, in an inherently fragmentary and incremental fashion, that may or may not bear significant fruit in their lifetime? This appears to be an empirical question, and history and social science can

certainly shed much light on it. Here I will focus on the normative aspects of moral progress: its characteristic features and especially how it relates to the orientation of agents who seek to advance (or block) such progress.

The truth of progress is perhaps less important for my purposes here than agents' *belief* in its possibility. If such a belief exists, then conventional measures of efficacy, such as cost-benefit analysis of specific actions, may be less of a hindrance to motivating moral agency. So, for instance, such rationalist analysis could be relevant to specific tactics used to advance a cause but would not be sufficient to crush motivation altogether even when some analyses indicate likely defeat (at least in the short run). If a belief that progress is *not* possible takes root, however, then the prospects for addressing structural injustices via human agency become severely constricted. The rejection of the possibility of moral progress implies the acceptance of a naturalised social phenomenon; background injustices are cast in terms of forces beyond human control. This rejection can engender moral deflection and the outsourcing of responsibility as agents resign themselves to injustice; it produces apathy and indifference. So, for instance, the plight of the poor may come to be viewed as a result of their own actions, rather than human-made collective institutions, rules, culture and so on. If a sense of inevitability with regard to an injustice sets in, it is difficult for humans to properly perceive that phenomenon as an *injustice*. It becomes an expected part of life, rather than something open to moral change and institutional reconstruction.

The notion of moral progress in this sense has profoundly practical implications. It can illuminate our response to entrenched injustices by underscoring the plasticity of institutions and practices in the face of social structures that seem overwhelmingly rigid, thereby highlighting the possibility of human agency to change a status quo. To the extent that a sense of the possibility of moral progress spreads into public discourse and thought, it can also have these effects more directly in the conduct of human affairs. Recognising the possibility of moral progress emboldens commitments to address real-world injustices.

At the same time, any theory of moral progress must avoid excessive or unwarranted optimism associated with less normative approaches to progress such as those which extrapolate from historical data in ways that flatten the richness of human experience, remove contemporary questions of power and relationships, or promote technocratic fixes to complex socio-political challenges. Of course, our conception of moral progress must also guard against dogmatism and exclusivism. Michele Moody-Adams argues that moral progress depends "on the commitment of engaged moral agents who presume the transcendent and objective value of

the convictions that drive their engagement."[1] This may be true (and I think it is), but this commitment must be accompanied by a genuine and vigilant humility with regard to any agent's ability to claim what moral progress entails, either in theory or practice, and a civic commitment to translate this humility into a political practice of democratic equality.

Moody-Adams identifies at least two types of moral progress: in beliefs and practices. The former involves "deepening our grasp" of moral concepts, uncovering the "semantic depth" of a concept like justice, and appreciating its "range of application" and how it captures some features of our experience. The latter involves concretely realising newly deepened moral understandings in behaviour or social institutions.[2] Rather than offering a general theory of moral progress, she suggests that serious moral problems reappear unpredictably in new guises; definitive solutions will remain elusive.[3] I think this is correct. Consider Dale Jamieson's suggestion that there may be four stages to moral progress in relation to a subordinated group: (1) recognition of subordination as a moral issue; (2) a paternalistic interest in defending victims; (3) recognition that victims are entitled to rights, not simply charity; and (4) victims are seen to have "positive rights", or entitlements to the means to "realize their ends."[4] It is clear there will be indeterminacies at every stage; moral problems of inequality, injustice, oppression and so forth will persist. At a deep level, then, moral progress is an ongoing process rather than a triumphant condition.

Moral progress is also not an all or nothing affair. We can endorse the idea that progress is possible in some domain of human affairs without universal moral progress across the board. In the literature this is referred to as "local" moral progress.[5] While contemporary philosophers of moral progress generally hold that global moral progress, as distinct from local (or domain specific) moral progress, cannot be discerned, there is an important way in which moral progress is intrinsically global, at least in the contemporary context: moral learning occurs *across* domains and geographies. Experimentation in one corner of the market, or in one country or community, for example, can stimulate change in other parts of the market, or in other countries or communities. Recognising these connections across domains and geographies is consistent with the suggestion that all-encompassing claims of moral progress are analytically problematic. We do not have to embrace a claim that the entire state of affairs with regard to every moral indicator at point B is morally superior to point A to say that moral progress on one front can affect moral progress on other fronts.

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[1] Moody-Adams 2017, 157.
[2] Moody-Adams 1999, 168-9.
[3] Moody-Adams 2017, 162.
[4] Jamieson 2002, 336-337.
[5] Moody-Adams 1999, 169.

Inspired by Deweyian pragmatism, Elizabeth Anderson frames moral progress as a process of moral learning. She offers philosophical reflections on historical processes, especially the end of slavery, in which victim-oppressor interactions led to insights into equality and justice, which in turn led to concrete advances.[6] In the tradition of Frankfurt School critical theory, Rahel Jaeggi has also offered an account of moral progress rooted in the dynamics of moral learning.[7] Jaeggi contends we can morally judge forms of life by how well they block or enable such learning. The power of these learning-based theories of moral progress benefit, I think, from a feature of moral practice identified by Jonathan Wolff: there is an asymmetry between our capacity to recognise injustice and our (weaker) capacity to articulate what justice looks like.[8] While Wolff does not draw on the pragmatist tradition, this insight resonates with the pragmatist one that knowledge is generated through our experience in addressing problems. It seems, then, that a good deal of moral progress may have less to do with grand designs for a perfect world than with incrementally overcoming injustices as we confront them. Yet this insight should not be confused with a lack of moral ambition or structural vision. Rather, it helps illuminate how moral progress can best be promoted in practice. In particular, it helps us to recognise that the path to greater justice and equality is rooted in our experience, and that of others, and the insights gained through our collective effort to address moral failures.

III. The centrality of moral agency

Perhaps the most systematic discussion of moral progress in the analytic tradition has been offered by Allen Buchanan and Russell Powell. They identify ten types of moral progress: (1) better compliance with valid moral norms; (2) better moral concepts (e.g. "sexual harassment", "natural rights"); (3) better understandings of the virtues; (4) better moral motivation, both more discerning expressions of moral emotions (such as sympathy beyond one's family) and a greater role in determining behaviour; (5) better moral reasoning, such as increased consistency of moral judgements leading to wider moral regard; (6) proper demoralisation, including when behaviours become morally permissible (e.g. interracial marriage); (7) proper moralisation, where morally permissible beahviours come to be viewed as morally wrong (e.g. footbinding); (8) better understandings of moral standing and moral statuses (e.g. equal moral status of Africans during the abolitionist movement); (9) improvements in understandings of the nature of morality, such as the transition from a "strategic" conception of morality to a "subject-centered" one; and (10) better understandings of justice, including "expansions in the domain of justice, the class of beings who are considered proper subjects of justice and the territory of

[6] Anderson 2016.
[7] Jaeggi 2018; Jaeggi [2014] 2018.
[8] Wolff 2015. See also Sen 2009.

justice, the set of actions and states of affairs that can be just or unjust."[9] Such expansion in the domain of justice would include instances where there is a realisation that some aspect of the social world is made by us, rather than being a natural phenomenon, and thus subject to change through human effort.[10]

Unlike theories which focus exclusively on the human dynamics of moral learning, Buchanan and Powell offer a "biocultural theory" of moral progress that attempts to combine insights from Darwinian theory and scientific knowledge (what they refer to as a "naturalistic" theory) alongside due recognition of the human capacity to reshape culture.[11] They steer between "biological reductionism" and "culture-centric" views by emphasising how "human beings' evolved moral nature both enables morality in the form of inclusiveness and thwarts it, depending upon environmental factors broadly conceived, including cultural and institutional conditions." They reject the notion that either biology or culture is "more fundamental than the other."[12] They argue "human beings have an 'adaptively plastic' capacity for exclusivist responses in environments that resemble the harsh conditions of their prehistoric environments" while being "capable of inclusivist responses in more favorable environments."[13]

Buchanan and Powell reject the idea that moral progress consists centrally in managing conflicts of interests among individuals, or that alienated and frustrated human interests will over time assert themselves through social groups capable of mobilisation. They point to instances of progress driven by concern for those without strategic capacities. Especially relevant for our purposes is their insight that the global order can be "thick" enough to make the poorest people vulnerable to structural disadvantage, while at the same time "thin" enough to insulate the powerful from the ill-effects of the discontent of those disadvantaged.[14] Indeed, this holds true in the case of globalised kleptocracy (at least historically), since the victims are largely shut out from the processes which generate the structural injustice they suffer from. Progress in this case cannot *rely* on victims of injustice asserting their interests.

Buchanan and Powell insist morality is a kind of dynamic social technology and seek to give cultural innovation (especially institutions) due regard. They are ultimately committed to the idea of "the open-ended normativity of the ethical" which refers to "the fact that human beings have the capacity to engage in ongoing critical scrutiny of the norms they are currently adhering

[9] Buchanan and Powell 2018, 56-60.
[10] Buchanan and Powell 2018, 60.
[11] Buchanan and Powell 2018, 11.
[12] Buchanan and Powell 2018, 38.
[13] Buchanan and Powell 2018, 377.
[14] Buchanan and Powell 2018, 84.

to."[15] But in their insistence on giving equal weight to evolutionary theory in an account of moral progress and regress, they tend to conceal as much as they illuminate. This is because evolutionary theory ultimately masks key elements of human agency. The more emphasis given to evolutionary theory, I suggest, the more it appears there is a fixed set of possible worlds we can build. This is a refutation of the radical insight of social theory since the rise of liberalism and socialism over the last two hundred years or so, namely that humans have the capacity to make and remake the social world. That there may be some natural limit to human projects is far further down the hierarchy of relevant constraints. Ahead of it are considerations such as power, virtue (or its absence), institutions, laws, and norms – domains subject to human agency.

What is the relationship, then, between human agency and moral progress? Buchanan and Powell pay insufficient attention to the complex dynamics of social change, and thus neglect to form a truly pluralist conception of human agency in which diverse contributions to moral progress are properly valued. Humans have significant agency in framing and reframing the character and extent of supposedly naturalistic constraints. In this sense, culture and biology do not deserve equal weight in a theory of moral progress which claims to have normative implications. Over-emphasising environmental factors risks generating complacency that morally revolutionary change is for the future, which can then turn into self-fulfilling prophecy: the agent does not enact structural reform because they come to view it as for another day, another generation. Part of the value of understanding how moral change is unleashed is to make salient the potential for human agency today, without waiting for environmental changes.

Similarly, moral progress should not be linked exclusively to moments of crisis and catastrophe, though such moments have rich potential to advance change. The fact that human beings are able to make great moral advances at all by building more just institutions and spreading more just norms should serve as an inspiration – both in thought and practice – for the fact that effective agency is accessible even in the absence of crisis. To know we are not condemned to injustice is a powerful insight with great practical importance. The process of moral learning at a large scale during abrupt global moral catastrophes may be open to imitation during more long-running crises, or phenomena that are not neatly captured by conventional categories of "crisis", including existing global inequality and insecurity. It can also be recreated at a smaller scale. Indeed, moral learning can occur as a response to moral failure at different scales, from the interpersonal and communal through to the global, and it is up to human agents to internalise the lessons from periods of rapid progress and to structure our collective life to maximise the opportunities for making such progress more consistently.

[15] Buchanan and Powell 2018, 85.

In that light, we can begin to recognise the features of human activity which increase collective capacity for moral progress. Take, for instance, the human invention and reconstruction over time of the idea of "interests". Roberto Unger notes that our interests tend to be "substantively ambiguous in the sense that they are never unified or detailed enough to provide the occupants of any given social station with a single uncontroversial view of their interests."[16] As Albert Hirschman has argued, the very notion of interests has its own history, discourse, and collective understanding.[17] Interests therefore should not be viewed as fixed. More favourable environments may indeed promote more inclusivist norms, and these do evolve over time, but humans retain a capacity to relate to their context by constructing social meaning and critical self-reflection over the very terms of that relation. Our capacity for initiative, to create something new from our circumstance, is not reducible to adaptation to material or environmental constraints.

Finally, we should register the complex relationship between material advances and moral progress. There is no fixed list of injustices which humanity conquers one by one. As some phenomena of injustice are overcome, or at least better recognised, new phenomena may emerge or the full depths of an apparently vanquished injustice may be revealed. For example, new scientific advances and technologies can generate new forms of injustice. Consider also the way in which an idea such as gender equality, broadly accepted on some levels, is gradually revealed to have only been addressed in a very partial way. It is problematic to assume improved material conditions automatically lead to better social or moral outcomes. So, for instance, as capital flows became globalised, the risks and challenges associated with this have been naturalised and reified as simply the way efficient markets work. Buchanan and Powell acknowledge that while markets lifted many out of poverty, they also fostered hugely regressive developments like slavery, colonialism, worker exploitation, and perhaps short-term declines in health.[18] But this fails to grapple with the reality that there is no single version of the "market". The search for a macro-historical account of moral progress, once again, can obscure the extent to which human agency can remake social institutions, whatever the material conditions. The plasticity of the market as an institution constructed by laws, norms, and practices can be overshadowed by a focus on material advances. The capacity to denaturalise institutions and practices is key to moral progress from the perspective of human agency, and this includes the dominant forms of the market economy.

[16] Unger 1987, 267.
[17] Hirschman 1977.
[18] Buchanan and Powell 2018, 23-24.

IV. The ideal of restless freedom

A key problem with the biocultural theory of moral progress is that in its search for macro-historical explanations it flattens human agency; there's a flight from the reality of struggle, leaving us with the cold comfort that our natural conditions are a significant constraining influence in politics and thought. A more granular approach to moral progress presents a different image, one of human agents as individuals and as members of collectives who have the capacity to reinterpret their environment, imagine new possibilities, and generate momentum for such possibilities through action.

The central idea of moral progress, in my conception, suggests that the current social order and ways of life are not the only ones available: human agents have the capacity to perceive and act in the world in such a way as to improve it. Consider how structural injustices are addressed through human agency. The response in normative theory is normally framed in terms of duty or responsibility: who *should* respond to the injustice, and to what degree. But the character of moral progress suggests an alternative relationship between agency and injustice should also be considered. Moral progress, after all, represents human civilisation's attempts to remake the world to fit more coherently with its evolving understanding of moral ideals. There is an intrinsic sense, then, in which humans have interests to situate themselves in their larger social context and to play their part, on some scale, in the formation of the moral climate of the world. This potentiality for a *larger life* plausibly extends to an agent's self-perception as a protagonist in macro-historical processes, particularly those which address injustice. This participation can be manifested in an ordinary sense, that is, in the way that everyday people gain a sense that their lives matter and have *some* bearing, however small it may seem, on what Martin Luther King Jr. described as the "moral arc of the universe". In a relational sense, this influence may be directed only to a few others. The quality most important for obtaining a larger life is not the scale or extent of influence over the course of events. It is, rather, about *directionality*: the ability to more fully understand and challenge the injustices of one's context, and to cultivate a belief that one could play a part in their elimination.

Given this, each person must be given the *opportunity* to more fully realise their potentialities to *contribute* to moral progress. Moral progress is the constructive aspect of the social process to address structural injustice. It possesses the ability to attract wide agential commitments, not merely compel compliance with a certain moral standard. On this basis, we can pluralise the agent of change more widely and deeply. In the context of injustice, the contributions of these agents pertain to discovering injustice, recognising its victims, remaking norms and discourses, and advancing institutional innovation and renewal. This constructive moral agency is the

realisation of what I call *restless freedom*. Restless freedom enables an agent to affirm their purpose, identity, and interests in the encounter with structural injustice. Structural injustice leads to distortions to the perception of social reality and thus the human condition itself; restless freedom is emancipation from these distortions, and the attempt to form an apt reconciliation of the self with the world.

Although structural injustice has a particular kind of distorting influence, we can in the first instance approach this problem through a conception of *alienation*. As Alasdair MacIntyre puts it, the human world can be reified due to "the estrangement of subject and object" making the alienated person "a stranger in the world that he himself has made."[19] The concept of alienation, of course, has a long and complex genealogy. Rousseau did not use the term, but recognised the phenomenon in the loss of self experienced through the mutual dependence of living in a society. He sought to identify an ideal social form, the social contract, which could counteract this alienation. Hegel took the idea radically further, collapsing the realisation of the self with the institutions of social life: "the Idea of freedom is truly present only as *the state*."[20] Most famously, Marx stressed the economic dimension of alienation under capitalism. For Marx, alienated labour separates the worker from the product of their labour, from their activity, from their own human essence, and from others.[21] One's economic activity becomes a means without a purposeful end; it lacks intrinsic purpose for the agent who undertakes the labour and they are unable to situate their activity or products as part of a meaningful whole. The Marxian conception has since been extended in important ways, especially via critical theories of society under advanced capitalism. Perhaps the most important recent intervention is that of Rahel Jaeggi. Jaeggi is most concerned with how agents become impeded from appropriating their roles in the world. Unlike Marx, Jaeggi does not seek to provide a substantive account of what the agent is alienated from, focusing instead on the character of this relation itself. For her, the central idea is that humans become alienated from the world when they cannot "appropriate" it. Such appropriating can arrest loss of meaning, indifference, and powerlessness; the failure to appropriate thus underpins alienation.[22] However, Jaeggi does not attend to how such appropriation might enable agents to change the order itself, which is the crucial move needed to address structural injustice.

Before elaborating on restless freedom, we can distinguish three other ways in which structural injustice relates to freedom, grounding our insights in the injustice of globalised kleptocracy.

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[19] MacIntyre 1984, 23.
[20] Hegel 1991, 88.
[21] Marx [1844] in McLellan 2000, 83-121.
[22] Jaeggi 2014.

The first connection is the most obvious: this is the freedom denied to the victims of structural injustice. I have already identified the injustice of kleptocracy in terms of republic freedom, but it is worth clarifying that structural injustices can deny both negative and positive freedom by enabling domination and oppression. Like other injustices, the victims of structural injustice suffer from deprivations or oppressions which put them in a position of disadvantage, exploitation, or domination in relation to others. They are also denied positive freedom,[23] insofar as they are denied the ability to control and determine their own future due to the imposition of arbitrary power and control by an alien will.

The second connection, articulated by Thomas J. Donahue-Ochoa, is also a kind of negative freedom but pertains to the way in which structural injustice can subject *everyone* to arbitrary power and thus unfreedom.[24] The basic premise is that a structural injustice by its nature will be a central feature of a society's social institutions, and the systematic suppression of actual or potential resistance to those oppressive institutions constitutes authoritarianism: "the arbitrary power of systematic suppression of resistance."[25] Authoritarian tactics express arbitrary power, rendering *all* members of a society (including a global society) unfree. This is a powerful line of reasoning. The market too, I think, can become an authoritarian institution under certain circumstances if it settles on a form that does not permit structural injustice to be unblocked and transformed. Consider the way in which offshore tax havens, or the ability to disguise the natural persons who benefit from economic activity through corporate entities, express a kind of political power outside democratic control. These institutional arrangements deny important interests of citizens of the rich world too, such as access to legitimate tax revenue or transparency of markets which affect them. Such institutional features of globalised kleptocracy not only afflict the *direct* victims of kleptocracy – those who suffer the severest harm – but entrench structures which deny *all* others in a society freedom from arbitrary power.

A third connection is what Rawls calls "the outer limit of freedom". This is the freedom whereby "over the course of life" we come "freely to accept, as the outcome of reflective thought and reasoned judgment, the ideals, principles, and standards that specify our basic rights and liberties and effectively guide and moderate the political power to which we are subject." [26] As Benjamin McKean explains, this involves a "retrospective element" of freedom in which we

[23] Isaiah Berlin's description of positive liberty is especially helpful here: "I wish, above all, to be conscious of myself as a thinking, willing, active being, bearing responsibility for my choices and able to explain them by reference to my own ideas and purposes. I feel free to the degree that I believe this to be true, and enslaved to the degree that I am made to realize that it is not." (Berlin 1969, 131).
[24] Donahue-Ochoa 2019.
[25] Donahue-Ochoa 2019, 18.
[26] Rawls 2001, 94.

recognise "that the institutions that have shaped us are ones we could have freely chosen."[27] Rawls relates this to habitual attitudes or dispositions towards reciprocity which flow from just institutions. Drawing on this conception of freedom, McKean considers how the ideal of a just society can orient agents towards solidarity across borders in confronting unjust phenomena. Within this framework, we could ask whether the underlying structure of globalised kleptocracy is one which has been freely endorsed, or whether it has coalesced in an insidious form under the guise of wider aims, policies, and ideological settings, thereby naturalising an injustice made by our own hands.

Having registered these connections between structural injustice and human freedom, we can now turn to the distinctive idea of *restless freedom*. There is a universal freedom at stake in realising our capacities to contribute to moral progress, that is, to participate in reconstructing the social order to make it more just. Each person is born at a particular moment with its own injustices; restless freedom suggests we can disturb that unjust equilibrium in any given moment, without having to wait for a revolutionary moment in the future. It closes the gap, then, between the limited time of a mortal life and the macro-historical processes of moral progress. Restless freedom closes this gap by empowering the agent to become *master of their roles in the reconstruction of social order*. It is emancipatory because it involves realising one's capacity to help create and recreate one's social order, rather than to resign oneself to finding freedom within, or endorsing, the existing order. Restless freedom is not about a loss of connection from the existing order, or domination by others within it, but the creative potential to shape its reconstruction, both inside and outside the civic realm. The practical expression of restless freedom translates the civilisational scale of moral progress into the concrete projects of individual lives, enabling agents to direct the inscription of large-scale projects into their own roles and activities.

A capacity to contribute to moral progress is *intrinsically valuable* to moral beings. This is because such a capacity enables one to properly make sense of the world in a way that is not possible as a mere observer of it; that is, to find one's place in the world *through* one's actions and roles in the long-run formation of ways of life and institutions. What I have in mind here encompasses a certain Aristotelian conception of role-responsibility: as the agent occupying a role pursues virtues and excellences associated with the ideals of a role, these become richer and more significant over time in shaping the role itself and its function in the world. In that process, the agent gains a sense of mastery over the role, not because they can control precisely its effects in the world, but because they can recognise the ways in which their own ethical path is making

[27] McKean 2020, 17.

an impression upon it. The role is no longer extrinsic – given by the world for the agent to occupy – but made internal to the agent: its moral responsibilities, shaped in part by one's agency, become a means of self-flourishing, not a mere imposition of the social order.

Since human flourishing rests not only on basic liberties to safeguard autonomy, but also to play one's part in how one is collectively governed, there is already an inherent social dimension of freedom acknowledged by other conceptions. The republican ideal of freedom, for instance, emphasises mastery, control, and popular sovereignty. My appropriation of this idea here, however, focuses less on the ability to loosen the grip of an external master, and more on the agent's ability to master their own participation in the production or reproduction of their social world. Structural injustice undermines this ability directly, recruiting one into the production and reproduction of injustice even when it is not a reflection of one's will. The ability I have in mind is of course subject to external influence, but my concern is precisely to do with the agent's capacity to navigate such influence in a creative and productive fashion, *despite* the structural constraints. While one aspect of freedom pertains to loosening the arbitrary control of an outside structure, another aspect lies in the agent's pursuit of that goal *through activity which is within their reach*, prior to the structure being disturbed in any substantive way. In other words, an agent needs the ability to master their own life – their roles, activities, projects – to *become* equipped to challenge an unjust structure of which they are a part. Restless freedom radicalises this idea further still. It suggests that our participation not only in collective decision-making, but also in the very formation of society's moral development, is an essential aspect of being the author of one's own life and the driver of one's self-relation and self-realisation. In this sense, it integrates a version of what John Stuart Mill called the "ideal of self-development"[28] – itself borrowed from the ancient Greek philosophers – as an open-ended, creative process of discovering one's capacities and potentialities. This ideal pertains to what Mill called our "moral freedom" to reconstruct our own character through our own wishes – which I interpret as our energy and creativity in pursuing new activity – even in the face of conformist pressures of mass-society.[29]

My conception of restless freedom, then, is a form of positive freedom which integrates into one coherent ideal the creative and experimental aspect of human activity and self-formation, the resistance to alienation arising from structural injustice, an Aristotelian notion of role-responsibility, and the process of self-mastery. The element of *freedom* in this ideal can be summarised in six moves:

[28] Mill [1859] 1977, 266.
[29] Mill [1843] 1974, 841.

1. Self-realisation, in the sense of deepening relations with one's own moral and practical capacities over time, is integral to human freedom.
2. The means to self-realisation is action in the world.
3. Self-realisation therefore requires an apt relation of self to the world.
4. Structural injustice distorts one's relation to the world. This is because it:
    a. recruits us into moral outcomes we do not dictate;
    b. masks social connections;
    c. blinds us to the reality of suffering and its causes;
    d. misrepresents the moral innocence of our social order;
    e. instils a mistaken sense of powerlessness about the social order; and
    f. naturalises social realities that are in fact the product of human agency.
5. Self-realisation thus requires mastering one's roles and sphere of activity in the particular context of structural injustice.
6. Mastery of one's roles and sphere of activity is obtained through the development of human capacities to contribute to progress against injustice, and deepened through action which challenges injustice.

The element of *restlessness* in this ideal can be summarised in two distinct, but interrelated, ideas:

1. A*ctivity*. Freedom is realised through constructive action to shape a more just world; it cannot be realised through contemplation, observation, or withdrawal.
2. *Open-endedness* and *endlessness*. Restless freedom is not a condition as a *state of being*, but a condition of *openness to possibility*, which demands a degree of *vulnerability* from the free agent in the pursuit of an outcome which can never be definitively realised.

Restless freedom rests on a paradox, then, about the relation of the self to the world: to properly relate to injustice is to be anxious about it, to be dissatisfied with the status quo, and to set about remaking the world through one's activities and projects in a way that reflects this anxiety. I do not mean anxiety here as a psychic state or temperament but rather an orientation towards moral failure in the world: a way of making one's roles, attitudes, and projects one's own such that the reality of injustice in one's midst is reckoned with, even though its elimination is beyond one's reach. Restlessness arises from a desire not to waste any opportunity for such a reckoning. Restless freedom makes room for the ever-present danger that our plans could go awry, and that as a consequence of our actions, present injustices could mutate into a new form. It cultivates a realistic form of hope, combining realism about the social forces maintaining

injustice with a sense of possibility about how human-made phenomenon can be transformed through agency.

The premise of restless freedom is that successful relations with oneself – self-realisation – requires a successful relation with the world. In this sense, there is an aspect of unfreedom which stems from a failure to morally reckon with the world *as it is*. When the world is characterised by injustice, a moral being must relate to injustice in a fitting way in order to reconcile themselves properly with the reality of the world. In that light, the internal demand for restless freedom stems from an awareness that one is falling short of one's potential as a protagonist in relation to moral failures such as injustice and inequality, and the commensurate rise in one's self-realisation as a consequence of this deeper relation with the world. Where injustice is obscured, as is the case with structural injustice, it must be discerned and made legible to human transformation. A successful relation to the world recognises the way in which every action, every decision, creates space for moral agency, that is, agency which better aligns one's actions with conceptions of moral progress. One's social influence may only be anticipatory – the *external effects* may not be recognisable – but for the agent, it is nevertheless freedom-enhancing to more authentically and faithfully relate to the world as it is. Once injustice is discovered, indifference or complacency is not a viable option from the perspective of restless freedom because unlearning such knowledge would itself be corrosive to self-realisation. The apt response to such knowledge is to chart a path to address the injustice itself. My conception of restless freedom therefore challenges the notion of a dichotomy between individual and collective human flourishing, insofar as the former is linked, through our action, to the latter.

There are at least three ways a successful relation to the world might fail. First, *disempowerment*: the sense that there is no possibility to create space for moral agency and adapt one's roles or activities in response to injustice. Second, *resignation*: the sense that one is resigned to the injustice of the world, as if these injustices are natural; one's social roles are destined to perpetuate injustice because of the standard form these roles take. Third, *apathy*: the disinclination to act on injustice because of a lack of concern or emotional connection with it. These three conditions undermine the possibility for self-realisation because, functionally, they deprive the agent of the potential to form a fitting response to their context. This may be an epistemic failure, of course, but it might also be a question of moral aptness: through disempowerment, resignation, and apathy, the agent loses the capacity to orient themselves to the world in a manner that deploys their ideals to meet their circumstances. Due to the hidden or obfuscated nature of the injustice under structural injustice, all agents entangled in it have their potentialities for self-realisation undermined because the ability to properly perceive, reflect, and act in the world is epistemically, cognitively, psychically, and spiritually undermined.

Consider the banker who remains indifferent to the corrupt money under their management, or the political leader who is unwilling to act on corrupt money in their jurisdiction because of a reductive conception of the "national interest". In these cases, the agent sacrifices proper relations with the world for some material gain, without attending to the costs this may generate for themselves or others. The agent is not just acting *wrongly*; their indifference to injustice is corrosive of the agent's capacity for self-realisation because such indifference fails to grapple with their social reality. This is not just an individual failure, though, insofar as the social structure produces and incentivises such indifference to injustice.

The ideal of restless freedom registers the intrinsic good in grappling with the reality of social phenomena in which one is enmeshed, especially the values at stake, and that this relation informs action – one's attempt to make a mark on those phenomena. Restless freedom cannot be categorically obtained; it is an open-ended process. This helps explain its restlessness: to feel one has sufficiently mastered the social world and its injustices is to become resigned and apathetic and thus fail to properly relate to the world. Paradoxically, the agent finds freedom through the vulnerability which stems from persistent openness to confronting injustice since this is the only way to reconcile themselves to the reality of the world. Restless freedom thus entails an experimental and creative process of reconciling oneself to injustice by seeking to undo it. It should be clear, then, how this conception of freedom is fundamental to the question of structural injustice. A feature of structural injustice is that it obscures the true nature of a social world by obscuring the injustice embedded in it. It naturalises and reifies that injustice, and makes our participation in it seem like the legitimate and ordinary way to act. Apart from its effects on the victims, structural injustice thus distorts the relation of all who experience it – perpetuator, bystander – to the world, and in this way perverts one's relation to the self.

To properly master one's context – to make it one's own – is to adopt meaningful roles in shaping it. This process must be grounded in a notion of pluralism: the actual expression of such roles are diverse and open, not narrow and rigid. Such freedom must be wedded to a humility that we may be wrong in our beliefs and practices, lest dogmatism become a source of domination over others. The plurality of the forms of contribution to moral progress preserves human autonomy in the cultivation of the good life, while universalising the notion that such a contribution is itself a universal good linked to obtaining full human flourishing. Invariably, a discrepancy may arise between one's consciousness of the currents of moral progress (or regress) and the extent to which one can structure one's own life to support these (or resist them). Addressing this discrepancy is bound to be an incomplete, iterative, and experimental process. The social order must, however, endow each person with every support and opportunity

available to find their way in making this reconciliation. To give an example from the world of finance: laws governing financial flows should promote transparency, specialised education should make ethical challenges salient, and professional associations should uphold standards of honour and esteem that incorporate just norms, so that any person functioning in the role of banker can recognise how their own actions fit with the market's social and moral effects at a structural level.

When it comes to social roles in particular, Robin Zheng argues, "*roles are the site where structure meets agency*."[30] In contrast to Young's social connection model, Zheng offers a "Role-Ideal Model" of individual responsibility for structural injustice. A premise of this model is that social roles always have some discretion built into them by virtue of the fact that different individuals will occupy the same role under varied circumstances. The discretionary aspect of social roles, Zheng contends, allows us to expect agents to push the boundaries of a given role in pursuit of structural transformation. After all, agents *already* have a responsibility to "perform their roles well."[31] We can, in this sense, make the task of responding to structural injustice internal to all social roles, and responsibility can be shared among agents in a social process. In my conception of restless freedom, the excellences of a role must be understood and embodied through one's negotiation of the deeper purposes of that role. Crucially, such purpose cannot be properly appreciated without understanding the connection to structural injustice and possible structural transformation. From the perspective of restless freedom, ethical virtue, developed in tandem with practical wisdom, is cultivated through a role's activation against structural injustice.

No role should be excluded from the conception of restless freedom a priori based on a categorical, naturalised view of what that role entails. For the banker, too, a path must be created to ensure that particular role contributes to moral progress. If it cannot, then that agent is unable to obtain a full sense of freedom: they will lack restless freedom insofar as they lack the capacity to reconcile themselves aptly with an unjust world. The agent can of course evade or deny injustice but this cannot deliver reconciliation – and thus self-realisation – properly understood. Conversely, discovering and resisting injustice can be integrated into what Joseph Raz calls the "ground projects" that are constitutive of our identity.[32]

Restless freedom thus recasts one's contributions to moral progress as *intrinsically valuable for the self*, not just *instrumentally valuable for the world*. This provides a distinctive basis for grounding the agent's response to injustice compared to theories which appeal to intersubjective claims within

[30] Zheng 2018, 870.
[31] Zheng 2018, 878.
[32] Raz 1986.

a social contract or a sense of altruism foundational to some utilitarian theories. Rather than encouraging agents to turn inwards, however, this reframing generates its own sources of agential empowerment in undoing injustice. By taking steps to address a structural injustice, the agent reasserts a will and capacity to master their social context. The agent's perceptions are heightened through creative action. In its fullest form, the manifestation of restless freedom is a reconciliation with the world through transformative projects. Just as imagination enables us to better understand the world by envisioning what it can become, restless freedom allows us to master the world by building its alternative futures. Such mastery is distinct from social control. An emphasis on control could view the unforeseen consequences of our actions as a negative feature of social life. In contrast, seeking restless freedom means being open to the unpredictability of a rich moral ecology: the agent recognises that the surplus effects beyond those intended may contribute to moral progress in unforeseen ways. Restless freedom entails a creative form of self-mastery, then, because it makes a distinction between *mastering* one's social context and *control* over structural social forces or circumstances. Restless freedom empowers the agent to cultivate a vulnerability that stems from being one of the "remainders of politics"[33] – to become a misfit if that is what it takes to resist the normalising and naturalising pressures which sustain an injustice. It involves developing one's capacities in at least three practical spheres: coherent action over time, economic empowerment, and discourse. We can conceive of these as meta-capacities which encompass more particular human capacities for action, reasoning, and self-understanding.

(i) *Unity with oneself*: The capacity for coherent action

Restless freedom involves bringing overarching coherence to one's actions and projects over time, not through a shallow harmony with a settled self – there must be room to acknowledge multiplicities and hypocrisies – but through an open-ended process of discovery, disruption, and learning. Consider the perceptions and self-perceptions of agents operating inside a competitive market. It is both morally desirable and feasible for agents in the market to restructure the conception of their own interests so that these are better, though imperfectly, aligned with public purposes, including overcoming structural injustices. What we should want is for agents to *internalise* norms of justice so that they are not merely a burden but *constitutive of their practical identity as moral agents*. In this way, the demands of justice would be a constitutive feature of how those agents define their own success and measure their self-esteem; the project of deepening norms of justice is taken on as part of the search for coherence under unjust circumstances.

[33] Honig 1993.

Consider how this dynamic might function in the case of globalised kleptocracy. The handling of corrupt wealth would move from being merely a problem of non-compliance with regulation to one that is antithetical – and eventually unintelligible – to the agent's own conception of praiseworthy work or the aims of banking and finance. This could gradually also become the habitual mode across related professions such as accounting and law. As some agents internalise the norm, they would come to expect others to uphold it. Policing of the new norm of justice by an institutional, rules-based regime could then serve as a kind of supportive infrastructure for the new normative standard and its ethos, rather than as the fulcrum for wrangling misaligned incentives.

My conjecture builds on Elizabeth Anderson's account of *rational action*, which she defines as action "that adequately expresses our rational attitudes toward people and other intrinsically valuable things".[34] The dominant view of rational action is, according to Anderson, consequentialist in that it "characterizes the end of rational action as the realization of valuable states of affairs."[35] In contrast, she proposes an "expressive conception of action" which views rational action as having dual ends: "it seeks to bring about states of affairs *for the sake of* the people and things we rationally care about."[36] Acting rationally, in this view, tends to involve expressing our rational valuations of people and things by pursuing certain states of affairs. Rather than ranking actions based on their consequences, the expressive conception allows us to rank actions according to how well they express our rational valuations, something which is "determined by judging how well our actions live up to the norms constitutive of these valuations."[37] In this way, Anderson rejects a dichotomy between rational action geared towards consequences and non-rational action geared towards adherence to social norms. She defends this view in several ways. For instance, she points out that even when focused on consequences, certain background expressive norms "implicitly set a context of response and decision which makes some consequences of action more important than others and which determines how they will be incorporated in deliberation."[38]

Social norms, then, direct our attention to certain consequences rather than others, providing an orientation to the things we intrinsically value. As Anderson rightly points out, such norms are "often embodied in unreflective habits and become objects of deliberation only when their

[34] Anderson 1993, 17.
[35] Anderson 1993, 22.
[36] Anderson 1993, 22.
[37] Anderson 1993, 22.
[38] Anderson 1993, 22.

expressive significance is called into question."[39] Following Daniel Kahneman and Amos Tversky, Anderson calls the ways a person describes their relevant options, and conception of what is at stake in a choice, their "decision frame". Norms for expressing a person's valuations fundamentally shape the decision frame used to rank actions, and the frame chosen in deliberation is driven by a desire to coherently continue one's life and the "project of rational self-understanding". This generates "two global norms for making sense of one's actions".

The first global norm is that at any given time a person should "act in such a way as to adequately express the ways she rationally values all the persons and things for whose sake she should act." The second global norm is that a person should "act in such a way that over time her actions can be fit into a coherent narrative."[40] These norms are "regulative ideals" which can only be partially satisfied. Anderson goes on to argue that decision frames are often "embodied in habits and social roles" and thus taken for granted. Social role differentiation enables people to "establish different priorities in different parts of their lives."[41] But such social roles can also be made an "object of deliberation". A critical question is whether the norms constitutive of decision frames "adequately express the ways we should value the persons whose interests are at stake in the choices they guide".[42]

When evaluating a phenomenon such as globalised kleptocracy, we can ask whether decision frames being adopted by social roles fit into a "coherent narrative" or whether they reveal problematic contradictions, hypocrisies, and blindspots. By roles, we can include here those of the professions and occupations, such as bankers, accountants, lawyers, and real estate agents; investors; regulators; politicians; and ordinary citizens. From this perspective, the injustice of globalised kleptocracy raises many questions about the incoherence of such roles. Building on the Aristotelian conception I have offered, it is not only the *outcome* of injustice that is problematic here, but *the way in which the injustice undermines what is conceived of as valuable* by the agents enmeshed in it. Here we might ask what best advances "unity of the self", or psychological states that, when rationally justified, are coherently related to one another.[43] The question of social structure then becomes at least in part about raising the prospects of developing a meaningful life that unifies "attitudes, desires, motives, and actions".[44] Restless freedom, then, is about bringing coherence to one's life through projects which address structural injustice, empowering an agent to construct for themselves how their actions fit

[39] Anderson 1993, 23.
[40] Anderson 1993, 24.
[41] Anderson 1993, 25.
[42] Anderson 1993, 25.
[43] Anderson 1993, 38-39.
[44] Anderson 1993, 39.

within an overall life story. What is important here is the narrative to oneself *over time*, since there must be room to consider new projects and abandon old ones, including to respond to new understandings or discoveries of injustice.

(ii) *Empowerment*: The capacity to flourish through economic practices

Restless freedom entails empowerment, not merely material gain, through one's engagement in economic life. Here I mean empowerment in two senses. The first is the enablement of one's capacity to thrive as a holistic being and as a citizen in social and public life. This demands both a level of material security as well as resistance to a bifurcation between one's moral and civic ideals, on one side, and one's economic activities, on the other. Economic security and moral coherence must be assured simultaneously. The second is a distinctly moral form of empowerment, whereby the social order does not incentivise economic activity that leads citizens down a path which could plausibly invite moral opprobrium, shame, or disillusionment if their role in structural injustice were exposed in a future in which there is a heightened moral perceptiveness to injustice. Making material gain the *primary* aim of economic participation is problematic in both senses: one's economic life should be a source of potential positive self-esteem, honour, and intrinsic self-worth. This is both an individuated aspect of freedom, focusing on the intrinsic value of one's economic roles and activities, and a highly relational and social one, since the ability to judge such intrinsic value is necessarily embedded in human relationships and social context. This underlines the importance of institutional reforms that both reflect and deepen the restless freedom of all, including in the domain of economic life.

(iii) *Worldmaking*: The capacity to represent phenomena in new ways

The way we conceptualise and describe social phenomena and institutions has a significant bearing on how those phenomena or institutions evolve. We must take seriously, then, the role of *worldmaking*, which Amia Srinivasan describes as "the transformation of the world through a transformation of our representational practices."[45] One's creative capacity to participate in worldmaking, and through it to open up a wider range of social possibilities, is potentially a powerful means by which to deepen restless freedom.

To appreciate the significance of this capacity, consider how reformers might transform the contemporary practice of finance. The economist Mariana Mazzucato argues that how "value" (in the economic sense) is discussed affects how agents, from corporations to consumers, behave

[45] Srinivasan 2019, 145. Srinivasan borrows the term from Goodman 1978, though her use differs.

as economic actors. She argues this is an example of "performativity", where discourse shapes behaviour and, in turn, theory.[46] I will return to the question of value in Chapter 5; the key insight in the context of restless freedom is that how agents conceptualise and discuss finance shapes what finance does in the world and what it might become. The language available to us is critical to having the means by which to register and morally evaluate the effects of finance as well as alternative possibilities for how it can be structured. The agent must develop the critical capacity to ask where our dominant representations of finance come from and whose interests those representations serve. This would reveal that widely accepted assumptions about finance as *inherently* self-seeking in its ethos, and a domain in which the conversion of capital into socially productive outcomes can only ever be derivative of private reasoning, are highly congenial to the interests of those positioned to materially benefit from the institutional implications of such assumptions. Those at the margins of global political economy – including victims of globalised kleptocracy and those marginalised inside the advanced economies – have at times offered their own critique of this representation of markets. We might say those who take up that task serve as "truth-makers who speak and act as truth-tellers".[47]

This worldmaking function of discourses on economic value, and finance in particular, can be usefully integrated into normative political economy. If we are to dereify and denaturalise financial markets, and instead turn them into an instrument for advancing common good interests, then agents must develop the capacity to articulate such an alternative. Under the dominant framing, we might wrongly assume that finance can only take competitive rather than cooperative forms. In this sense, the dominant discourse and social imaginary is a constraint on freedom, locking agents into a particular, rigidified conception of the world when in fact it is open to revision through human agency. The human capacity to unlock the fixed conception of a phenomenon that produces injustice, through our individual and collective efforts, is thus an aspect of restless freedom.

V. Globalised kleptocracy, restless freedom, and moral imagination

I now want to address the relationship between realising restless freedom and progress against the injustice of globalised kleptocracy. While political, moral, and economic discourses have typically framed money laundering as an aberration of normal market activity, I have argued it is tied to normalised practices and institutional features of contemporary markets. To overcome a structural injustice of this kind, some agents must advance new justice-enhancing

[46] Mazzucato 2018, xviii.
[47] Srinivasan 2019, 150.

norms and practices, spurring others to follow their lead and creating the conditions for institutional change. Such norms need to be internalised among agents in the market to provide a check on the motivation to seek out loopholes in the regulatory regime. In the wake of reconstructed practices, reputational and legal consequences could play an effective supportive role, helping ensure recalcitrant and predatory actors are unable to take advantage of the prosocial conduct of others. In particular, the law and reputational effects can help control and deter those actors who violate rules, imposing costs on them in order to preserve justice.

In contrast to this vision, most agents involved in the chain of globalised kleptocracy currently take an instrumental attitude towards the anti-kleptocracy norm. The decisions to respect the norm by individual bankers, lawyers, accountants and private firms are divorced from considerations of moral and social value; profit-seeking behaviour is separated conceptually and psychologically from the demands of justice. States similarly have mostly managed the risk only insofar as it does not impinge on core economic and political concerns, defined separately from the phenomenon of globalised kleptocracy itself. So while the laundering of corrupt assets is formally banned, a concomitant norm of *justice* has not emerged, let alone been internalised. The instrumental framing of anti-kleptocracy activities has, in turn, limited the range and scope of moral agency in response to it.

In light of restless freedom, however, we can begin to construct an alternative framing of the problem. The key move is to *reframe globalised kleptocracy as a public problem of large-scale injustice*, inviting agents to identify how *their own* roles, actions, representational practices, attitudes, and so forth can play a part in addressing it. This raises the prospect that many agents will feel compelled to engage constructively to address the problem, rather than simply obligated to manage the risk of non-compliance with rules. For this, we must turn the structural problem of globalised kleptocracy into a collective human project to be addressed through an ongoing process of experimentation and innovation, rather than discrete technical fixes or adjustments.

My four-part framework seeks to respond dynamically to the structural failures of the existing anti-kleptocracy regime by registering pathways for moral agency. It addresses the injustice of globalised kleptocracy at different levels: epistemology (*discovery*), ontology and psychology (*recognition*), ethics and language (*reconstructing social ethos*), and law, policy, and political order (*institutional innovation and renewal*). Each level is connected to the other. For example, discovering an injustice often involves more clearly recognising the victims of some activity. Each level is modular and the framework does not represent a sequence: progress can made on any level at any time. Rather than thinking about the satisfaction of rule-following in specific moments, this framework focuses on unlocking a process of *collective moral and ethical learning* – moral in that it

concerns the construction of norms of justice and ethical in the sense that it is interested in new ways of life and the self-conception of one's interests. At its core, this framework is about *the tasks of moral imagination in response to structural injustice*, since each path demands the agent learn to break out of status quo patterns of thought and action so as to consider what an existing social process could *become*. In this regard, we must also consider potential blockages to moral learning and how these might be addressed. Together, the framework is oriented towards generating and experimenting with moral and institutional alternatives in an incremental, yet structurally transformative, direction.

(i) *Discovery*: Making the injustice of globalised kleptocracy salient

Many injustices are in some sense invisible. They are invisible not in the sense that their harmful effects are unobservable (though noticing effects is also a concern, given individual and collective attention may be skewed by morally arbitrary factors). Rather, injustices can be rendered invisible because their underlying background conditions are so poorly understood, or lack salience in individual or collective consciousness or decision-making, such that the harms appear to be wholly natural and thus morally untroubling. The *structural* nature of some injustices exacerbates a psychological bias for *motivated reasoning*, thus rationalising a lack of responsibility. As Stanley Cohen argues in *States of Denial*, humans can easily *normalise* suffering, including through conformity with others.[48] Once injustices are rationalised and normalised, we tend to fail to orientate ourselves towards addressing them; they do not gain the kind of scrutiny they deserve, including in the public sphere.

Subjecting economic practices to moral scrutiny reveals the ways in which such scrutiny could be enacted in practical contexts but tends not to be. Take the following two examples. First, there is little public attention given to profit-making practices in the banking sector which might perpetuate globalised kleptocracy. These have received relatively little scrutiny by media outlets, popular culture, or public intellectuals. Business schools in universities are a fitting site for such open, critical scrutiny, but most curricula and pedagogies tend not to challenge market orthodoxy or go much beyond the narrow instrumental purposes of financial education. Second, the paucity of open legal proceedings on corrupt money laundering cases, and informed commentary about them, has denied a potential source of collective moral learning that could emerge from the existing anti-kleptocracy regime.

[48] Cohen 2001.

We should consider, then, how different agents can draw attention to the way in which globalised kleptocracy demonstrates the moral failure of economic ways of life. This could be through communicating moral concern interpersonally, in specialised settings, or in the public sphere. Academic instructors in business schools could integrate the problem of globalised kleptocracy into finance courses, for instance, and journalists covering finance could interrogate the ways in which banking cultures perpetuate globalised kleptocracy. Politicians may have a special responsibility given their role overseeing regulation and foreign policy. These examples illustrate the diverse ways agents connected to the phenomenon of globalised kleptocracy have opportunities to shape the co-discovery of structural injustice.

The most likely voice to call out an injustice is that of the *victims* themselves. Their interests are most obviously aligned with social change. This has implications for both discovery and recognition. On discovery, the key is to enable these agents to contribute to the discourse on globalised kleptocracy and for these contributions to be given due weight. For this to occur, we must overcome what Anderson calls an "authoritarian social epistemology".[49] The *transition from authoritarian to democratic moral inquiry* would enable the perspective and claims of victims to come to the fore on the basis of human equality. This has been badly neglected in the case of globalised kleptocracy as a phenomenon inside markets. The experience we can observe is closer to authoritarian moral inquiry, where applicable moral principles are dictated by those "who occupy privileged positions in a social hierarchy" and those in subordinated positions are either excluded altogether or their claims and perspectives are not adequately taken up by the privileged, who continue to use their social power to impose their perspective.[50] Without the voice of victims, we can assume that our ability to identify actions that advance justice will be weaker. This is the case even if we arrive at the right principle, such as the principle that money stolen from one polity should not find a haven in another polity. The exclusion of the victims of kleptocracy in the processes of deliberation on the phenomenon seems unsurprising when we think of these processes as the purview of a narrow set of experts and networks: politicians regulators, corporate boards, bankers, lawyers, the financial press, and so on. However, this is an area ripe for greater experimentation. Modern communication technologies, as well as more conventional methods such as international fact-finding missions and public interest journalism, suggest it would be possible to bring the harms of grand corruption on certain groups into sharper relief through the voice of victims themselves. The challenge is to make such claims salient, to make them a matter of social and political interest, rather than an exclusively technocratic concern.

[49] Anderson 2016, 83.
[50] Anderson 2016, 78.

Giving due regard to the victim's voice raises an even more difficult challenge: like other forms of structural injustice, globalised kleptocracy has the troubling characteristic that its most severely affected victims may be unaware of the specific dynamics in those parts of the social process from which they are far removed. The victims are largely separated from the workings of the financial systems which enable stolen wealth – *their* collective wealth – to move freely and find protection in distant private markets. The victims may only have a vague sense of the overall global phenomenon from which they suffer. They are likely to have some awareness of the original crime of kleptocracy (as manifested in popular perceptions of elite corruption), but the way in which kleptocracy is sustained and reinforced transnationally is mostly outside their purview. Relevant activity takes place in remote tax havens or financial centres, and in some cases, such as when the proceeds of bribery are involved, the money might never circulate in the victim country. We can call this problem the *fragmentation of knowledge* about injustice. The problem of fragmentation is both *epistemic*, whereby victims do not have access to relevant information about the dynamics of the injustice they encounter, as well as a problem of *disempowerment*, since victims lack a clear target for confronting the injustice.

Victims' voices are not entirely excluded in the current anti-kleptocracy regime, however. Non-governmental organisations, including global civil society organisations and coalitions, actively seek to represent their concerns internationally. But this advocacy tends to be either in broad, aggregate or technical accounts of the problem, or involves targeting specific individuals, companies, and scandals. Such approaches can help promote accountability and liability for discrete wrongs, and advance constructive reforms, but do not necessarily address the social epistemological challenge of enabling victims' voices to penetrate modes of thought and attitudes among those they seek to influence, namely other potential agents of structural change. Moreover, a focus on discrete scandals can reinforce the perception that the problem is an aberration rather than structural. Shifting attitudes tends to rely on personal experience and human interaction, or a broad shift in public consciousness on notions of dignity, honour, esteem, and so on. Compelling narratives on injustice are therefore not only important for increasing accountability, but also for enabling more agents to recognise the ways they are connected to an injustice and how they could feasibly participate in its transformation.

(ii) *Recognition*: Enabling agents to more fully realise their connection with the victims of globalised kleptocracy

The constraints on discovering an injustice help illuminate the difficulty agents have had in making a meaningful connection to the primary victims of globalised kleptocracy, namely ordinary people residing in repressive kleptocracies or those forced into exile from them. Since

the victims have less *voice* in making the injustice salient, it is unsurprising that their human interests and legitimate claims as moral equals have also been poorly *recognised*. As the first pathway (discovery) made clear, bringing representational practices and wider ways of life into the frame also highlights the role that less overtly affected agents, such as journalists, educators, or creative artists, can play in generating solidarity with the victims of an injustice.

Yet even when globalised kleptocracy is identified as a problem, there are many ways in which to deny a connection to its victims. Stanley Cohen's sociological and psychological work on the denial of suffering and atrocities is instructive here. Cohen points out that denial can be "individual, personal, psychological and private – or shared, social, collective and organized."[51] He catalogues the many psychological tendencies we have to deny the suffering of others, such as self-deception and various cognitive errors, as well as tendencies revealed in everyday social life, such as normalisation, defence mechanisms, rhetorical explanations and justifications, and collusion and cover-ups.

Cohen is particularly interested in the role of *bystanders*. He identifies techniques bystanders use to deny responsibility, knowledge, injury, and the victim, as well as strategies that condemn the condemners, appeal to higher loyalties, and exhibit moral indifference. It is beyond the scope of my inquiry to comprehensively discuss this rich taxonomy of denial but we can use one category for illustrative purposes: Cohen describes the "appeal to higher loyalties" that might be used by lawbreakers. Where there is a conflict, the wider society's demands tend to be outweighed by "demands from intimate groups (friends, gang) who are owed more immediate loyalties."[52] In the case of money laundering, bankers, lawyers, and accountants may possess higher loyalties to their bosses, shareholders, or corrupt clients in ways which block recognition of the victims of corruption in foreign countries. The latter group is not only distant and amorphous, but their lack of claims to loyalty make it easier to deny their suffering altogether. Closing this kind of gap in reasoning and affect is indicative of a more general pathway for moral agency with regard to recognition.

(iii) *Reconstructing social ethos*: Promoting discursive and normative change that is responsive to the injustice of globalised kleptocracy

The third level of my framework concerns ethos: "a structure of response lodged in the motivations that inform everyday life".[53] We can, I think, identify different constitutive aspects

[51] Cohen 2001, 9.
[52] Cohen 2001, 61.
[53] Cohen 2008, 123.

of a social ethos. These would encompass concepts, beliefs, and language we draw on to regulate action, and the moral and social norms we internalise. The transformation of social ethos is one way to understand the ultimate aim of struggles for justice. In that light, consider three obstacles to reconstructing the ethos which affects practices associated with globalised kleptocracy. First, the problem is spread across many countries and societies. Public pressure would need to promote new attitudes and norms transnationally. Second, powerful vested interests are entangled with status quo practices and arrangements. We can expect these interests to resist change. Third, given its intense focus on profit maximisation, there is deep popular cynicism of the possibility for the financial sector to serve the common good; punishing recalcitrant actors therefore appears to be the only realistic strategy for reigning in problematic behaviour.

In the case of globalised kleptocracy, a transformation of social ethos would be embodied in changing economic practices. The profit motive is of course a hugely powerful force in how we conceptualise these practices and the professions which enact them. At an individual level, bankers, real estate agents, and lawyers, for example, face pressure to hit profit targets to advance their careers or increase bonuses. In aggregate, the organisations they work for face similar pressures in terms of competition between firms. Reputational risk associated with moral lapses is unlikely to be an effective deterrent if there is a generalised acceptance of such lapses while the overriding objective of profit maximisation is maintained.

One way to break open economic practices to moral critique, however, is through what Geoffrey Brennan and Philip Pettit describe as the *economy of esteem*.[54] Unlike measures which rely on punishing agents coercively through the law or diminished profits through market effects, the economy of esteem shifts attention to the way in which moral agents want to be respected and self-respected for their character. The economy of esteem suggests that alongside the invisible hand of the market and the iron hand of the law, civil society has an "intangible hand" in the economy. The intangible hand relies on esteem and self-esteem to assist agents to judge intentions and dispositions of others for costly prosocial actions. As Robert Frank and Philip Pettit explain: "What is required is a common belief that conformity to certain costly standards benefits all; and that conformity is observable and elicits social approval (and vice versa)."[55] The desire for esteem, both from others and oneself, has the potential to motivate agents to support collectively beneficial outcomes. The esteem motive is said to be operational when people "share certain standards for assessing behavior, and are generally exposed to the

[54] Brennan and Pettit 2004.
[55] Frank and Pettit 2018, 229.

assessment of others as well as to their own."[56] This seems inapplicable to structural injustices since these injustices are partly defined by the *absence* of such a shared normative standard. My contention, however, is that the economy of esteem can be viewed in more dynamic terms: the economy of esteem is not simply something static to be leveraged but is itself open to being constructed and reconstructed over time.

This dynamism is implicit in other accounts. Frank and Pettit describe how positive esteem might explain the rise of recycling in many countries, before asking whether the rise in numbers itself means the impact of positive esteem should have weakened over time, potentially stalling the recycling movement. Noting that it didn't stall or decline, they suggest the economy of esteem provides a potential explanation, since a moral practice can shift from being "positively estimable" when practiced by a few to being widely accepted once the new norm takes hold; it then becomes "decidedly disestimable" to not follow the practice. At that stage, the practice would be "sustained by a large number of people in society", bringing "shame, before others and before yourself, not to play your part." So, as the pressure of "positive esteem" associated with progressive action recedes, "the pressure of negative esteem – disesteem" provides a "second boost" to help entrench a new pattern and norm.[57] We might suggest a similar inflection point is needed in the financial sector on the flow of corrupt wealth. For now, at least, agents would need to pursue more opportunities to affirm the positive esteem of those actively seeking to curb corrupt money flows.

This is especially important in light of two observable patterns. The first is the inclination of market actors to seek out regulatory loopholes and for states to maintain weak enforcement standards. The second is that the exposure of failure to comply with the laws and regulations enacting the anti-kleptocracy norm has thus far had a modest effect in promoting better moral outcomes. Reputational consequences have not been a strong deterrent of bad behaviour.[58] The economy of esteem introduces an alternative logic: *agents come to see themselves in a certain light, and want others to see them in that light too*. So, for instance, the agent's engagement with anti-money laundering regulations would not focus on maximising profit while remaining technically within the law, but complement the agent's commitment to robustly and reliably taking money laundering seriously since this is how they regard themselves and wish to be known. As Kwame Anthony Appiah argues:

> [A] sense of honor – and the correlative need to avoid shame – when it works, does a better job than regulation and the threat of sanctions on its own, or the market and the promise of profit

[56] Frank and Pettit 2018, 233.
[57] Frank and Pettit 2018, 238.
[58] Sharman 2017.

> alone, in shaping the behavior of business people to reduce [aggregate] costs [to society]… [I]f the makers of markets don't care about whether they are worthy of respect, we can be pretty confident that they will find ways… around regulation. You can't make a perfect regulatory system and you can't implement one perfectly. And the major disincentives to dishonesty are two: that, once you're caught at it, you will cease to have the trust essential to do business; and that you cannot live with the sense of yourself as *that* kind of person.[59]

There may be an opportunity to generate new bases for esteem which leverage an underlying desire for professional respect and self-respect. As Brooke Harrington points out, "Status competition is a defining act of professionals, both within their larger social environments and within their own ranks."[60] She describes how the "professions" were conceived by sociologists such as Talcott Parsons in the first half of the twentieth century as a fundamentally progressive force in helping societies run smoothly. Harrington points out, however, that a generation later the professions had arguably morphed from "social trustees," or what she calls "guardians of the public interest," into "profit-seekers."[61] Wealth management, which drew recruits from law and accounting, exemplified this trajectory, though its social trusteeship was not entirely supplanted by the pursuit of profit: "the two orientations coexist in uneasy tension with one another".[62] We can extend our analysis to other professions too. To create a new pattern of esteem among lawyers, for instance, may require wide-ranging reforms, encompassing the funding of legal education and pay structures in leading law firms.[63]

The appeal to the esteem of bankers, accountants, or lawyers may appear marginal when weighed against the challenge of globalised kleptocracy. But it can become self-sustaining as it translates into habits and dispositions, forming one front in a wider push for new economic practices. Modest progress even on this front generates possibilities for spreading new notions of economic or commercial success based on the harm or benefit accrued to those affected by an agent's economic activity, rather than profit. In the case of globalised kleptocracy, this could contribute to the emergence of a robust norm which renders moving or protecting corrupt wealth largely unthinkable. Such activity could reach a threshold of moral repulsiveness such that professionals and firms would not weigh its benefits or costs on a ledger, but rather would repudiate it as contradicting their basic purposes. The protection of corrupt wealth would become a kind of "category mistake"[64] in the sense that it would be inimical to the practice of banking or lawyering itself. Social institutions would then be in a strong position to safeguard the viability of just norms from the few recalcitrant actors who seek to take advantage of the

[59] Appiah 2015, 112.
[60] Harrington 2016, 59.
[61] Harrington 2016, 36.
[62] Harrington 2016, 38.
[63] Pistor 2019, 228-229.
[64] Jaeggi 2018, 25.

internalised commitments of others. The regulatory regime would serve as a bulwark for the public interest, rather than having to single-handedly sustain the common good.

(iv) *Institutional innovation and renewal:* Expanding political possibility by widening the range of institutional alternatives

Experimentation and imagination are needed to pursue institutional innovation across the anti-kleptocracy regime. We can contrast institutional proposals which take an *instrumental reformist* approach and those characterised by *expanding political possibility*. Instrumental reformist proposals hew to the moral and political limits of the current international regime, and thus seek to utilise *existing* incentive structures in creative new ways to disturb the current pattern of globalised kleptocracy. A good example is Sharman's proposal for NGOs and profit-motivated actors to become "unlikely bedfellows" in a "Baptist and bootlegger coalition" which pursues kleptocratic assets.[65] Sharman proposes turning the profit motive into a weapon *against* dirty money by pursuing the distressed assets of kleptocrats. He suggests this could "create a deterrent effect and promote accountability through public judgements against previously invulnerable leaders."[66] Since the goal is not necessarily to return stolen money to the victims but to deter future theft, Sharman even extends his argument to vulture funds that could buy up corruptly obtained wealth in the form of debt in cases where creditors have abandoned hopes of being repaid, and then sue the corrupt debtors for repayment.[67] While the victim country would not actually recoup lost funds, the hope is that such activity could have a deterrent effect.

In contrast, *expanding political possibility* leverages an immanent critique of the existing regime, but prioritises institutional innovations with the potential to shift the prevailing normative paradigm over time. These innovations would seek to engage more directly with the perspectives of reformers and ordinary citizens, using the law and regulation to create space for wider social transformation and radical changes in economic practices. For illustrative purposes, consider the possibility of reforms which: establish robust and citizen-centric beneficial ownership transparency registries; insist on integrating anti-corruption commitments into enforceable corporate governance and leadership standards; sharply curtail the viability of financial secrecy jurisdictions; generate diplomatic initiatives to make cooperation across borders radically more efficient, including through automated information exchanges between trusted partners; create public-private investment funds to pursue litigation (including through Baptist and bootlegger coalitions) and relevant new technologies (to aid regulators and

[65] Sharman 2017, 198.
[66] Sharman 2017, 196.
[67] Sharman 2017, 196-199.

compliance teams); establish permanent hubs or forums at the city, national or international level which bring together cross-sectoral stakeholders as part of problem-solving coalitions; create prestigious and lucrative public "prizes" for market-based innovations to detect and deter corrupt assets; and articulate high-level political commitments to enforce stringent anti-money laundering rules, including through new mechanisms to screen foreign investment (thereby signalling a willingness to rebel against the orthodoxy of seeking inward foreign investment above social or political objectives). These measures could complement the revitalisation of professional codes, practices, and organisational cultures, reinforcing initiatives such as publicly declared honour codes among lawyers or accountants, morally-rooted pedagogy and curricula in business and law schools, and organisational change inside firms to give money laundering issues greater salience, and compliance work greater social status. Apart from their short-term practical effects, these institutional reforms would aim to generate room for democratic debate on globalised kleptocracy, drawing in a wider range of voices and civic values, and generating support for greater institutional possibilities over time.

VI. Conclusion

Moral progress has been a major feature of human civilisation and human agency is central to moral progress. We have the capacity to understand ourselves as part of processes which remake the world so that it is less hospitable to injustice and more accommodating of justice. It is a deprivation of one's powers, and ultimately one's freedom, to thwart the development of capacities to play this constructive role in moral progress. Restless freedom is the freedom of self-realisation obtained through an apt response to structural injustice in one's midst. We relate more deeply to an unjust world, and thus ourselves, by contributing to its transformation. The capacity for moral imagination, in particular, reflects our ability to better relate to the world by envisioning what it could become. In that light, we can identify pathways for moral agency against structural injustice: its discovery, recognition of its victims, reconstruction of social ethos, and renewal of institutions. These indicate the wide scope for empowering moral agents, in their own contexts, to contribute to overcoming structural injustice. The dilemma, however, may not be a lack of vision but paralysis – either by the belief we cannot really make a difference or the danger we will be punished for trying. This is the subject to which I now turn.

Chapter 4: Agency, Global Responsibility, and the Speculations of Ordinary Life

> Initiative and responsibility, to feel one is useful and even indispensable, are vital needs of the human soul.…For this need to be satisfied it is necessary that a man should often have to take decisions in matters great or small affecting interests that are distinct from his own, but in regard to which he feels a personal concern… [H]e requires to be able to encompass in thought the entire range of activity of the social organism to which he belongs... For that, he must be made acquainted with it, be asked to interest himself in it, be brought to feel its value, its utility and, where necessary, its greatness, and be made fully aware of the part he plays in it… Every social organism, of whatever kind it may be, which does not provide its members with these satisfactions, is diseased and must be restored to health.
>
> – Simone Weil (1949)

I. Introduction

The previous chapter introduced the ideal of restless freedom to argue there are intrinsic reasons for moral agents to become constructive protagonists in struggles against structural injustice. By helping to discover structural injustice, recognise its victims, reconstruct social ethos, and advance institutional innovation, moral agents can more fully relate to the world, imagine what it can become, and deepen self-realisation. This approach is inclusive, pertaining to all agents in a process of change, but it does not rely on universal participation since some agents might move before others. Nevertheless, we face a dilemma with regard to motivating agents to take up morally ambitious projects against injustice at all when their *influence* seems to be marginal to a structural outcome.

In that light, this chapter aims to dissolve a widespread belief in the background of political and public discourse that individual normative responsibility for addressing global structural injustice lies outside commonsense moral thought because it is not grounded in an intuitive conception of agency. This scepticism suggests that, despite the grim realities of injustice in an interconnected world, commonsense moral thought cannot internalise a nonrestrictive view of responsibility because it cuts against the experience of human agency in the world. Against this view, I argue that individual responsibility for global justice is supported by a pervasive feature of the phenomenology of agency: *moral imagination.* Moral imagination connects the *small acts* that agents value in the course of their lives to larger projects of social change. Since there is no

compelling reason for the scope of such projects to be restricted, we have an accessible understanding and experience of the phenomenology of agency which enables individual global responsibility. I call this a *dynamic phenomenology of agency*.

Responding to the sceptical view of global responsibility, my constructive proposal in this chapter suggests moral beings have intrinsic, noninstrumental reasons and capacities to conceive their actions, life projects, and social roles within a social and moral ecology whose projects can extend to the global domain. Once the connection between agency and global injustice is internalised in this way, pathways for action come into view whereby agents can contribute to realising global justice *through* their individual commitments and projects.

I will argue that through the connection between moral imagination and everyday action and practices (including inside markets), agents can (and do) transform the sense of their own agency in relation to social change, including in response to global structural injustices. Consistent with the underlying aims of calls for conducting political theory with an "ethnographic sensibility"[1] and in an "ethnographic key",[2] my claim is that we can anchor normative reflection on global justice in a rich account of the phenomenology of moral life. Rather than developing an idealised account of responsibility for globalised kleptocracy, then, we should consider how agents can reconceive their own roles and projects as protagonists in changing an unjust status quo.

Since agents can also use their imaginative capacities to reinforce the status quo or deepen injustice, moral imagination is vulnerable to a regressive or deflationary normative account. By centring moral imagination, however, I hope to show why it is also a worthy terrain for contesting global injustice. By addressing the risks of agential paralysis in particular, we can overcome a key impediment to moral learning and collective reasoning about global justice. In reality, the lack of real-world progress on global justice often has less to do with our ability to discern the "correct" moral theory or account of duties, and more to do with the paucity of motivational, conceptual, and psychological resources to connect agents *in their own circumstances* with distant victims of relatively opaque global structures. My argument is premised on the notion that global injustice is ultimately in human hands, not uncontrollable forces, and agents can recode those injustices to bring them within their own agency. Moral imagination is a form of rational thought, then, which situates agents in social contexts based on what those contexts can *become*, rather than merely what they *are* today.

[1] Herzog and Zacka 2019.
[2] Longo and Zacka 2019.

My focus in this chapter is on individual agency, though weaknesses in the anti-kleptocracy regime clearly point to the critical importance of policy and institutional change. I focus on individual agency here to guard against the temptation to resort to technocratic reform, insulated from wider sources of moral change. A focus on technocratic reform would be too shallow to effect substantive change in this domain for at least two reasons. First, robust policy change in response to globalised kleptocracy requires at least some agents to *promote* deep reform of social norms, practices, and institutions. Bottom-up social and moral pressure is necessary to mitigate the tendency of vested interests to exhibit complacency, dilute reform or enforcement, or pass the buck on responsibility. Second, an effective response to structural injustice requires agents to adopt *moral commitments* and *motivations* – an apt *ethos* – alongside institutional change, expressed through new habits and dispositions. If this ethos does not emerge, it will be easier for at least some beneficiaries of injustice to adapt their behaviour to continue pursuing their unreconstructed interests; the injustice would thus mutate in form and persist in its effects, with the law unable to keep up with the strategies of vested interests.

The rest of this chapter proceeds as follows. First, I elaborate the problem of agential paralysis, offering a reconstruction of Samuel Scheffler's sceptical account of global responsibility. I suggest Scheffler's concerns remain central to theorising about global justice. I then move to my constructive response, locating it in an emerging literature on real-world normative theory. I defend a pluralised account of agency by elaborating three neglected aspects of agency. To defend the force of such agency, I reject the apparent negligibility of small acts responding to structural problems. I then highlight the central role of moral imagination in agential empowerment. The integration of small acts and moral imagination underpins my proposal for a dynamic phenomenology of agency which can ground responsibility for structural injustices across borders. Finally, I briefly apply my pluralising approach by discussing how three roles – citizens, bankers, and regulators – could respond to globalised kleptocracy.

II. Agential paralysis and the mirror of structural injustice

Globalised kleptocracy emerges from an interlocking series of behaviours, organisational cultures, practices, and institutional rules. The existing anti-kleptocracy regime, focused on discrete technical and legal responses, fails to grapple with this level of complexity. Yet even if agents identify pathways for addressing the problem at a structural level, they face the dilemma of *agential paralysis*: any step an agent might individually take to address the challenge of globalised kleptocracy will be perceived by the agent as incapable of solving the problem. In one sense, this is empirically true since individual action cannot *solve* a structural injustice. Yet,

paradoxically, human action is vital to addressing structural injustice. It is therefore crucial to address the dilemma of paralysis.

We can identify two faces of agential paralysis:

1. *Agential powerlessness*: this is an agent's perception, either rationally, psychologically, or affectively, that they cannot effect change given the structural constraints of a given social phenomenon.
2. *Agential elimination*: this is an agent's perception, either rationally, psychologically, or affectively, that by acting against injustice they will hasten the potential for their own demise as a viable or flourishing entity, for instance through ridicule from mainstream actors (especially for individuals), competition in the market (especially for professionals and firms), and deprivation of capital for economic development (for states).

Both faces of paralysis have implications for individual agents as well as group agents, with some of the implications at the individual level scaling up to group agents. There is also a relationship between the two faces, since a sufficient sense of power to effect structural change can mitigate the fear of elimination. In this chapter, I will address the first face of paralysis; Chapter 5 will address the second.

The first face of paralysis is to some extent a product of the social complexity of the modern world. As John Dewey wrote in *The Public and Its Problems*, the "confusion" resulting from the "size and ramifications of social activities" can render us "skeptical of the efficiency of political action."[3] But there is also a more hopeful background ontological point about social processes, and structural injustice in particular, which informs my analysis of agency: the social complexity of structural injustice – the same dynamics which help produce the sense of powerlessness to effect change – simultaneously generate a plurality of opportunities for disrupting and reversing the injustice. While structural injustice results from a congealing of many individual actions and social forces, this is mirrored in its susceptibility to *openings* for structural change. We can call this the *agential mirror of structural injustice*. Since structural injustice results from many social, perceptual, and ideological inputs, it also affords many openings for human agency to contribute to progress in response to it. This mirroring is only possible when we recognise that the goal of action is not to definitively solve an injustice, but rather to advance an ongoing project. In this view, an unjust social structure is susceptible to change from multiple sources, even marginal ones, because the injustice is an emergent phenomenon of multiple forces.

[3] Dewey [1927] 2016, 164.

III. The problem of individual responsibility for global injustice

My argument for overcoming agential powerlessness responds to a particular line of scepticism about the viability of moral responsibility for global justice most clearly articulated by Samuel Scheffler. Scheffler develops the idea of a *commonsense* view of responsibility and points out that this has been put under stress as a result of global interconnectedness. The tension between "universalistic and particularistic pressures" has, in this account, destabilised prevailing conceptions of an individual's normative responsibility, or what agents have responsibility "to do and to avoid doing".[4] Scheffler identifies two doctrines of normative responsibility that are central to commonsense moral thought.[5] First, individuals have a special responsibility for what they themselves do (negative duties) as opposed to what they merely fail to prevent (positive duties). Second, individuals have distinctive, or special, responsibilities toward members of their own family and others to whom they stand in certain significant sorts of relationships. The two doctrines mean that the commonsense conception of responsibility is *restrictive*, that is, it circumscribes – at the level of principle – the scope of the individual's normative responsibilities. This can be contrasted with consequentialist theories, such as the one found in Peter Singer's utilitarian global ethics, which present a radical challenge to the commonsense view because they endorse a *nonrestrictive* conception of responsibility.[6]

Why does the restrictive view have such force? Why does it seem natural and intuitive? To answer this, Scheffler turns to the human experience of agency:

> [T]his sense of naturalness… is supported by a widespread though largely implicit conception of human social relations as consisting primarily in small-scale interactions, with clearly demarcated lines of causation, among individual agents. It is also supported by a complex phenomenology of agency: that is, by a characteristic way of experiencing ourselves as agents with causal powers. Within this phenomenology, acts have primacy over omissions, near effects have primacy over remote effects, and individual effects have primacy over group effects.[7]

Much, therefore, hinges on this phenomenology of agency. The problem for individual responsibility is that even as an interconnected world morally demands we take up responsibility for transnational harms resulting from complex causal chains involving many others, this seems incoherent with our actual experience of agency. In this view, the intensification of humanity's overlapping fate has not changed basic facts about psychology or practical identity, creating a serious impediment for addressing injustice. "[T]he

[4] Scheffler 1995, 222-223.
[5] Scheffler 1995, 223.
[6] Singer 1972.
[7] Scheffler 1995, 227.

phenomenology of agency," Scheffler notes, "seems like an increasingly poor guide to the dimensions of human action that are socially significant."[8]

In a globalised context, doubts over the moral aptness of the commonsense conception of responsibility are, therefore, not limited to consequentialists but in fact run much deeper. The communications revolution, which gives people access to information about remote events, throws this into relief. In many areas of global life, there is at least some increased public recognition that our lives, and the national or local political and economic arrangements in which they are embedded, are substantively connected to phenomena that cross borders: ecological crises, supply chains, the arms trade, public health, financial flows, food markets, the trade in natural resources, and so on.

Despite interconnectedness across borders, Scheffler doubts that a nonrestrictive conception of individual responsibility can emerge to rival the commonsense conception, since this "would need, at a minimum, to be capable of being internalized and of coming to function as a guide to everyday thought and action." In his view, it is unclear whether such a nonrestructive conception could be found. This is not because the commonsense view is immutable. Rather, it is because Scheffler doubts individual responsibility can be conceived without drawing categories of special obligations or the distinction between negative and positive duties, and because individual agents only have "the sketchiest and most speculative notions about the specific global implications" of their actions.[9]

Scheffler does not deny the importance of global interconnectedness, but wants to show that people can *experience* structural phenomena – "institutional arrangements of enormous complexity" – as "entirely natural" (and, by implication, morally legitimate). Intentionality falls away when these structural arrangements channel human action, recruiting individuals "as contributors to larger processes that typically have little to do with people's reasons for performing those actions, but which often have the most profound and far-reaching effects."[10] These dynamics mean individuals may be barely aware of their participation in these processes.[11]

The challenge of global moral responsibility, presented this way, seems overwhelming. The individual agent is no longer the author of their own participation in global injustice. Scheffler

[8] Scheffler 1995, 229.
[9] Scheffler 1995, 230-231.
[10] Scheffler 1995, 232.
[11] Scheffler 1995, 233.

calls this "the phenomenon of subsumption". From the agent's perspective, this highlights several complicating factors in relating to a social process: (i) limited contributions to the overall process; (ii) a lack of control over it; (iii) a sense of pervasiveness such that exit seems unviable; (iv) the difficulty of obtaining reliable information on the process or its effects; and (v) a difficulty in ascertaining how different possible actions would affect the process at a given moment.[12]

This leaves Scheffler at an impasse since the social processes under scrutiny produce effects of great moral significance, yet the structure of the relationship between individual action and those processes denies a viable agential basis for responsibility. We lack "a set of clear, action-guiding, and psychologically feasible principles which would enable individuals to orient themselves in relation to the larger processes, and general conformity to which would serve to regulate those processes and their effects in a morally satisfactory way."[13] The same structural dynamics that undermine the aptness of the commonsense conception of responsibility turn out to undermine suitable alternatives because of the incoherence between those dynamics and the purported phenomenology of human agency. We can call this *Scheffler's Dilemma*.

IV. The spectre of agency in theories of global justice

In taking the individual agent's experience of everyday life seriously, Scheffler's Dilemma brings powerful insights to bear on the discussion of global justice. Many philosophers of global justice either neglect this entirely or gloss over the difficult questions it raises, preferring to focus attention on global rules or foreign policy reforms rather than the bottom-up social forces which would underpin those reforms. Global justice is readily made the preserve of statesmen, corporations, intellectuals, activists, or philanthropic altruists, while the role played by ordinary citizens in constituting collective beliefs that shape the parameters of possibility, or in reproducing unjust structures through their actions, is rarely made explicit.[14] In contrast, Scheffler's naturalised phenomenology of agency is largely intuitive and compelling from the standpoint of an ordinary person.

Something resembling Scheffler's commonsense conception of individual responsibility is implicitly accepted by political elites and popular opinion with regard to the possibilities for

[12] Scheffler 1995, 233.
[13] Scheffler 1995, 233-234.
[14] As I have argued, even Pogge's attempt to carve out a minimalist approach to global justice based on negative duties (rather than positive duties) and institutional reform (rather than individual action) struggles to provide a compelling response. We are left to wonder how the demands of global justice can be correlated in practice with citizens as they are, namely complex moral beings with diverse life projects, community ties, talents, aspirations, social roles, and so on.

global reform. It is therefore surprising how little global justice theorists have grappled with the deep assumptions about the human condition behind Scheffler's Dilemma. The global justice literature understandably tends to focus on the reforms or duties necessary to address injustices stemming from transnational relations, such as labour exploitation and modern slavery in supply chains; unfair trade rules, including those pertaining to intellectual property; "blood oil"[15] and the repressive fallout of the trade in natural resources; arms exports that fuel rights violations; climate change; as well as tax evasion and illicit financial flows. Yet in all these areas, we face some version of Scheffler's Dilemma, namely the phenomenon whereby global connections draw ordinary people into the production of an injustice while simultaneously leading them to feel they have little agency to address that injustice.

V. Real-world theory and the agent of change

We can, however, build a normative theory of global justice that is more firmly rooted in real-world conceptions of agency, situating our analysis within *real-world political philosophy*. Agents who advance projects to overcome injustice or inequality necessarily play a role in contemporary philosophy done in this mode of theorising which tends to be labelled "nonideal theory".[16] Such normative theorising is typically contrasted with "ideal theory" that is deliberately less concerned about the contextual details of a particular time and place. Wolff explains that "real-world political philosophy starts from an account of how the world is at a certain time and place, and what changes may be possible and desirable, given where we are." It must "take into account facts of human psychology and motivation" in order to be realistic. And, in the version he develops, it is also "relentlessly concerned with the longer-term consequences of changes, and in particular, how the world would respond." Wolff suggests real-world political philosophy should, for instance, be interested in whether a proposed law or regulation has negative unintended consequences due to the way people react to it.[17] In the realm of public policy, "engaged philosophy" similarly begins by critically understanding a public problem and then, informed by that analysis, proceeds to offer philosophical reasoning and reflection to help address the problem in practice.[18]

Since many real-world problems of injustice and inequality, including globalised kleptocracy, cannot be resolved through one-off decisions or straightforward adjustments in law, and

[15] Wenar 2016.
[16] Following Wolff (2019b: 3), I prefer the terminology of 'real-world political philosophy' over 'nonideal theory', although I use the terms interchangeably.
[17] Wolff 2019b, 3-4.
[18] Wolff 2019a, 13-24. Wolff's framework here is broadly aligned with the wider approach to political philosophy advanced by Amartya Sen in *The Idea of Justice* (Sen 2009).

because they typically involve conflicting interests and power struggles, real-world political philosophy raises the question of what social change is necessary to make genuine progress in a given domain. This is evident in prominent examples of real-world political philosophy such as Tommie Shelby's work on racial injustice in the United States,[19] Elizabeth Anderson's work on both racial injustice and hierarchy in the workplace,[20] and Shatema Threadcraft's historically-rooted account of Black female intimate life and its implications for racial and gender justice today.[21] The dynamics of social change are also key to Young's account of structural injustice. It seems clear, then, that real-world normative theory must ultimately engage with the complex question of *who* should take up the moral and political work of bringing about necessary change. The way in which this question is answered greatly influences the focus of real-world normative theory. Yet normative theorists tends to rely on a certain set of default, or vaguely justified, assumptions on who will address injustice or inequality: the state, the oppressor, the political community, individuals. Without deeper reflection on agency, these categories can obfuscate a great deal about the process of change.

"Moral visionaries", as Moody-Adams calls those who "expand conceptual space for moral debate and create new possibilities for morally constructive social change,"[22] may be clearly identifiable, but they might also be obscured from public knowledge or emerge unexpectedly. Consider the case of Harriet Tubman. Having escaped slavery in 1849, Tubman toiled as an abolitionist, political activist, and suffragette, all while suffering from narcolepsy and lacking the typical markers of social or political power. Though later widely-known and eventually becoming something of an icon, Tubman's early efforts to rescue slaves occurred outside public view. As Fredrick Douglas wrote in an 1868 testimonial letter, unlike "the applause of the crowd" he was receiving, Tubman only had "[t]he midnight sky and the silent stars" as "the witnesses of [her] devotion to freedom". "Much that you have done," he comments, "would seem improbable to those who do not know you as I know you."[23] Tubman's motivation to act may be readily discernible, but having won her own freedom she could have also retreated from the broader anti-slavery struggle.

In other historical cases of injustice, agents of change have emerged not only from the relevant oppressed group but from less predictable sections of society. Consider the role taken up by the English working classes in the abolitionist movement. In making his argument on the role of honour in bringing about "moral revolutions", Appiah points to the popular movement which

[19] Shelby 2016.
[20] Anderson 2010; Anderson 2017.
[21] Threadcraft 2016.
[22] Moody-Adams 2017, 154.
[23] See Humez 2003, 306-307.

emerged among the "humbler classes" in opposition to slavery in the colonies during the quarter century after the end of the slave trade.[24] Around the start of the nineteenth century, Appiah recounts, the new English working class had forged a conception of their own identity and common interests, which led to campaigns for suffrage and claims of dignity for their work. Despite tensions between themselves and other abolitionists, namely the "middling classes" who had led the earlier fight against the slave trade after it was initiated by Quakers, many working-class people came to oppose slavery "because they, like the slaves, labored and produced by the sweat of their brow."[25] The dishonour of slavery in the colonies came to be viewed as an assault on *their* identity. In a democratic age, where the fundamental equality of human beings was taking root as a moral claim, ordinary people contested whether slavery was consistent with that principle. Reflecting the cross-class coalition which emerged against slavery, the campaign culminated in a petition of 1.5 million signatures to the last parliamentary session before abolition was legislated by Great Britain in 1833. "English men and women," Appiah writes, "were prepared to testify before their neighbors and before their parliamentary leaders that freeborn Englishmen were united in their abhorrence of slavery, and in so doing, they could claim their share of the nation's honor."[26] The abolitionism of English workers was a "new symbolic investment in their own dignity" that had a practical effect on overcoming the injustice of slavery itself.[27]

It is one thing to consider these events retrospectively. For a hypothetical contemporaneous observer, however, the political, conceptual, and psychological linkages made between the interests and identities of the English working class with slaves abroad would not have been obvious or predictable based on the configuration of material interests or prevalent notions of national honour, *before* these linkages were actually made. Indeed, some working-class leaders actively argued against the abolitionist cause of liberal elites because they saw it as an unhelpful distraction from their efforts to overcome the oppression of workers inside Great Britain itself. Based on Appiah's account, we can summarise what actually transpired as being the result of a dynamic social and political *process*, the emergence of *new conceptual categories* and symbolic understandings of *identity*, and a shift in *political imagination* among the working class which brought them into alliance with others opposed to the evil of slavery.

As these cases suggest, it would be problematic for philosophers, or anyone else, to delimit the agent of change at a given point in time in a way that deflates the potential of marginalised or

[24] Appiah 2010, 118-136.
[25] Appiah 2010, 134.
[26] Appiah 2010, 133.
[27] Appiah 2010, 134.

unlikely agents to *become* protagonists of moral progress. Indeed, a deflationary perspective would run counter to the spirit of social change itself, which is to a great extent about *expanding participation* in making moral progress despite the uncertainty and obstacles to overcoming injustice. Not only do emancipatory struggles tend not to bear fruit easily, the contributions of particular agents in them are interwoven with those of other agents, often over an extended period of time that can cut across generations, as part of a nonlinear process of change.

In his article, 'The Question of the Agent of Change', Ben Laurence invites nonideal theorists to ask *who*, given considerations of feasibility and motivation, will implement their recommendations and by what channels. Laurence offers perhaps the most systematic account in the contemporary literature registering the reasons why a focus on agency is not merely helpful for rounding out normative theories concerned with real-world injustice, but actually foundational to such theorising. Laurence contrasts his approach with that of theorists such as Rawls and Miller who suggest political philosophy should be addressed to citizens generally since other means of deriving normative principles would be undemocratic. In Laurence's view, the default assumption that the theorist's "we" is the political community writ large is unsatisfactory for nonideal theory (though he acknowledges it has its place). I concur it is not enough to address the political community this way: if "[t]he appropriate posture in nonideal theory is not neutrality, but rather solidarity with the wronged, opposition to the activity of agents of injustice, and support to the agent of change,"[28] then the theorist should develop a plausible account of who these agents of change are, and this task should be undertaken in tandem with diagnosing injustice and proposing remedies.

According to Laurence "the agent of change is one who acts to overcome an injustice intentionally and voluntarily,"[29] acting "to disrupt an unjust status quo".[30] Laurence claims his definition of intentionality is "flexible enough to capture more or less coordinated actions of possible shifting coalitions of actors."[31] In the face of injustice, the nonideal theorist is interested not in actual agents of change, he explains, but "*potential*" agents of change.[32] To pick out these agents, the theorist must, according to Laurence, assess feasibility and motivation to determine who might realistically act willingly to overcome injustice.

Laurence criticises two linked approaches nonideal theorists have taken. On one side, in a technocratic mode, theorists offer neutral policy recommendations "we" should implement to

[28] Laurence 2020, 375.
[29] Laurence 2020, 361.
[30] Laurence 2020, 360.
[31] Laurence 2020, 360.
[32] Laurence 2020, 361.

address a problem but fail to interrogate the agential implications of their diagnosis or proposals. In a moralistic mode, nonideal theorists tend to enumerate duties and how agents are falling short of fulfilling them. Considered together, Laurence contends "one arrives at a view on which the main task of nonideal theory is enumerating our collective sins and naming the policy fixes we must adopt to atone for them." Consistent with my critique of the global justice literature, Laurence worries that, contrary to the aims of nonideal theory, "these tendencies fail to register in a coherent way the practical character of political philosophy".[33] In response to this failure, Laurence suggests nonideal theorists should instead conceive the agent of change in "narrower terms."[34] Such narrowing would account for the dynamics among agents in the real world. In the case of exploited workers, for example, he argues that identifying the "corporate community" (that is, the agent of *injustice* in this scenario) as a plausible agent of change "is to imagine that the organized group constituting the main obstacle to reform might itself be part of the coalition producing reform." He suggests that entertaining "such pious hopes is one way of failing to cope with reality."[35] Laurence thus fills out his account with a notion of *feasibility*, suggesting we should ask "which agents would be best positioned in terms of their *capacity and resources* to bring about the change we identify, should they try to do so",[36] and assess their "rough ability to act" despite "forces reproducing the unjust status quo".[37] Laurence then couples feasibility with a notion of *motivation*, since feasibility cannot lead to change-making without the agent being willing to act.[38]

Following Laurence's account, the real-world theorist would, I think, be inclined to situate agents in light of their demonstrable interest-based connection to an injustice, including through benefit or harm. This is a necessary step. But there are also other forms of connection agents might develop in response to an injustice. These could form along epistemic, virtue, attitudinal, identity, or affective lines. In these respects, agents can feel compelled to respond to an injustice by virtue of recognising a problem *as an injustice*, the persistence of which they perceive as incongruent with the world they want to live in or the ideals of a community with which they have an affinity. They wish to deepen their restless freedom.

This more expansive view of how agents form connections to phenomena of injustice has important practical and theoretical implications. On *duties* of justice, philosophers can of course supply greater precision connecting agents to specific injustices, but for *social change* in relation

[33] Laurence 2020, 355.
[34] Laurence 2020, 355.
[35] Laurence 2020, 359.
[36] Laurence 2020, 361; emphasis added.
[37] Laurence 2020, 361.
[38] Laurence 2020, 362.

to an entrenched injustice it seems at least as important to provide a compelling account for why *as many agents as possible* should *take up* a moral struggle on agent-centric grounds. The ambition of normative theory in this sense is to *increase* the potential pathways for real-world change rather than restricting our conceptions of how it will be achieved. One of the goals of change may well be to bring about social structures in which duties of justice are better fulfilled, but this work of structure-building is not for duty-bearers alone but rather *all those with the capacity to shape collective life*. Let me therefore outline three aspects of agency that would enable philosophers to viably integrate this pluralistic account of the agent of change into normative theorising about real-world justice.

VI. Social change and neglected forms of moral agency

Rather than *narrowing down* potential agents of change, my approach is pluralist and open-ended, encapsulated in three spheres of normative inquiry. First, the theorist should give disaggregated but universal regard to the ordinary person as a citizen, without discounting their potential as change-agents. Citizens form the backbone of social change, even without precise duties to take on this role or even when at a particular phase of a social process they appear to lack the capacity or motivation to act. Crowding out this agency when picking out other agents would be a serious error analytically and normatively. Second, we should open the "black box" of group agents and consider the way individual agency operates inside organisational structures like states, firms, associations, or civil society groups. Though neglected in normative theory, the internal dynamics of organisations represent a crucible of social change. Third, we should account for indiscernible contributions made by agents in the build-up to rapid, visible change at a society-wide level as exemplified by the phenomenon of tipping points. I call these three spheres, respectively, *agency from below*, *agency inside agents*, and *concealed agency*. Together, these begin to sketch an image of agential power that is *proximate to the agent* even in the face of structural constraints.

(i) *Agency from below*

The work of social change involves *shifting the parameters of feasibility* by encouraging agents to conceive their own identity, interests, and power in a new light. What appears infeasible at point in time X can be made feasible at point in time Y for the same agent. Consider the countless school students who have in recent years taken on the cause of climate justice. These students may collectively turn out to be the most potent agent of change on this critical challenge of our time. By measures of capacity and resources, however, the theorist would have a priori been tempted to discount them as marginal as there was no obvious way of envisioning

their pathway as agents of change. Once mobilised and salient, the theorist can of course support their struggle with moral argumentation. But this reactive mode is revealing of a tendency to exaggerate the observer's ability to judge the importance of factors such as capacity or resources in the complex process of social change. The criteria a theorist uses to demarcate plausibility will be flawed to the extent it fails to capture the way in which agents dynamically respond to injustice. And such responses are not necessarily materially based. They can be affective, relational, imaginative, transcendent, religious, or identity-based in ways that defy the reductive expectations of observers. Moreover, once some agents respond to injustice, other agents gain fresh opportunities to respond in their own dynamic ways, supporting transformations that can only be very roughly envisioned in advance.

Once in the fray, the agent of change is no longer a passive element in a static state of affairs. For an agent, even the sense of their own agency is, in this sense, malleable. This malleability is especially important when it comes to the *hope* which sustains social change. Such hope is not available as a fixed quantity but can increase through action. As Cornel West and Roberto Unger argue, "hope is more the consequence of action than its cause. As the experience of the spectator favors fatalism, so the experience of the agent produces hope."[39]

What is important is not just feasibility now, but feasibility over time as agents "pursue dynamic pathways to change" including through new alliances and coalitions with other agents.[40] As Pablo Gilabert argues: "We can use our *political imagination* to envisage alternative ways to fulfill principles in different contexts, and recognize *dynamic duties* to expand our ability to fulfill those principles over time. We can thus retain idealism about principles and realism about feasibility and combine them in a way that is practically consequential."[41] Gilabert makes room for a "scalar" (rather than "binary") approach to assessing feasibility: agents will have varied levels of power in bringing about, or probability in obtaining, a certain outcome. While binary feasibility rules out certain outcomes because of "hard constraints", scalar feasibility encompasses "soft constraints" involving "economic, political, and cultural mechanisms."[42] Gilabert's conception of "dynamic duties" contrasts with standard duties because dynamic duties do not target specific desirable outcomes under prevailing circumstances but rather aim to "change those circumstances so that certain desirable outcomes become achievable (or more achievable)." In this way, dynamic duties "direct a change, often an expansion, of an agent's power to bring about certain outcomes."[43]

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[39] West and Unger 1998, 11.
[40] Laurence 2020, 362.
[41] Gilabert 2017, 96.
[42] Gilabert 2017, 98-99.
[43] Gilabert 2017, 119.

Granting it is not enough to merely expose moral failures and specify duties that should be fulfilled, we should recognise the moral and political cost of explicitly or implicitly circumscribing the role of an especially vital agent of change: *the ordinary citizen*. A suitably deep conception of the category of "citizen" would recognise that citizens are not mere bystanders but rather agents who retain intrinsic commitments and interests with regard to realising the ideals of their polity. These commitments may express themselves in a multiplicity of ways, perhaps in language and behaviours unfamiliar to, or dismissed by, those vested in recognised social movements or formal decision-making processes. We need not rely on the notion of citizens as an amorphous collective who merely follow just laws or enact just principles. Citizens can, instead, be viewed as diverse protagonists in social processes that make and remake collective life, thereby supplying a persistent, variegated influence on the evolution of norms of justice. Contrary to the narrowing down objective, as a public problem becomes more widely recognised – as a structural injustice becomes more salient in the public sphere or social consciousness – citizens can identify *more* intensely and clearly the ways in which, given their individual circumstances and temperaments, they can help address it. Their mobilisation can then put pressure on other parts of the social order.

To illuminate the possibilities of this approach, consider the political conception of the citizen in a civic republican tradition that values the way in which individuals inside a polity cultivate and demonstrate *civic virtue*.[44] The notion of citizenship can, in this light, address the political life of the ordinary person in the context of their own projects, social roles, emotional attachments, talents, moral commitments, and so on. As one recent account puts it:

> This republican conception of citizenship requires citizens… to take part in practices of social cooperation and deliberation, make considerable compromises and sacrifices, and be vigilant against abuses of power. It highlights the importance of identification with one's political community, including willingness to take responsibility for the freedom of one's state.[45]

In this richer sense, the attributes and will of an ordinary person can have a significant bearing on individual and ultimately collective allegiance to ideals of justice. As poets, intellectuals, shopkeepers, family members, scientists, and teachers, for example, citizens occupy additional roles that afford particular social space and thus opportunities to pursue diverse justice projects. The citizen as potential change-maker may lack traditional markers of resources and power, but still retain moral agency *within* the context of the roles they occupy and civic space they inhabit. The citizen should not be discounted, then, as a potential agent of change on grounds of feasibility and motivation as judged by observers at a given moment. The ordinary person is

[44] Dagger 1997; Pettit 1997; Pettit 2012, 225-229.
[45] Erez and Laborde 2020, 196.

best conceived as a dynamic agent of change, even when this agency is latent rather than manifest.

(ii) *Agency inside agents*

Organisations with the potential to contribute to social change can and do shift their stance on public problems and, more fundamentally, can change how they conceive their own collective identities and interests. To get to grips with this, the normative theorist should open up the "black box" of group agents such as states, firms, associations, or civil society groups. In each case, there is individual agency going on *inside* a group agent at the organisational level, and moral contestation over the inner life of organisations can have profound societal implications.

Consider Laurence's hypothetical case in which he suggests that the majority of firms would likely fight proposed legal changes aimed at overcoming domination and exploitation in the American workplace. Cynicism on whether business interests will support reform is surely warranted. But firms can develop more cooperative practices for instrumental reasons,[46] and some firms such as cooperatives might constitutively cultivate inclusive workplaces that resist exploitative practices. Moving to an organisational (or meso) level of analysis, it would be counter-productive for the theorist to downplay or ignore the potential structural role of firms who buck expectations. With due recognition, especially in the public sphere, this minority can serve as a model for others and society at large – a tangible and prefigurative demonstration that feasible alternatives are within reach. Such firms might be a fraction of the whole but disaggregating the broad-brush category of "corporate community" gives us normative resources that would otherwise be unavailable. The question becomes what it would take, morally and structurally, to enable a minority practice to be more widely adopted, and to serve as a basis for further reform. Individual agents can, through their knowledge, roles, networks, reputations, and so on, deploy influence inside organisations incrementally in a transformative direction.

History is replete with examples of the agential aspect of internal organisational dynamics which have profound effects on the wider realisation of justice and equality. Consider again the abolitionist case. In the eighteenth century, Anthony Benezet and other American Quakers drove a shift "from abolitionism as a community ethos to abolitionism as a national campaign" among Quakers in Great Britain. This monumental shift towards public advocacy, Appiah explains, "was a consequence of the movement's internal dynamics": the expectations of

[46] On new workplace practices of knowledge-based firms, see Unger 2019.

Benezet and his American co-religionists meant British activism was seen from *inside* the Quaker community as vital to "hold transnational Quakerism together" and therefore necessary to maintain the solidarity which the community saw as a central value and concern.[47]

The move to an organisational level of analysis can usefully follow the lead of recent anthropologically inspired normative theorising. In *Reclaiming the System*, for instance, Lisa Herzog theorises the moral dimensions of organisations – a terrain she aptly describes as "normative theory's blind spot" – and the role of individuals in them.[48] In contradistinction to moral or political philosophy, Herzog distinguishes this work as *social* philosophy which considers "individuals-in-social-context".[49] She pushes back against the assumption of organisations as amoral machines and mounts a compelling case for how individuals with "critical loyalty" can help their organisations commit to wider moral norms, including through individuals' "transformational agency" (strategies to instantiate moral reflections in organisational settings).[50] While Herzog is interested in how moral failures inside organisations generate societal risks, I think the ontological move is generally applicable to theorising about social change. If we open the black box of organisations, there is vast scope to identify plausible agents of change in ways that less granular accounts of social phenomena will simply miss.

Opening up what is normally a black box for political theory – the *meso* level of organisations rather than individuals or social structures – we can observe at least two relevant dynamics in the case of globalised kleptocracy. First, the status of compliance teams within banks and other firms is notoriously low. As Harrington points out, "Compliance work – which ensures that an institution follows all the rules, laws, and regulations that govern its activities – is not only expensive but often resented and even stigmatized within finance."[51] Those charged with ensuring that other parts of a bank comply with the anti-money laundering regime tend to have less influence on its behavioural norms and culture, making formal compliance processes susceptible to corrosion. Second, a culture of doing right by the customer (the kleptocrat or their associates) – what might be narrowly honourable and ethical – can mean doing wrong by other stakeholders, including the victims of corruption. Harrington's anthropological research points out that wealth management professionals have managed to retain some of "an ethic of knightly service, loyalty, and self-effacement."[52] The problem arises, however, when this sense

[47] Appiah 2010, 110-111.
[48] Herzog 2018, 1.
[49] Herzog 2018, 7.
[50] Herzog 2018, 170-211.
[51] Harrington 2016, 62.
[52] Harrington 2016, 65.

of virtue is channelled towards private gain in ways that are hostile to the common good, as evident in the social consequences of services for kleptocratic elites.

Critically for my argument, the agency inside collective agents gives individual agents tractable openings *in their own lives* for making practical contributions to moral progress. An organisational role is already integrated into an agent's everyday reality; the challenge pertains to how best to relate to that role given prevailing conditions in the world. A sceptic might object that the contextual nature of this approach, focused on the inner life of organisations, is too narrow to be of much use in addressing the question of wider social change beyond those sites. This overlooks the historical evidence that a contest over values in specific settings – communities, organisations, movements, and so on – can contribute to progress at a wider societal level.

(iii) *Concealed agency*

When assessing the potential for moral progress on a given problem, normative theory should resist the assumption that all forms of change-making agency are currently observable or that the configuration of relevant agents is stable. In one view of social change, it is the *empowerment of new agents of change* which is critical to overcoming injustice. Disrupting complacency and apathy is itself a worthy aim, and agents should therefore identify openings for expanding the range of motivated agents. Such openings are as fragmentary and textured as the process of social change itself. Even social movements with visible leaders rely on a multitude of active and tacit supporters for their credibility, hope, influence, resources, and so forth. Though perhaps marginal in the public sphere or collective memory, these contributions are vital to social change.

Taking a diachronic rather than synchronic view, it is clear that within a wider social ecology, individuals and group agents retain capacities to reconceive their own interests or criteria of esteem in response to the moral suasion and social influence of others. We should therefore retain an expansive conception of the potential agents of change. One might contend that this approach relies on unrealistic assumptions; that is, it contradicts the reality of how power and influence function in a given social domain. To counteract this, we can draw on insights from complexity theory and the specific phenomenon of tipping points.

VII. Complexity and moral progress

The transformative potential of these three neglected forms of agency is supported by insights which have emerged from the fields of intellectual inquiry known as "systems theory", "systems

thinking" or "complexity theory".[53] These insights suggest it is plausible to connect individual agency – including seemingly negligible agency – with the often diffuse, long-term project of moral progress in a particular domain. Relevant insights from this field include:

(i) the phenomenon of *emergence*, which registers that a complex system exhibits properties that are distinct from the sum of its parts;
(ii) *non-linearity* or *asymmetric causation* in the way components of a system interact to propel its evolution;
(iii) the force of *path dependency* in shaping future social patterns and structures; and
(iv) the reality that social systems are typically *nested* within other social systems (for example, a bank may be a system operating within the financial system, which functions in a capitalist economy, which functions within a wider social and political context).

Rather than adopt an algorithmic or predictive model of complexity, or derive normative principles, we can use complexity theory to highlight and destabilise the way in which reductive, arithmetical, or aggregative approaches fail to capture how social structures evolve, and hence how these approaches restrict our imagination in contemplating models of transformation and moral agency. There is a way in which agents themselves can relate to a complex world in ways that would orient them in favour of advancing ideals such as justice or equality. Alternatively, if agents adopt linear models of change, this would shape their understanding of normative responsibilities or motivation to take up those responsibilities. The key move here, then, is to shift *away* from a mechanical, linear model of moral interactions, and *towards a more dynamic and wider social ecology* which generates conditions that can be understood as a whole. The web of relationships which make up this whole, and the wider range of agents encompassed by it, can form a larger or smaller role in an agent's consciousness. This view helps disrupt the tendency to default to cause-and-effect reasoning about our actions and how they shape the world. The complexity perspective insists we yoke our self-conception of agency to our dynamic relations with others and the social structures we build together.

Consider Leif Wenar's attempt to connect ordinary Western consumers through global markets to the endurance of oppressive resource-rich regimes. Wenar emphasises the legal relations consumers have to coercive entities who supply "tainted goods" and focuses in particular on reform of the international legal rule of "effectiveness" which gives legal rights to the transferral

[53] The core insights I draw on are common to all of these related approaches. For an overview of relevant insights, see Boulton, Allen, and Bowman 2015. For a seminal contribution to the field, see Meadows 2008.

of resource goods even when they are originally obtained in a coercive and unjustified fashion. In contradistinction, a complexity perspective on the phenomenon might encompass at least two other aspects of the challenge. First, it would be concerned with the *unintended consequences* and limitations of a one-dimensional strategy of legal reform that does not sufficiently account for socio-political processes that can adjust and anticipate second-order effects or residual interests which might seek out loopholes in the new legal regime. Second, it would be open to *discharging responsibilities in ways that fit with particular capacities or talents of agents*. For example, campaigners or scientists working towards the sustainable use of natural resources on grounds of mitigating climate change may rightly be viewed as indirect allies in solving the problem Wenar wants to address. In this sense, an expanded conception of responsibility would not view agents reductively as altruists instrumentally prioritising justice projects but pluralistically as moral beings with the capacity to orient themselves, *through* roles and projects which afford particular opportunities, towards addressing a multitude of interconnected injustices. We can classify these opportunities as representing what I call *adjacent moral agency* – the idea that moral agents who are not deeply entangled in one specific injustice, or involved directly in projects addressing it, can nevertheless take up responsibilities to transform broader social structures based on the wider social or institutional dynamics in which they are embedded. So, for instance, those working on democratic reform in a country would be engaged in adjacent moral agency to advance environmental protection, not because they explicitly seek reform in this area, but because they empower the voice of those oppressed by environmental devastation.

My conjecture is that the general insights of complexity theory can help us close a conceptual gap between individual moral agency and social transformations that sustain real-world responses to structural injustice. We do not need a conclusive empirical account of this connection in every specific case to productively leverage a dynamic account of social change in identifying new normative possibilities. Even without such a universal account, complexity theory can illuminate salient aspects of social change such as the different levels of social forces (individual, meso, macro/structural), the relationship between micro-behaviours and macro-outcomes, the universal capacity of all agents to contribute to broader social dynamics, and the ongoing nature of social processes.

What are the implications for moral agency of a dynamic, ecological approach to moral progress against structural injustice influenced by complexity theory? There are at least two.

> Implication 1: *The phenomenology of agency* – the "characteristic way of experiencing ourselves as agents with causal powers"[54] – *as it bears on a given domain of structural injustice, is subject to adaptation such that small steps can become associated with structural transformation in ways that were inconceivable or disregarded at an earlier stage of the social process.*

This implication directs attention to the dynamic connections between agents, inspired by how moral progress has actually been achieved historically. Theorists of justice have tended to underappreciate insights real-world processes of large-scale normative change might yield for their purposes.[55] While social scientists have sought to explain society-wide normative change through concepts such as norm, reputational, and availability *cascades* and *tipping points*,[56] including in international politics,[57] these empirical phenomena have been largely neglected in the development of normative theory. Looking back does not yield fine-grained answers on what moral agents are obliged to do in the face of structural injustice. Rather, it suggests the *wide scope* agents have to *reconceive their interests* and *identity as moral agents*, and the diverse ways they can direct their lives towards the realisation of justice. These studies also suggest the transformation of the discursive and imaginative context involves *ordinary moral agents*, especially when acting in concert. In other words, change need not be directed from the top or the centre, it can come from the margins and from multiple sites.

For normative theory, tipping points highlight that in the period *leading up* to a tipping point, the moral work being done by specific agents – many of whom may wield little overt power – can be hidden from public knowledge. Despite lacking salience in the public sphere, this concealed agency can promote small-scale experiments in alternative ways of living, communicate moral concern within intimate networks, cultivate habits aligned with a new moral outlook, or deepen internal commitments to justice. For a certain period, none of these seemingly negligible efforts carry the *visible* signs of political progress but instead build up the moral and social resources which agents can draw on at some later stage to enact change. An unjust status quo may therefore appear to be stable on the surface even as opposition to it brews from below.

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[54] Scheffler 2001, 39.
[55] An important exception is Ypi 2012, 154-173.
[56] Seminal examples include Kuran 1997; Sunstein 1996; Kuran and Sunstein 1999. See also Lane 2018, 167-168 for how an emerging tipping point supports the argument that small-scale climate action is not negligible.
[57] Seminal examples include Finnemore and Sikkink 1998; Keck and Sikkink 1998; Crawford 2002; Sikkink 2011.

These empirical studies of normative change also reveal how the *force of one's example*, and the generation of *inertial momentum* through incremental steps, can reshape a social ethos and disrupt unjust path dependencies. This is most obvious perhaps among an "avant-garde" who promote a new standard of justice,[58] but a wide array of agents, including ordinary citizens, play an *indispensable* role in processes of social transformation, not least because it is ordinary citizens who ultimately determine levels of societal *openness* and *commitment* to discovering injustices, recognising its victims, reconstructing social ethos, or institutional innovation. Some of the contributions to these processes may not be publicly salient, except perhaps retrospectively. As participation of even materially weak actors increases, self-awareness of their power can grow, potentially spurring further participation.[59] More broadly, as more agents tackle an injustice, barriers to participation for others to do likewise begin to drop.

In this way, we can begin to recast potential agency against injustice in light of how social transformations might take place, including through the crossing of tipping points. Timur Kuran, perhaps the leading scholar of the hidden complexities of this kind of nonlinear social change, argued in his pathbreaking book *Private Truth, Public Lies* that individuals have different thresholds for resisting social pressure or they may respond differently to incentives to do so.[60] He also points out that public opinion – the distribution of public preferences across individuals – can be transformed through changes in individual choices. Public opinion can reach a social equilibrium but, crucially, more than one equilibrium point is possible for a given issue. When falsified preferences pervade public discourse (that is, when the public pronouncements of agents diverge from their actual beliefs in order to conform to social expectations), the equilibrium may conceal alternative perspectives on matters of injustice and diminish public knowledge of problems or private desires to address them. But private knowledge remains accessible even under these conditions and, tellingly, the unravelling of a public consensus does not need to occur simultaneously to the intensification and escalation of private opposition to the status quo. This opposition can grow *prior* to gaining support in the public sphere. As a few individuals reach their threshold for resisting the status quo, and they begin to speak up, their switch can impel others to add their support. Eventually, the levies might break – a tipping point is reached – and rapid social change ensues. This rapid change will not have been anticipated even by those most committed to making it happen because the rejection of the status quo gathered momentum without open acknowledgement. Once legitimised and gaining traction in the public sphere, the social cost of supporting the new norm of justice declines and

[58] Ypi 2012.
[59] Scott 1985.
[60] Kuran 1997.

the incentives for doing so go up, even if the material interests of some actors are undermined in the transition.

This sort of analysis has particular resonance when weighing the importance of small-scale responses to structural injustice. The social values embodied in small acts may be contributing to social transformation without any observable change. Kuran's account thus suggests we can recast the role of individual agents as part of dynamic, nonlinear social processes. Their individuated contributions are not restricted to a moment, or an interaction, but are small pieces joining other small pieces as part of a larger whole, potentially shifting others' conceptions of preferences or interests along the way.

Most of the analysis of cascades tends, unsurprisingly, to focus on the tipping point threshold and what ensues after it is crossed. It is common for a new standard of justice to be taken for granted, part of the background furniture of social life. The many small acts which contributed to the mounting pressure for change are obfuscated in our reflections on prior moral learning. Most of these acts fall outside the range of historical analysis, social scientific research, and public knowledge more broadly, and are thus left out of the narratives of realising justice, except perhaps in broad strokes or among those with a special interest. Through social scientific and historical research, we can begin to recover and shed light on these agential contributions.

> Implication 2: *A complexity lens orients moral agents towards identifying social openings, wherever and whenever they may arise, for advancing their ideals.*

The notion that social change may be advanced in dynamic, nonlinear, and nonmechanistic ways can help shift not only how agents evaluate the potential effects of their actions but also how they relate to the efforts of others and to the evolution of institutions. A complexity lens recasts individuated choices not as isolated but rather as intimately tied to wider social currents, which could be moving in more progressive or regressive directions. It can also illuminate the importance of particular virtues: if we see ourselves as part of a dynamic web of relations, and thus connected to others as part of an open-ended processes of change, certain virtues may demand more attention and cultivation, including to assist us to expand the time horizon for measuring the value of our actions. While a complexity lens should ideally endow an agent with greater *sophia*, or wisdom, it can also inspire *phronesis*, or practical wisdom, as the agent shifts their gaze towards the discovery of cracks in the edifice of injustice, helping them to deploy their agency as a generative force in the world.

VII. The radical potential of small acts

I have emphasised the significance of conventionally neglected forms of moral agency which, by their nature, are within the agent's sphere of practical action. This, however, does not fully dissolve the dilemma of agential paralysis due to a sense of powerlessness. An individual seeking to overcome a global injustice still faces the constraint that any single contribution within their grasp may be perceived by themselves (or others) as *negligible*. We can think of this as the *drop-in-the-ocean problem*. "The idea of negligibility," Melissa Lane explains, is "that the effects of individual action are negligible with respect to social outcomes, so it simply doesn't matter how [one] acts".[61] In economics and political science, negligibility is a quasi-technical idea which assumes agents individually have such a miniscule effect that their actions won't materially affect a social outcome.[62] According to Lane, this idea can cut in two directions, producing both indifference to the negative effects of one's actions and a sense of futility about the capacity to promote progress: "Negligibility purchases impunity with powerlessness."[63]

Lane outlines the history of this idea in relation to individual effort in mass society, while noting that corporations and states have analogously reasoned they should not be held culpable for their contributions to climate change. Lane's argument in relation to carbon emissions applies to other global collective action problems:

> In seeing ourselves as members of a global mass, we easily see ourselves as powerless and ineffectual. We see ourselves as impotent (nothing we do makes a real difference) and therefore innocent (our emissions, in fact all our actions, are irrelevant to the real problem). In this light, the moral division of labor seems to be clear: those making the big impact (whoever they are) should be responsible, but the rest of us are off the hook, exonerated by anonymous negligibility.[64]

Lane argues this view of negligibility is mistaken. She distinguishes four claims which might be inferred from the broad view of negligibility with regard to taking positive action:

1. It is *irrational on a cost-benefit analysis* to act because the social benefits are so small as to be outweighed by the costs of doing so.
2. A stronger version of the first claim which asserts it is *irrational as an analytical claim* to take the specific action because doing so makes *no* difference to the objective.

[61] Lane 2012, 45.
[62] Lane 2012, 51.
[63] Lane 2012, 51-25.
[64] Lane 2012, 55-56.

3. An assertion of *imperceptibility* which acknowledges the action can make a difference but since it cannot be perceived, you should not do it.
4. "[T]he straight claim of *negligibility*": doing the specific action makes "only a very small difference to bringing about [the objective], and there is no evident threshold such that it could be known to contribute to bringing about [that objective] on its own, so you should not do [the action] to bring about [the objective]".[65]

Against the presumption contained in the straight claim of negligibility, Lane puts forward several points on why action *should* be taken. I reconstruct these as follows:

1. Rationally and morally, an agent can focus on a *proximate goal* rather than the larger social goal they hope to obtain. In other words, our reference points for achieving outcomes are not neutral; we can translate a large social problem into one more readily within our reach. For example, we can focus on carbon emissions at the national, city, family, or personal level, instead of global emissions as such.
2. There may be *intrinsic* reasons to care about even small contributions to something good, even if there is no salient threshold available. Acting in support of the larger goal can be a way for the agent to stay true to their own moral compass, regardless of the short-term results.
3. Our actions can have *indirect* effects, such as through the force of our example, as well as direct effects, in bringing about an outcome, thus turning our apparently negligible contributions into non-negligible ones. These indirect effects are often hard to predict so we should, through our actions, err on the side of their possible emergence.

Lane observes more broadly that "[s]ocial change is precisely the project in which one is working from negligibility now to mainstream in the future" by bringing new values to bear in advancing a cause.[66] She notes how a social ethos is connected to "imaginative modes of perception" such as background beliefs, images, and narratives. Crucially, *individuals* can help make and remake the social ethos and norms since their actions represent potential nodes of change which can reshape the perceptions and beliefs of others. She defends her position against appeals to the idea of negligibility that rely on assumptions borrowed tacitly from the economic model of perfect competition. Such models assume reactions of cause and effect to produce equilibrium. Lane insists, rightly in my view, that there is no reason to make such assumptions in the realm of politics or with regard to social transformation. In fact, the

[65] Lane 2012, 56.
[66] Lane 2012, 63.

assumption that an equilibrium will hold as agents act is deeply flawed and, in the real world, would dampen motivation if agents pre-emptively assumed they could not enact change. At a deep level, such a view negates the nature of politics itself as a "domain of possibility articulated by… key dimensions of uncertainty, interaction and identity."[67]

Lane's affirmative view of human agency in the face of large social problems matches the scale and structure we confront in Scheffler's Dilemma. An anti-negligibility understanding of individual action, I suggest, reveals the possibility of grappling *at the level of agency* with the relationship between global social processes and the *experience* of constructive action (not just avoiding direct harms), remote effects, and group dynamics in large-scale social phenomena. The crucial point is that if the agent views herself as non-negligible in a large-scale social process, the force of Scheffler's Dilemma fades: *Action within one's grasp, in one's localised and proximate context, can become associated in one's mind with playing a part in a large-scale process of moral progress*. The stakes in overcoming tacitly accepted assumptions about negligibility, both within agents and in society's collective consciousness, are therefore high. We can view ourselves as coproducers of a common social reality which promotes (or undermines) global justice through complex social processes.

There is a subtle distinction here between whether or not individuals actually *do* make a difference with whether they *believe* they can, and how this relates to questions of motivation. Let us call the former *difference-making agency* and the latter *anticipatory agency*. Difference-making agency pertains to contemporaneous empirical facts and the agent's probabilistic judgements about their individuated influence on the world at a given moment, while anticipatory agency focuses on the possibility of change based on beliefs about how the world could work differently. Anticipatory agency builds off, and promotes, a disposition to believe that social structures produced through human action and thought can be changed through human action and thought. In the case of anticipatory agency, the agent sees themselves as having causal powers to advance change in the world without relying on concrete evidence or a quantifiable assessment of the effects of their actions. My distinction here is not intended as an empirical claim about human psychology. Rather, the two modes of agency register a political claim: an exclusive focus on difference-making agency can obfuscate the ways in which agents engage in constructing a different social and political world, namely one with new possibilities for realising moral progress and specifically structural transformation in support of global justice. Since anticipatory agency is focused on the possibility of social change, rather than the agent's measurable influence, it is a powerful resource to motivate change-making agency in the face

[67] Lane 2018, 159-160.

of structural constraints and disappointments. Anticipatory agency enables us to develop a belief in our ability to make a difference *prior* to that difference being manifested in the world.

For the purposes of my argument we can assume that agents can have *some* effect in reshaping human-made structures. Granting then that at least some difference-making capacity exists, the crucial question becomes whether human agents will *recognise* this capacity in practice, and translate such recognition into everyday action. Once the agent recognises a basis for believing that small acts – those within their reach – can alter an unjust status quo in some way over time, this is a sufficient opening to decouple anticipatory agency from assumptions of negligibility that arise from beliefs closely tied to the status quo social order. This is because agents can internalise a view that the effects of agency are themselves a variable they are seeking to expand through their action. Put differently, one of the aims of individual agency is to change the social or political world so that future agency in general will be more effective in advancing justice. This does not require a belief on the part of the agent that they can *resolve* a problem of global injustice, but the far lower threshold that their action can help *alter the landscape* for the future elimination of injustice. It turns out that our phenomenology of agency is not fixed. It is adapted by us in the course of our engagement with the world. It is at least partly formed by social forces and beliefs, and conceptual categories about social and political life, all of which are themselves contested and subject to human agency. I call this alternative conception a *dynamic phenomenology of agency*. In this dynamic perspective, anticipatory agency is the midwife to difference-making because it enlivens the agent's sense of their difference-making powers.

Under a dynamic phenomenology of agency, the agent responds to complex global injustice *through* their life projects and circumstances, finding creative ways to express their values in different decisions and actions they take. Mara Marin's response to "the circle of powerlessness and denial" which agents experience in the face of complex oppressive social structures offers a useful way to think about how this dynamic approach can ground global responsibility.[68] According to Marin, rational examination of a situation by an agent can breed powerlessness (the inability to effect change) which in turn triggers denial (the sense that since the burden of transformation is too great for individuals, such transformation falls outside one's responsibility). Powerlessness and denial feed off each other. Marin's constructive proposal borrows the notion of a "commitment" in friendships as a metaphor to illuminate the moral response of individuals to oppression. In friendships, we voluntarily commit ourselves to obligations without knowing precisely what these will entail, and knowing they will continually change in their practical expression. These "commitments take shape, over time, through

[68] Marin 2017.

chains of open-ended actions and responses."[69] The notion of commitment focuses our attention on social relations inside a social structure. A key upshot, I suggest, is that social structures need not be perceived as deterministic but can be viewed *by agents themselves* as being made through human agency, thereby motivating action. We can say, then, that the agent retains control not over a social structure itself but over how they internalise its potential for transformation through human agency.

Presented abstractly, a dynamic phenomenology of agency might be accused of being overly idealistic. But the historical reality of moral progress, including on global justice, should temper this criticism. Many people who have become aware of global injustices like those related to labour exploitation or climate change, including via discussion in the public sphere as well as interpersonal dialogue, have identified practical ways they can help realise justice, including by communicating their moral concern to others. There may be significant blockages in such learning processes, but there is nothing intrinsic about agency or the scale of injustice that solidifies those blockages. If we can be worried about exploitation of workers that make the shoes we wear, or the environmental damage in foreign countries caused by the energy consumed in the transport we use – and these worries can be made salient features of everyday conversation and practice in the way they have been in large parts of various societies – there are strong reasons to suspect similar transformations are available in relation to other global injustices. The conceptual move to a dynamic, rather than static, phenomenology of agency assists us to understand the possibilities for promoting such change in a wider number of areas of global life.

By connecting the immediate, close, and personal with global processes of social transformation, we counteract the notion that global concerns are *intrinsically* problematic for the phenomenology of agency. We can call this constructive thesis the *radicalism of small acts*. This stresses the way in which small acts reshape social practices, discourses, attitudes, and ideals, thereby advancing social change. By radicalism, I mean what Judith Shklar described in *After Utopia* as "the belief that people can control and improve themselves and, collectively, their social environment."[70] We find echoes of this sentiment across different philosophical views, including G.A. Cohen's call, when it comes to equality, for "a revolution in feeling or motivation"[71] or, in religious terms, a "revolution in the human soul".[72] I want to suggest that when it comes to global justice, small acts can be radical in this sense of disrupting an ethos ill-

[69] Marin 2017, 3.
[70] Shklar 1957, 219. I interpret "control" here as the ability of humans to make and remake themselves, individually and collectively, instead of being bound by their formative context in a particular moment.
[71] Cohen 2000, 120.
[72] Cohen 2000, 2.

suited to the demands of justice, thereby generating an impetus for structural change. This brings us back to the ideal of restless freedom, an aspect of the human condition which attracts our participation in the construction of norms and institutions that are apt for the injustices we encounter in the world.

In order to understand the kind of relationship between agency and structural change I have in mind, consider the following example at a more localised level. In an acutely patriarchal society, parents in a poor family who raise their girl child to think of herself as an equal to her male peers appear to be engaged in a relatively small act. The considerations we normally associate with demandingness such as cost or restrictions on autonomy are low. The short-term risks are few, for instance, since no one is policing the education of the child at home. Moreover, and this is the crucial point for my argument, this educative act seems to have no bearing on the entrenched structural injustice of patriarchy in the wider society; in the short run at least, there is no visible disturbance in the public sphere to the shared social ethos. There may of course be an effect for that individual girl's sense of self-worth and confidence but even then, her egalitarian beliefs may empower her to act in ways which generate a violent backlash against her. Yet the education these parents provide, even when pursued for noninstrumental reasons, serves as a significant step towards realising greater gender justice. This is in part because the small act, or series of small acts, opens the possibility for downstream effects which flow from the very existence of an empowered woman. It is not the material change which is all that counts – the visible consequences – but the increased possibilities for change at some point in the future. The girl's conviction, even in the face of grave risks and pushback, becomes a *latent force* in an evolving contest over the norms of justice and the possibility of overcoming injustice. Given the uncertainty which pervades processes of social change, repressive responses against her, under certain conditions, might unintentionally intensify her commitments to reform. Whether others acknowledge it or not, this girl becomes a node of an emergent standard of justice. We might characterise the parents' actions as fulfilling a moral obligation, but it is not necessarily *experienced* as an obligation. Rather, it is experienced as part of *a coherent life*. This example thus illustrates the highly uncertain and unpredictable, and potentially indirect, way that a values-based response to a localised problem has a bearing on the broader social context and the potential for social change.

We can think of many other examples which display similar characteristics. Kitchen table conversations about political freedom within a family inside a highly repressive state, for instance, may take a similar shape. The family may be powerless to act on their desire for freedom but the hushed conversation itself generates imaginative resources in a struggle for justice which might be picked up at some later time. In the global domain, a citizen may use

the time in a local town hall meeting with their parliamentary representative to raise a burning concern about some aspect of public policy. On the one hand, their call for change may seem to fall flat. In a different light, however, the citizen has expanded an evolving democratic conversation on that policy issue, perhaps adding to cumulative pressure for reform or inspiring others to do so. We can also think of less politically charged cases. Consider a banker who achieves professional success while defying a profit-seeking culture engaged in predatory practices, thereby shaping the evolution of their profession in a certain direction. Members of a church community might, among themselves, raise their consciousness on a particular global challenge, empower individual members to take steps towards a constructive local response, and then proceed to share their collective concerns in the public sphere. Drawing on empirical research, Moody-Adams points to instances where "an unexpected gesture of respect or generosity towards a presumed enemy can be the start of an extraordinary transformation in social relations, despite years of bitter conflict and violence."[73]

More generally, we can say small acts are noteworthy not in their visible *impacts* but in being *unencumbered by status quo norms* of justice. They form the undercurrent and the expressive dimensions of social transformations that shape norms of justice over time. We can think of them as minor rebellions against injustice as part of processes of *micro-prefiguration*; they embody small experiments in living or interventions in collective thought tilting in the direction of a more just world. In this way, we can begin to acknowledge the value of diverse talents and social roles, as well as the role of families and local communities, in advancing a commitment to global justice. Social scientists and popular beliefs do sometimes acknowledge that small acts can have outsized impacts. But this has surprising *normative* implications that are less widely acknowledged, perhaps because the global effects of localised action cannot be easily measured. Yet when it comes to the phenomenology of agency, agents can *perceive* themselves to have causal powers without observing the immediate effects of their action, including by extending the time horizon for change into the future. This, in turn, raises their change-making capacities in the face of structural constraints.

These capacities can be usefully understood as a form of "protean power", namely "the effect of improvisational and innovative responses to uncertainty that arise from actors' creativity and agility in response to uncertainty."[74] Lucia Seybert and Peter Katzenstein contrast this with "control power" which focuses on risk (rather than uncertainty) and relies on power over others or systems to achieve one's aims. Their notion of protean power builds on an eclectic range of

[73] Moody-Adams 2017, 165.
[74] Seybert and Katzenstein 2018, 4.

social theory about power, complexity, and order. With protean power, the emphasis shifts to the improvisation and innovation of agents, including weak ones who retain more agency in global politics than is typically acknowledged. While under control power "[c]apabilities deployed by *ex ante* identifiable agents lead to probabilistic outcomes", under protean power "[p]otential capacities of agile actors improvise to find solutions to local problems with *ex ante* unknown effects on others and the system at large."[75] From the perspective of the agent, protean power concerns how they relate to what is *possible* in the world, rather than what is *probable*. While control power is comparable with a game of billiards with its "discrete movements", protean power is more like tennis with its "interactive fluidity" and the influence of uncertainty and dynamic variables on outcomes.[76] A recognition of protean power shifts the ontology of world politics away from a closed system to an "open system" marked by a complexity which cannot be captured by a linear or mechanical model of the world. As Seybert and Katzenstein argue, "In a linear world, small things follow from large ones. In a non-linear world, large things can follow from small ones."[77] Agents exercising their protean power, I suggest, must also recalibrate a sense of their own agency. Once we properly factor in the latent potential of protean power, and the fluidity of global socio-political processes which such power instantiates, then we must also register the ways in which the phenomenology of agency is dynamic.

It is also important to recognise how agents value aspects of their lives, particularly collective projects, in ways that extend *beyond their own personal lifetime*. In *Death and the Afterlife*, Scheffler points to the fact that humans value a "collective afterlife," or ongoing collective projects that survive our own death.[78] He reflects on how the motivations of a cancer researcher, for example, whose work is only a small part of a long-running effort to potentially cure the disease in an indeterminate future, would be affected by knowledge of a "doomsday scenario" in which the Earth will be completely destroyed thirty days after her own death. Since we individually assign value to projects even though we will not live to see their full consequences, it is clear humans can value their contribution to social or political projects without requiring commensurate evidence of the *results* of their individual efforts. This has great relevance to many questions of justice. As Scheffler himself points out, a commitment to the realisation of justice is one that "may involve an indefinite number of generations."[79] One's perception of the worth of action against an injustice is therefore not fixed by evidence of near-term consequences, and small steps can become associated with transformation in unforeseen ways. Some scientists might discover a cure for cancer, after all, building on small steps taken by

[75] Seybert and Katzenstein 2018, 10.
[76] Seybert and Katzenstein 2018, 15-16.
[77] Seybert and Katzenstein 2018, 18.
[78] Scheffler 2013.
[79] Scheffler 2013, 148.

others. To anticipate such an idea in our everyday life, however, is a matter of imagination since this reflects the capacity of the mind to conceive of what a social process or structure can *become* in the future. While insistent about the moral imperative of structural change, a dynamic phenomenology agency would thus support a vision for global reform that is experimentalist and open-ended with regard to institutional details.

VIII. Moral imagination, social structure, and human agency

Roberto Unger argues that human activity falls into two classes. The first includes moves "within a framework of organization and belief that we take for granted." The framework may even go unchallenged or be invisible such that we "naturalize or sanctify" what is in fact "the collective product of our own hands." The second includes moves "about the framework." These activities "change the framework the only way it ordinarily can be changed: piece by piece and step by step."[80] My claim is that moves of the latter kind can be internalised as a part of the everyday life of individual agents through social roles such as citizens, professionals, or government officials, and is thereby constitutive of the sense of ourselves as moral beings in a complex world. Our agential connection to structural change is therefore not reducible to the limitations of time, space, or direct causal connection. Once we shift focus from precise moral obligations to the role of human agency in social change, normative responsibility can take different forms, including those much more closely aligned to individual capacities and biographical details of the situated self. This requires, however, that we abandon a deterministic view of social structures and instead integrate the notion that they are "the collective product of our own hands" into our self-conception of agency.

Small acts by their nature tend to overcome the spatial, temporal, and special obligation limitations raised by Scheffler's Dilemma. They are acts, in other words, that seem natural to us. But it is less clear how the sense of agency they embody can be channelled towards a viable conception of responsibility for global justice. To make this connection, we must look beyond instrumental rationality – the kind of rationality that relies on probabilistic judgements, often with in-built assumptions about the mechanical and linear nature of change – to acknowledge the role of *moral imagination* in constructing social order. Between small acts and the phenomenology of agency, moral imagination plays a crucial intermediate role in contesting scepticism about global responsibility since this scepticism is supported by internalised assumptions about how the world works and our ability to shape it.

[80] Unger 2007, 56.

Imagination is central to various accounts of moral and social order. In his study of Western modernity, for example, Charles Taylor traces the emergence of social imaginaries from natural law theories on which moral order was based. He describes different cultural forms, namely those of the economy, public sphere, and self-governance, to explain how we have come to imagine each domain. Taylor defines social imaginaries as "the ways people imagine their social existence, how they fit together with others, how things go on between them and their fellows, the expectations that are normally met, and the deeper normative notions and images that underlie these expectations."[81] Imagination is also frequently invoked in other fields and in political action. For example, in his classic work, *The Sociological Imagination*, C. Wright Mills describes how imagination enables sociologists to discern the connection between individuals in their biographical lives to the larger currents of history and social context.[82]

We do not need to definitively establish the case for imagination in political life writ large in order to suggest that moral imagination is an essential feature of how humans see themselves as agents with causal powers. One way to begin to think of imagination at this level is to think of it as a *capability*. Martha Nussbaum has described imagination as "an innate gift" which "needs refinement and cultivation".[83] Nussbaum's elaboration of the capability theory, originally developed by Amartya Sen, offers a list of central capabilities, with imagination (alongside senses and thought) included among these.[84] This capability can be deployed in many pursuits, I suggest, including to advance justice in the world. The connection between the moral imagination of agents and the realisation of justice has been invoked to support various theoretical and practical programs. Take, for instance, Erik Olin Wright's idea of "real utopias", which he grounds "in the belief that what is pragmatically possible is not fixed independently of our imaginations, but is itself shaped by our visions."[85]

But what is meant by moral imagination? The concept risks being filled with whatever content one wishes, making it seem either banal or unreasonably utopian. By imagination, I do not mean fantasising naively about alternative realities. Rather, I mean something manifest in our attempt to understand how the world works while keeping salient the idea that what has been made by humans – our concepts and our social order – can take a different form in the future. From the agent's perspective, Jedediah Purdy describes imagination as "how we see and how we learn to see, how we suppose the world works, how we suppose that it matters, and what we feel we have at stake in it. It is an implicit, everyday metaphysics, the bold speculations buried

[81] Taylor 2004, 23.
[82] Mills [1959] 2000.
[83] Nussbaum 2010.
[84] Nussbaum 2006, 76.
[85] Wright 2010, 6.

in our ordinary lives." He points out that "far from being frivolous make-believe, imagination is intensely practical" since "[w]hat we become conscious of, how we see it, and what we believe it means – and everything we leave out – are keys to navigating the world." Imagination, Purdy argues, "belongs to people in their lives, not to philosophers working out doctrines. Imagination is a way of seeing, a pattern of supposing how things must be."[86]

One might argue that Purdy's description is implicit in Scheffler's phenomenology of agency and so imagination is already accounted for. I think this elision would be a mistake. It is the less concrete element of Purdy's definition – "the bold speculations buried in our ordinary lives" – which makes imagination distinctive, and reveals the ways the phenomenology of agency is itself contested, malleable, and subject to change over time. The commonsense view of responsibility, quite appropriately for what it seeks to describe, does not want to give much ground to such speculative activity. After all, if it were to do so, it seems it would no longer be a *common*sense view. In a different light, however, the transgressive faculty of humans – the ability to transcend our immediate context, to consider alternative ways of living, and the creation of alternative institutional futures – is constitutive of our sense of causal power in the world. And the instantiation of imagination by some agents can expand the imagination of other agents, thereby destabilising the commonsense view of where responsibility might fall. Once we make these concessions, we can begin to recognise the ways in which a dynamic phenomenology of agency supports a more apt conception of global responsibility for an interconnected world.

At a broad level, there are two ways to describe the role that moral imagination plays in the phenomenology of agency. The first thesis is that it is *merely supplementary* to instrumental reasoning about our causal powers; it helps modify our perceptions of agency, for example, by encouraging us to be more ambitious in our moral goals. In this sense, moral imagination lends support to difference-making agency. The second thesis – and the one I want to stress – is that moral imagination helps us *overcome limitations* posed by instrumental reasoning based on our tendency to internalise status quo assumptions about how the world works. In this sense, moral imagination lends support to anticipatory agency. The second thesis is highly pertinent for global politics because, as Scheffler describes so well, we are in a period of transition where the standard discourses, sentiments, and institutional frameworks of international life seem less suited to the moral problems we face. This is partly why Nancy Fraser argues – in a Kuhnian mode – that we are in a period of "abnormal justice".[87] The concept of moral imagination helps

[86] Purdy 2015, 22.
[87] Fraser 2008.

us understand that the mind is not merely an algorithmic problem-solving machine, but also possesses the creative capacity to transcend a particular context, including by drawing surprising insights from the connection between different social forces and relations.[88] By helping make connections between our individuated circumstances and general phenomena, imagination serves as part of our coping mechanism in daily life for the complexity of the world, including its uncertainty and unpredictability. So, while imagination represents a certain part of our thinking, it does not stand apart and inaccessible to the rest of the workings of the mind or our reasoning about action. It is a part of rational thought and touches *all* moral thinking about politics, to varying degrees of intensity, and often tacitly.[89]

Imagination is of course important to much of moral theory. Kant's categorical imperative, for example, requires an imaginative move to include the moral worth of others via the image of a kingdom of ends. But Kant also worries that giving ourselves over to imagination will lead us to yield to our senses and become their "plaything".[90] This suspicion runs deep in some post-Enlightenment moral theories which have tended to downplay the practical relevance of moral imagination. A notable exception is the tradition of American pragmatism, especially John Dewey and the neo-pragmatist Richard Rorty. Dewey considered the power of imagination to be epitomised by poets, those who can break out from stifled dogmas and produce new descriptions of social reality. As he said, "The moral prophets of humanity have always been poets".[91] But while Dewey considered the power of imagination to be epitomised by the poet, he also considered it a part of ordinary life. In his view, "imagination is as much a normal and integral part of human activity as is muscular movement".[92] Dewey uses the concept of imagination in different ways.[93] One is to convey the idea of empathy as a part of moral judgement. A second use, more central for my argument here, refers to the ability to transcend habit and routine so as to exploit the creative possibilities of circumstance. In this sense, Dewey refers to the poet Percy Shelley's idea that "[i]magination [not established morals] is the chief instrument of the good."[94]

Rorty saw imagination as integral to the idea of philosophical progress itself. In his view, "Philosophy makes progress not by becoming more rigorous but by becoming more

[88] Unger 2007.
[89] Geuss (2010: x) makes a parallel, but different, point that imagination is important to all forms of politics.
[90] Kant 1997, 139.
[91] Dewey 1989, 348.
[92] Dewey 1980, 245.
[93] Fesmire 2003, 65.
[94] Cited by Fesmire 2003, 65.

imaginative."[95] Less ambitiously, Rorty claims "[p]hilosophy's function is… to clear the road for prophets and poets, to make intellectual life a bit simpler and safer for those who have visions of new communities."[96] Rorty saw moral progress as dependent on imagination since "[o]nly the imagination can break through the crust of convention." As he explained, "Galileo did for Aristotle's hylomorphic physics what Martin Luther King did for the Southern Way of Life. He dreamed up an alternative. The attractiveness of that alternative gradually undermined an old consensus and built up a new one."[97] For Rorty, imagination is central to politics as it provides the basis for radical critique of the status quo. This is because critique *depends* on imagining a world that differs from our own, whether in terms of language or practice. This has major political ramifications since it implies we should "praise movements of liberation not for the accuracy of their diagnoses but for the imagination and courage of their proposals."[98] This may be going too far, as we need both sound diagnoses *and* imagination and courage; these should work in tandem. The key point, though, is that moral imagination provides the possibility of change – of possible worlds – its proper place in rational thought. Imagination in this sense is not parasitic on some other moral or social theory, but is shot through the inner workings of our motivations for acting in the world. As Unger puts it: "The imagination is the scout of the will".[99]

Moral imagination, then, is not limited to envisioning alternative future worlds – however important that may be – but encompasses how we perceive our own agency in bringing about moral progress, or how our lives and actions are situated within social structures and processes. In this light, the human phenomenology of agency is itself contested, malleable, and subject to change. Our account of agency is incomplete if it is shorn of moral imagination. The dynamic account of the phenomenology of agency I propose thus connects ordinary, everyday aspects of life – domains where commonsense moral thought presumably prevails – with global structural change. In short, moral imagination enables moral agents to recode a global injustice so that it can be addressed by even a localised, immediate view of their responsibilities. It can thus make a global phenomenon appear proximate to us and render our responsive actions as non-negligible. Moral imagination connects our tentative, experimental steps in a progressive direction – steps taken in an immediate and localised context – with goals of global reform.

[95] Rorty 1998, 8.
[96] Rorty 1991, 6.
[97] Rorty 2007, 923-924.
[98] Rorty 1991, 6.
[99] Unger 2007, 125.

IX. Pluralising the agent of change in response to globalised kleptocracy

Moral imagination supports, then, a dynamic phenomenology of agency that orients the situated self towards global responsibility. Concretely, we can identify related tasks of moral imagination in terms of the four pathways for moral agency which I have argued can advance restless freedom in the context of structural injustice: discovery, recognition, reconstructing social ethos, and institutional innovation and renewal. These pathways register openings for individual agents to contribute to advancing global justice – perhaps only in fragmentary and incremental ways – in part because *they can be made the concern of everyday discourse and action*. The obligations which flow from these tasks represent our attempt to properly situate ourselves in an unjust world. Such obligations are in that sense not a burden to be endured reluctantly, but constitutive of who we are, or want to become, as moral beings in a social world.

In this light, pluralising the agent of change involves reconceiving what agents can become rather than remaining fixated on how agents conceive of themselves under status quo conditions of structural injustice. What kind of agents might emerge, then, in response to globalised kleptocracy given a dynamic conception of agency oriented towards eliminating the injustice of this phenomenon over time? I will consider three roles: citizen, banker, and regulator. In each case there is a complex relationship between the self-constitution of the agent's identity, their social role and function inside collective agents, and their capacities to address the broader phenomenon of globalised kleptocracy.

(i) Political Order: The citizen as cosmopolitan patriot

Building on my account of "agency from below", let us first turn to the *citizen* inside a national polity. Lior Erez and Cécile Laborde have connected a political conception of citizenship with global justice through the prism of "cosmopolitan patriotism as a civic ideal".[100] The salient point for my argument is that the practice of political citizenship, when grounded in values, can extend from a localised polity to the global context since these values do not have a limited scope. In their neo-republican account, Erez and Laborde show how the ideal of liberty as non-domination, as it is practiced and cherished in the national life of the citizen, should be internalised. Then, once internalised, a committed citizen steeped in "republican patriotism" should strive for this value to be instantiated in global affairs, notably via their own state's role in global structures and processes that advance (or diminish) the goal of non-domination. In

[100] Erez and Laborde 2020. Stuart White (2003) makes a similar move to argue for a republican form of patriotism that integrates constitutional values – particularly those pertaining to common liberty – and supports a "transnational republican solidarity" that would advance global justice.

the case of globalised kleptocracy, I suggest, the citizen's resistance to economic domination locally can be scaled up to the global level, not least because the coding of capital which benefits an elite few in the domestic case overlaps with the way in which foreign kleptocratic networks benefit from such processes.

Where their state engages in conduct which undermines the ideal of non-domination, the cosmopolitan patriot would feel compelled to address this because they recognise the potential for such activity to corrode the constitutive ideals of the polity in which they have a stake as citizens. Shmuel Nili also highlights the way in which global action by the state can violate collective integrity of liberal polities when that action distorts the polity's identity-grounding institutions (such as respect for morally, not just legally, legitimated property rights) and commitments (such as to treat vulnerable others decently).[101]

Rather than the global domain being rendered beyond the agent's realm of action, then, the political conception of citizenship has the opposite effect: it generates social and moral resources from *within* the body politic for the pursuit of global justice. Achieving *global* non-domination, including in economic life, becomes the purview of the *national* patriot. The concept of cosmopolitan patriotism is therefore a powerful demonstration of a broader phenomenon I have highlighted: the concerns of global justice and the aspects of life and relationships where the agent *feels* or *perceives* they have a meaningful stake can be experienced by the agent as more or less proximate depending on the moral imagination they cultivate in the context of social and political projects. The perceived distance between global justice and the phenomenology of agency is, again, not fixed – circumscribed by sovereign borders – but malleable based on the civic ideals of the citizen. Rather than being dependent on altruism, or extrinsic duties, global justice can thus be recast as a matter of *values coherence* for the agent in the context of their own national projects and situated reality as a national citizen. The cosmopolitan patriot might adopt something akin to what Nili calls a "global integrity test" whereby the citizen applies the same standard for corrupt wealth of foreign officials that they would if their own officials were hoarding stolen wealth.[102] Just as this would be seen as repugnant and intolerable, so would the national presence of morally equivalent tainted wealth from abroad.

In this way, the cosmopolitan patriot's expectations of their own state help address an especially difficult aspect of the globalised kleptocracy problem, namely the paralysis produced among states who view the issue as a collective action problem, believing that if they aggressively pursue

[101] Nili 2019.
[102] Nili 2019, 34.

anti-money laundering measures that make moralised judgements about the capital flowing into their jurisdiction, they will be punished by global capital markets and damage their national economy. The cosmopolitan patriot's commitment to national action based on moral principle and integrity can help drive necessary reforms without waiting for equivalent levels of global coordination to emerge. The state's incentives to act would start to become endogenous, stemming from national social and political expectations which align with the global common good, rather than exogenous pressure to conform to a global standard. This, in turn, can generate the kind of momentum needed to deepen global cooperation and institutional innovation to address the problem more effectively at the transnational level. In this way, cosmopolitan patriots can provide the generative social force behind Lea Ypi's model of "statist cosmopolitanism"[103] which casts states as political agents of global justice. We can therefore envision a scenario where the inward flow of corrupt wealth becomes morally intolerable to the ordinary citizens of a state, the issue gains sufficient traction in the public sphere, and the political calculus about the material benefits of allowing such money to enter, either wittingly or unwittingly, is dramatically altered in favour of repelling such inflows and demonstrating global integrity.

The national context can be an especially powerful one for the emergence of cosmopolitan norms because of the influence of community-based ties in forging a citizen's identity and commitments. Indeed, Agnes Tam has drawn on the work of historians and social psychologists to argue that the formation of *true* moral beliefs to guide action has not been a decisive path to moral progress. Rather, when it comes to changing unjust social norms, Tam argues moral reasoning is insufficient and must be complemented by a distinct form of collective reasoning which she calls *We-reasoning*. "We-reasons," she explains, "are reasons reflecting the value grounded in social relationships, identities, and meaning."[104] For example, rather than British abolitionists engaging in "democratic moral inquiry" with slaves in order to join the cause of their freedom, thereby overcoming the self-serving biases of power, Tam points out that slaves were not a decisive interlocutor and the role of rational morality was limited because "the movement was largely about national honor."[105] Indeed, many understood slavery to be morally wrong well before its abolition became a societal priority.[106] The key to the abolitionists' success was the social movement they built and the "communitarian reasoning" which leveraged notions of national honour. Tam suggests that moral progress requires interventions in the space of "social reasons", as distinct from "moral reasons".[107] Dale Jamieson similarly

[103] Ypi 2012.
[104] Tam 2020, 90.
[105] Tam 2020, 74-75.
[106] Tam 2020, 75.
[107] Tam 2020, 90.

points out that our local experience, "in small neighbourhoods compared to the global community", is where "our motivation is gathered." The particular, then, is "both the locus of judgements about moral progress, and the source of our motivation."[108] Elsewhere, Jamieson adds, "Moral progress begins here [locally], and then may spread out over the world."[109]

There are useful lessons to be drawn here for the case of globalised kleptocracy. There are few if any defenders of the practice of sheltering corrupt wealth, even among those who wish to preserve unhindered market flows as a social or moral ideal. Meanwhile, foreign victims are largely absent from national deliberations on corrupt wealth. Yet when presented starkly, the moral wrong is largely uncontroversial. This is one of the reasons why it has been so widely outlawed. The problem is that the motivation to contest the status quo, and to make the norm operational in a robust way, is largely absent. We can say the moral wrong is recognised by states in abstract terms, reflected in some aspects of law and regulation, but yet to be internalised or aptly reflected in social ethos, public discourse, *or* statecraft. The problem, in that light, is not the failure of moral reasoning as such but the failure of moral reasoning to have practical effect *inside* those discourses, practices, identities, and decision-making processes where moral argumentation could be brought to bear on real-world injustice.

While philosophers such as Anderson have focused on using contention to make moral deliberation more likely and the claims of victims more vivid, Tam wants to highlight the limits of this approach compared to one which emphasises "the conscientious reflection of the powerful."[110] Tam's proposal focuses on enhancing collective We-reasoning – a communitarian path to collective moral enquiry and change – enabling moral lessons from perceived injustices to "infiltrate into the social grammar of communal life" through efforts *inside* the powerful group.[111] She therefore shifts the focus to the ways in which social norms create expectations of reciprocity and obligations of membership – social oughts rather than moral oughts.

These are powerful arguments because, like Scheffler, they unify normative reflection with the richness of people's identities and real lives. Tam's mistake, however, is to emphasise one aspect of what is required for moral progress – socially-embedded identity and motivation – without considering how such transformations might get off the ground in the first place. Moral progress crucially depends on *some* breakout capacity for at least *some* agents to go against the grain when it comes to social norms. Without an adequate explanation for such movement from the

[108] Jamieson 2002, 338.
[109] Jamieson 2017, 182.
[110] Tam 2020, 78.
[111] Tam 2020, 96.

margins to the mainstream, and without a sense of how to cultivate this breakout capacity, our conception of moral progress will be lacking. A better approach would combine three elements of moral progress, all of which can stimulate each other. These are (1) individual or collective self-scrutiny (2) democratic moral inquiry, where victims' voices and claims are recognised and (3) the consolidation of new just norms through widespread social acceptance of them. The synergy between these elements suggests there is no set sequence for them to occur.

Tam is right to point to the way in which conformity to norms constitutes groups and our allegiance to those norms is not merely instrumental but also constitutive of individual experience and expressions of solidarity, belonging, and trust. But she underplays the dynamic relationship here between moral reasons and the role of agency in social transformation. The appeal to justice, for instance, can render these group contexts an arena for *moral* deliberation in the service of social change. Properly recognising the deep inter-connection between the self and social context – what restless freedom encompasses – opens such possibilities for moral agency. The instantiation of social norms in particular group settings is not only where we *receive* social reasons, but where we can contribute to the *articulation and transformation* of these reasons for action over time. That engagement in one's community, or other localised settings, invariably takes a normative orientation.

Ultimately, it is impossible to conceive of the *best version* of a social role without reference to moral ideals. The goods of membership are thus linked to a commitment to realise moral ideals in group contexts. The notion of a standoff between them frames the problem as synchronic and non-dynamic, when the tension between moral values and social norms points to the way in which agents should conceive of social institutions and norms in diachronic and dynamic terms, that is, as being open to transformation through human agency. In this process, the interests and rights of outsiders cannot be arbitrarily detached from our conception of ideals such as justice and equality. The struggle to give outsiders proper moral standing *can be made part of the social struggle* for those inside the national community, even to the point of giving outsiders equal standing to make moral claims. To draw a sharp distinction between social and moral reasons would deny a patriot's legitimate attempt to give outside perspectives due regard, including on why the patriot's community may be morally failing. A civic-minded patriot, for instance, would welcome knowledge or critiques which reveal the failure of their national community to live up to cherished ideals since this could spur the realisation of those ideals. The greater the moral failure, the greater the importance for patriots to remain open to such scrutiny.

Any thriving community needs to balance the stability of a moral architecture which enables identity-formation and a sense of belonging, with a willingness to reconstruct those norms and institutions where they produce moral failure and injustice. The strength of the We is ultimately dependent for its authenticity and integrity on its openness to self-scrutiny. Social reformers are often engaged in changing the parameters of discourse and thought in a given society. To presuppose the terms of their engagement is to restrict the very ground they seek to contest. The national conversation promoted by the British abolitionists was premised, after all, on a fundamental moral claim, namely the dignity and equality of human beings. Once we recognise that moral principles are implicated in notions of patriotism and national honour, then we must recognise the way in which political agency renders the content of such patriotism and honour open to revision.

(ii) Economic Order: The banker as enabler of inclusive prosperity

The common contemporary perception of the banker is of a role that is yoked to profit-seeking practices with little regard to wider social values. But this conception of the banker has arisen in the context of a singular, ideological conception of the "market" as a mechanism for accumulating private wealth. In this framework, the identity and practices associated with the banker have been reinforced by social sources outside the dynamics of market exchange, including business schools, professional networks and associations, media reporting, popular culture, as well as the prevailing organisational culture inside particular firms. These social and cultural forces shape the relationship between the practice of banking and the moral identity of agents engaged in it.

Yet, despite the status quo, bankers, like others in a market, retain the ability to engage in moral self-reflection. The idea of self-scrutiny inside the market has conventionally been limited in application to how committed agents are to a minimalist set of ethical principles, which in practice tend to be equated with following relevant laws and regulations. But this reductivity is a mistake. However superficial or self-seeking it may be to private interests, the growth in interest in ideas such as "responsible investment", "shared valued", "corporate responsibility", "impact investing", "stakeholder capitalism", and so on, is an indication of the capacity *within* the financial sector to recognise the relationship between finance and the common good, even before turning to the question of more fundamental institutional transformation. Self-scrutiny can serve as an antidote to moral complacency borne from a view that the sole function of a conception of the common good in the economy is to ensure the market is regulated adequately, and that questions of justice can be reduced solely to questions of post-market redistribution,

either domestically or through international transfers, rather than those pertaining to the process of wealth creation itself.

The challenge is to connect human values with the ethos of banking, including through greater institutional experimentation. We should ask how the patterns of activity, culture, and dominant ideologies of the banking profession as currently constituted deprives members of its own ranks from realising their creativity, dignity, honour, and capacity to contribute to moral progress. There is nothing intrinsic to banking, in this view, which insists on the narrow moral conception of it prevalent today. In order to avoid the charge of unrealistic utopianism, we should emphasise the possibility to reconstruct the ethos of banking in a piecemeal fashion, in conjunction with institutional reform, without expecting a wholesale alternative model of finance to emerge abruptly.

We can think of banking, like any other work, as a means to self-realisation. In this sense, work is one domain where humans realise the range and depth of their potentialities. But in order to realise this to the fullest extent, and ensure it is grounded in a proper conception of ourselves as moral beings, we must connect this pursuit of self-realisation to a second dimension of work. This is the fact that individuated work always exists in a wider social context, and an apt response to that reality is a proper recognition of how work advances (or damages) the social prosperity and material flourishing of others. The moral ambition to connect work to social prosperity is in fact steeped in ordinary, widely prevalent attitudes in human cultures. Consider, for instance, the question posed to a child: "What do you want to be when you grow up?". This question appears to be highly individuated, but it implicitly links the individual's successful pursuit of work with that work's contribution to collective well-being. There would be something morally unsettling, indeed absurd, if this question were answered along the lines of "I want to help corrupt elites protect their stolen wealth"! This answer would not be tolerated even in adulthood both because of the shame or dishonour involved in this activity, as well as the stark way in which it refutes the idea that work should serve some social function.

The prevailing moral conception of work inside markets has, however, become highly reductive, largely conforming to the values of the prevailing market order which generates the majority of employment. While some can escape the logic of these values, at least to some extent, such as by working in public interest organisations, many are condemned to working merely as an instrumental means of survival. These limitations encompass small business owners who nominally control their own labour but in practice tend to have limited security or supportive infrastructure to empower self-realisation through work. A third category, one in which the professional classes such as banking would fall, encompasses those who can satisfy

the *material* means for well-being but remain afflicted by a weak (or broken) connection between work in the market and the common good. The *moral* means of self-realisation through work has been thoroughly eroded in such instances. This deprivation is experienced at the level of the firm, for instance through hierarchal structures that inhibit genuine creativity and cooperative problem-solving, as well as at macro level, exhibited by the lack of opportunities for obtaining social esteem through employment or income-generation that is coherent with one's social values or anxiety about injustice in the world. In this sense, banking as it is currently practiced offers the prospect of material success but at the cost of cutting off access to the moral benefits of work as part of the collective pursuit of human flourishing.

It may seem odd to speak of the ideals of a banker in the way we might for a social worker, educator, or medical researcher. Yet it is possible to envision an approach to banking rooted in the ambition to innovate with products and services that contribute to the collective prosperity of society. That this comes across as unreasonably optimistic is a sign of how radical the shift would be rather than its unfeasibility. There are also near-term possibilities for this kind of reconstruction of finance as I will discuss in Chapter 5. It is also worth recalling here the importance of the "economy of esteem" as a distinctive aspect of economic life, which provides an important opening for moral change inside the professions.

The key point for the present discussion is that holistic "success" in a profession, as in work more generally, cannot be properly defined without reference to social goals. These must be made internal to roles themselves, otherwise those roles lose their intrinsic worthiness and become deprived of their potential for contributing to self-realisation. Recognising this, there are different ways in which the individual agent can counteract structural forces that seek to separate individuated work from its social or public purposes. With regard to bankers, this might involve making linkages with emerging pathways for aligning expertise and innovation with initiatives explicitly rooted in the common good. These initiatives may be a marginal part of private financial markets at present, and they may sometimes risk tokenism by providing cover for the pursuit of unreconstructed extractive values in a sanitised, morally respectable guise. But they can also gain in credibility, impact, and influence, and become a justifiable source of social esteem. Inside firms, bankers can also contest the way in which the corporate interest is defined in narrow, extractive, and predatory terms, helping shift the focus from short-term profits to the recognition of deep entanglement with a wide range of stakeholders, including society as a whole, as well as the planet.

There is also considerable scope for concealed agency with regard to the direction of professions such as banking. Consider, for instance, the way in which social esteem is encoded and

transmitted in social networks and informal settings. Individual bankers have the capacity to shape the narratives circulating inside the social life of their profession, among colleagues and former colleagues, as well as more broadly such as through alumni networks of business schools, social functions, or in niche industry publications. These dimensions of agency in the associational life of a profession may appear trivial but this could be because we are biased by where we assume the sources of social change should come from. Consider the potential ripple effects of some bankers taking seriously an expansion of how they view their "stakeholders", a notion that is central to contemporary debates about the future of capitalism (which I take up in Chapter 5). This shift in perspective can contribute, in turn, to institutional reform, such as through changes in what banks consider to be the appropriate aims of their lobbying on regulation. A shift in perspective inside the profession, then, could advance a recalibration of public-private deliberation on public policy and unlock initiatives in favour of the long-term public interest.

By reconceiving and reconstructing the role of the banker in a moral perspective, I do not mean to suggest this could *solve* a problem like globalised kleptocracy. Indeed, as previous chapters have shown, the structural challenge of globalised kleptocracy stems from deep ideological biases, pathologies, and institutional settings that are in turn connected to a certain configuration of political and economic power. My point is that this kind of shift, *alongside other efforts*, can help *generate the agential resources* for promoting structural change. A morally committed cadre of bankers, even if it consisted of only a small fraction of the profession, would not only be a potential source of constructive change itself, but it could also help unblock broader resistance to the legitimate demands of other citizens. Transforming the ethos of banking, in a piecemeal fashion, would generate greater opportunities for collaboration with public institutions or civil society in support of the common good. More fundamentally, moral agency inside the market helps to denaturalise the market order, expanding political imagination on its possibilities for transformation.

(iii) Legal Order: The regulator as democratic vector

Given the limits of legalism and technocratic fixes to globalised kleptocracy, we should consider how to reframe the state's regulatory response. Under the prevailing anti-kleptocracy regime, regulatory expertise and power is especially susceptible to private interests, not least because the anti-money laundering regime is largely self-administered by private firms. An alternative approach grounded in the civic values of citizens might support specific reforms, such as less reliance on self-reporting of high-risk cases and more emphasis on joint public-private management of these risks. But it could also spur a shift in how state agencies – and the officials

staffing them – approach their own work so as to underline the moral dimensions of what they do. Regulatory agencies in particular are where "general precepts in legislation are clarified, refined, and applied to particular policy contexts – and where these policies are often contested and revised on an ongoing basis."[112] Regulatory agencies are also on the frontlines in the fight against globalised kleptocracy. The risk is that a technocratic mode of regulation narrows the range of values worthy of consideration, emphasising market efficiency, for instance, above all else, while also stifling opportunities for democratic contestation of those values.

Even when regulators possess subject matter expertise and are somewhat insulated from contentious political debate, they face the risk of capture by private interests, eroding their capacity to serve the common good. K. Sabeel Rahman has offered a normative account which counteracts these risks through the frame of democratic resistance to domination, where domination is defined as the concentration of arbitrary power that undermines economic freedom and opportunity for citizens and communities. This account brings moral and political considerations – particularly the effects on ordinary people – into the regulatory frame. While Rahman is focused on the domestic sphere, I think we can extend his model to encompass the impacts on foreigners. Rahman's core proposal is to enhance civic engagement to make regulatory institutions more democratically responsive to citizens. In practice, he wants to "multiply the ways in which regular people, social movements, and civil society groups can share the actual challenge of policymaking." In this view, democracy becomes "a vital weapon in the battle to protect us from unchecked economic and political power" and an interactive system that combines regulations, institutions, civil society associations, and practices to ensure the government and the economy are "truly of, for, and by the people."[113] Rahman stresses the potential for democratic citizen engagement to counteract the reliance on either the "managerial" turn to technocratic expertise or an unjustified faith in "laissez-faire" markets.

Rather than enabling regulators to rely on "insulated expertise" and seek "refuge in seemingly objective foundations of cost-benefit analysis and the optimization of economic growth",[114] we should open up the regulatory state to contests over values and the aims of the polity. When they outsource moral judgements to technical experts and market forces, national regimes to combat corrupt money flows are prone to these risks of insularity and market dogmatism. In the case of money laundering, the challenge is made more acute because technical regulation is largely delegated to private interests to implement. On globalised kleptocracy, regulation is insulated from democratic contestation in two ways. First, technocratic enforcement of

[112] Rahman 2017, 23.
[113] Rahman 2017, 4.
[114] Rahman 2017, 21.

financial regulation is generally outside the scope of democratic engagement. Second, it is difficult for citizens to influence foreign policy since this is traditionally the domain of policy elites insulated from the day-to-day concerns of ordinary citizens, except perhaps in special cases such as the effects of trade policy.

The effects of democratic insulation can be especially problematic when a worldview aligned with private interests predominates discourses and models of financial regulation. As the economist Simon Johnson argued in a widely publicised 2009 essay in the wake of the Global Financial Crisis, 'The Quiet Coup', the financial industry in the United States had "gained political power by amassing a kind of cultural capital… benefit[ting] from the fact that Washington insiders already believed that large financial institutions and free-flowing capital markets were crucial" to American economic success and global power.[115] This kind of narrative, serving private interests and absorbed by policy elites, distorts assessments of how financial markets can actually serve the common interests of a society.

Regulatory bodies can help provide a countervailing influence more closely tied to the interests of the citizenry. For instance, they can engage with civil society and interest groups in creative and innovative ways, both on specific policies and the wider value-based parameters shaping those policies. Regulatory institutions, especially because of their expertise, can wield considerable influence in the policymaking process, including through their *agenda setting power*. In this regard, their influence can be more or less tightly tied to the common good. Individual experts, administrators, and leaders *inside* the agencies of the executive branch of government thus have an individual responsibility to promote closer alignment with the common good. Regulators have the power to generate public narratives, inject epistemic considerations into public discourse or political decision-making, and facilitate deliberation between diverse interests. They could, for instance, facilitate open deliberation between private and civic advocates over difficult issues and to openly address trade-offs between different objectives. The approach taken to these functions, and the extent to which they reflect a commitment to enduring civic ideals, depends in part on individual agency *inside* regulatory bodies. These individuals can help orient the administrative state towards an open, democratic, and experimentalist approach, including by cultivating a democratic attitude to everyday decision-making and regulatory assessments. Enabling moral agency is perhaps as important for experts in the domain of financial regulation, then, as it seems to be for street-level-bureaucrats who directly encounter citizens.[116]

[115] Cited in Rahman 2017, 51.
[116] Zacka 2017.

In addition to traditional virtues like trustworthiness and integrity (to resist private capture, for instance), agential capacities such as creativity and institutional inventiveness will also be needed to experiment with new ways to integrate regulation with public values to meet democratic expectations. A capacity to effectively *listen* to diverse and representative voices, including those marginalised or disempowered in prevailing power structures, is vital. Similarly, a willingness to seriously contemplate the long-term implications for the *national interest* of current decisions, including national honour and respect in the global order, as distinct from the short-term interests of powerful sections of society, will be critically important to a fitting response to the phenomenon of globalised kleptocracy.

With regard to the process of articulating the "national interest", it is also worth noting the way in which regulators wield influence inside the state more broadly, such as through the framing of a public problem or the range of policy options available. In this sense, individual agents, leveraging their institutional roles, can help enrich the internal debate inside the state's policymaking process on how the citizenry's interests are best served. The deep expertise of regulators on a problem like money laundering can, in this light, become an instrument for progressive change, enabling other organs of the state to properly discern the extent of the problem, its insidious character, the holistic response it requires, and so on. The leadership, knowledge, and creative capacity to correlate moral concern with practical reform – and to communicate this to others in the policymaking process to build common cause and win a robust political mandate – falls at least to some extent to individuals working within these regulatory institutions.

It is also worth noting that the citizenry's interests can extend to the realm of the protection of their collective values and integrity through international cooperation. States can be dominated by agential and structural forces at the transnational level, including through the agency of state and non-state actors, rendering them unfree.[117] As Laborde and Miriam Ronzoni argue, "the protection of free statehood requires a tighter regulatory control over the global arena" and "[i]nternational domination is made possible by the absence of institutional regulation – for example, in the areas of tax, labour and financial markets."[118] Recognising this, citizens can rightly expect their *national* regulatory agencies to play a constructive role in building *global* cooperation that supports non-domination and human freedom for all.

[117] Laborde and Ronzoni 2016.
[118] Laborde and Ronzoni 2016, 293.

Given this expectation, national regulators, both at the level of individual experts and as organisational entities, should consider how to properly facilitate and honour the moral commitments of the citizenry to counteract the tendency towards domination in the global sphere, even when the practical effect may be to undermine the short-term material benefits of some domestic constituencies, for example elements of the financial sector. The regulator should prioritise the polity's long-term interests derived from the coherent, values-based engagement of a people with the rest of the world. This raises a particular challenge because regulatory agencies do not necessarily have the decision-making models or resources to make these *moral* judgements along the domestic-global frontier, though they often have extensive experience with practical global cooperation.[119] Again, the burden for making progress along this frontier falls partly to the inner life of the organisations themselves, where some will need to take initiative to incorporate global concerns more reflectively into day-to-day regulatory functions, thereby encouraging others to do so and enabling more systematic models to emerge.

Democratic engagement with regulators is especially important in a case like globalised kleptocracy because the citizenry's voice can challenge the presumptive view of the national interest as best served by facilitating the entry and protection of all capital, regardless of its tainted character, and the facilitation of additional economic growth without regard for any other value. Left to technocratic expertise or so-called "free markets", the commitments of the polity to the global common good could fall off the regulatory agenda. In this regard, there is not only a risk of capture by special interests, but also an ideological blinkering derived from a nationalist impulse which downplays underlying values among the citizenry. The contest in the inner life of national regulatory organisations, then, might extend to challenging the default normative assumptions that the citizenry's wishes can be discerned without reference to the global common good, and even shifting the presumption so that the citizenry's interests incorporate a conception of the global common good.

X. Conclusion

I have argued in this chapter that the global domain can be brought within the realm of individual agency through moral imagination. This is instantiated in what I have called the small acts which link agents in their own circumstances – the scope of action within their reach – to global projects that advance justice. These acts are sometimes mischaracterised as negligible, but this notion can be refuted by a deeper understanding of social change and the nature of politics itself. Small acts can take a plurality of forms, in the course of a life and

[119] On this form of cooperation, see Slaughter 2004.

through social roles, including when national citizens who value liberty as non-domination come to demand that ideal in their polity's foreign entanglements. The ability to connect small acts to global projects reflects the potential for a dynamic phenomenology of agency, one which grounds a viable conception of global responsibility in cases such as globalised kleptocracy. The global responsibilities of citizens, bankers, and regulators, for example, can be internalised in everyday lives and practices, once these responsibilities are correlated with particular circumstances, roles, identities, and projects. Bridging this gap between responsibility and real-world agency, it turns out, is one of the great tasks of realising global justice. This cannot be reduced to the identification of in-principle obligations, but rather must be developed through inclusive processes of civic and moral engagement, and the practical problem solving, innovation, and experimentation of diverse agents.

Chapter 5: The Moral Ecology of Finance and the Struggle Against Corrupt Money

> The many are more incorruptible than the few.
> – Aristotle, *Politics*

> Since ancient times, humanity has divided its economic activity into two types: productive and unproductive, virtuous and vile, industrious and lazy. The touchstone was generally what kind of activity was thought to further the common good.
> – Mariana Mazzucato (2018)

I. Introduction

In previous chapters I emphasised the centrality of moral agency to the kind of moral progress needed to address structural injustices, including global injustices that seem remote from the lives and actions of agents. I now consider how such progress might take shape in relation to financial markets, and the flow of corrupt wealth in particular. To that end, I ask how finance can be made – conceptually and in practice – to serve the common good. I then make a moral and strategic case for linking the struggle against globalised kleptocracy to this wider project of remaking finance.

This chapter addresses, then, the second face of agential paralysis:

> *Agential elimination*: an agent's perception, either rationally, psychologically, or affectively, that by acting against injustice they will hasten the potential for their own demise as a viable or flourishing entity.

The argument I offer against this paralysis has four connected elements:

1. Finance is not intrinsically value-neutral or amoral; it can be made to serve the common good.
2. Moral agents have noninstrumental reasons to commit to the project of making finance serve the common good.
3. Moral agents can take proximate action (what is within their reach) in a progressive direction even in a competitive market; the divergence between new and status quo conceptions of economic value generates friction which, in turn, creates space for further action by themselves and others.

4. The steps agents take to make finance serve the common good provide conceptual and social resources to reframe the problem of globalised kleptocracy as embedded in unjust social relations which are open to structural transformation.

The problem of globalised kleptocracy has not arisen in a vacuum. It is derived from our financial systems: their incentives, rules, and norms. A central weakness of the existing approach to addressing the flow of corrupt money is the incentive structure which promotes short-term gains and the ineffectiveness of laws or norms to regulate behaviour in the face of those incentives. However, the connection of corrupt money flows to general market activity also has a potentially constructive corollary: progressive changes in the discourse and practice of finance can spur reforms to curb globalised kleptocracy. More broadly, then, we should consider which social forces shaping markets present openings for transformative reforms – incremental changes in a structurally new direction – that could radically stem the flow and protection of corrupt wealth.

Private market risk frameworks are not currently designed to cope with the risks of globalised kleptocracy. Individual bankers, for instance, are not incentivised to thwart deals which technically fit within the law, but which evade the intent of anti-money laundering laws. How might market actors be compelled not just to follow the law but to commit to working cooperatively with the state and civil society to prevent and counter the flow of corrupt money? This would likely require a societal effort to signal the expectation that resistance to globalised kleptocracy is constitutive of the legitimacy of for-profit entities. States must also have a sense that the citizenry would prioritise this agenda over short-term material advantages so that more robust state action, including enforcement of the rule of law, can be sustained. The citizenry's commitments can also encourage a state to manage the diplomatic risks of taking strong enforcement action against foreign kleptocratic networks. The more general point is that structural injustice cannot be addressed by a narrow set of agents, insulated from broader social and moral developments.

I proceed in this chapter as follows. First, I identify a benefit of adopting a moral ecology view of political economy in the context of globalised kleptocracy. Second, I register the persistent difficulty in drawing a threshold for corrupt money flows. Third, I make a case for denaturalising the movement of capital across borders, with particular reference to how contemporary institutional arrangements emerged. I then consider the limitations of two narratives which link finance to the common good – market fundamentalism and human rights – before turning to a more compelling analytical framework: value creation and value extraction in the real economy. This distinction can be applied on two levels: individuated

decisions taken by agents and at the collective, institutional level through law, policy, standards, and norms. Where agents take decisions which diverge from the dominant institutional view, the friction generated can spur structural reform. Addressing the problem of globalised kleptocracy through this lens raises the possibility for linking the agenda against transnational corruption to wider currents seeking to democratise the market economy. To demonstrate the feasibility of my approach, I consider tentative steps being taken to connect business with social purpose, especially through stakeholder theory, and sketch the potential of a more radical turn in this direction. Finally, I attempt to articulate a social ethos which could help ground this more radical turn.

II. The moral ecology of finance

Even when a society has a suitable understanding of a moral concept, moral progress can be blocked by an unwillingness to subject social practices to "critical scrutiny."[1] This tracks a central problem of structural injustice, namely the inability or unwillingness to identify a social phenomenon as an injustice. Even where the *outcome* may be morally repugnant, and norms or law adjust to it at a symptomatic level, wider social practices and behaviours that *cumulatively* generate the injustice may remain immune from moral scrutiny. We can use the frame of moral progress, and how it emerges through a complex moral ecology, to consider the possibilities for new patterns of critical scrutiny to emerge.

We can use this image of a moral ecology to sketch possibilities for structural change in relation to globalised kleptocracy in particular. Since corrupt wealth moves relatively easily and becomes obfuscated in the market, those participating in a market, whether as investors, producers, or consumers, as well those regulating the market, must ultimately commit themselves to addressing the problem at a structural level. An elaborate and costly legal infrastructure has failed to shut down the injustice of globalised kleptocracy, at least partly because compliance became an end in itself. The retreat to legalism – an ideological focus on the form of the law, at the expense of politics and morality – crowded out the moral agency needed to address the underlying injustice, including through a genuine commitment to the rule of law. This is the tragic flaw of the anti-kleptocracy norm and the wider transnational regime of which it is part.

Unlike specific acts of harm or moral wrongdoing, moral progress can be understood in terms of dynamic social and political projects to advance moral ideals. Participation in these projects

[1] Moody-Adams 1999, 168.

is not only a kind of moral responsibility but pertains to the realisation of restless freedom. Moral progress obtained through the realisation of restless freedom can lead to material gains for the individual or society, especially in the longer term through greater prosperity, stability, peace, and so on. But it also admits a willingness to *sacrifice* material gain for the sake of ideals such as justice or equality. A willingness to sacrifice for the sake of justice is enabled through transformations in practical identity, where the agent redefines their conception of how the world works *and* their place in it. This means the sacrifice involved is experienced as self-realisation, such that the contribution to advancing justice becomes part of how one constitutes a flourishing life.

The emergence of committed agents is vital because structural injustices like globalised kleptocracy are rooted in the normalised and naturalised way in which a social order produces injustice. It does not require the intent of agents to be directed towards harmful outcomes. Overcoming the rigidification of a pattern of structural injustice requires at least some agents, perhaps only a few initially, to register morally problematic aspects of a social phenomenon which has previously gone unnoticed or unacknowledged.

This suggests there are two broad dimensions to addressing the prospect of elimination inside the market. The first is a *defensive strategy*: to provide robust protection to prosocial actors so that they are protected from those who pursue loopholes, chip away at regulation, exploit organisational weaknesses, and so on. This level deals with the well-known problems around collective action and free riding. We can think of this as a necessary, albeit rather conventional, approach. The second is a *constructive orientation*: to identify and exploit opportunities to pursue morally progressive activity in the market – to use one's protean power – thereby shifting the market's normative balance and creating more room for institutional experimentation. Considered abstractly, it is difficult to see how a constructive orientation could be viable given persistent competition and the ability of competitors to exploit weakness. We can, however, view finance through the lens of the actual moral, social, and political forces which already exist in this domain, and then recover those fragments from which we can build momentum.

Finance is embedded in society, including global society. For it to become a servant of the common good, the habits, norms, and institutions we create and sustain must abandon a naturalised view of financial markets steeped in notions of competitive self-interest. This transformation requires financial activity to be rooted instead in a democratised understanding of value creation in the real economy. Progress on this front would generate powerful normative and institutional resources in the fight against kleptocracy. These twin projects – one to put finance to the service of the real economy and the other to curb corrupt money – currently find

support on multiple levels, among individuals, firms, civic organisations, states, and supranational institutions. Indeed, wherever agents are affected by finance, we find potential agents in the fight against globalised kleptocracy. This is why the image of a *moral ecology* is apt. The moral ecology of globalised kleptocracy extends to agents and networks engaged in struggles over the values, practices, and rules of global political economy writ large because these struggles across multiple sites, inside *and* outside the market, have a significant bearing on our collective ability to address globalised kleptocracy, especially its evolving forms that blur the line between public and private power. Inversely, the struggle against globalised kleptocracy can also help promote a reckoning with the moral failures of contemporary markets. The anti-kleptocracy regime can be viewed as a circumscribed attempt to control finance in the interests of ordinary people by regulating the movement of assets that have been stolen from them. In this sense, our attempts to control corrupt wealth may prefigure our attempts to reconstruct global finance more broadly. In short, the image of a moral ecology of finance opens new possibilities for viewing the problem of globalised kleptocracy through the politics of a shared fate and common future between societies. This gives rise to demands of mutual respect, not just compliance, and a clearer recognition of the way in which kleptocratic networks undermine all societies, including those which have become their enablers.

III. Kleptocracy and the boundary of corrupt money

Earlier chapters challenged the perception of kleptocracy as a practice sustained exclusively within kleptocratic states, outside the advanced economies and democracies. The advanced economies, and the offshore economy, are more accurately understood as being an integrated part of the kleptocracy problem. A failure to address the structural basis of globalised kleptocracy, and instead treat it as an aberration, enables the problem to mutate and persist. And rules and compliance procedures will be ineffective if loopholes are permitted and problematic practices are left unchecked. Any single measure – beneficial ownership registries, the identification of "politically exposed persons", requirements for "suspicious activity reports", and so on – will have its basic aims frustrated if there are insufficient commitments in the social order to address the underlying risks and harms. In the case of globalised kleptocracy, the methods used to conceal and move corrupt money continue to evolve. Moreover, the accountability framework is not adaptive enough to identify and suppress the activity of those who do not clearly meet thresholds for legal liability or regulatory scrutiny. Whatever the provisions of money laundering laws or regulations, practical judgement is typically required to draw the boundary between corrupt and non-corrupt activity, especially in an international context in which state power and corporate interests inside kleptocracies are susceptible to being merged. An accountability regime dependent solely on categorical denunciations of

corrupt rulers and their most willing enablers will fail to register globalised kleptocracy as a structural phenomenon. In particular, it will struggle to cope with cases in which those leveraging their links to corrupt political elites proceed to build wealth and influence, which in turn reinforce the networked power of those political elites.

The epicentre of a kleptocracy is the political elite of a country and those associated with it. Under kleptocracy, repressive political power and extractive economic power are often fused together at the top of a political hierarchy inside a country, with the two forces reinforcing each other. But the phenomenon cuts deeper, especially once we begin to recognise its transnational dimension, because this fusion of power sets the tone for a pattern of political and economic life that tends towards a general concentration of power over time. It engenders patronage networks of various kinds, including those which profit from economic deals that simultaneously reproduce political domination (by supporting authoritarian elites) and deepen inequality (by hoarding economic opportunity). Once kleptocratic power is established, in other words, it bleeds into other aspects of social, political, and economic relations which in turn reinforce the status quo. The same transnational arrangements which enable kleptocrats to move and protect their assets also enable their wider patronage networks to do the same, further entrenching patterns of domination. Kleptocratic power, even when it exploits the rhetoric and ideology of exclusionary nationalism – through what have been called "nationalist oligarchies" whose "central, defining feature is the fusion of economic and political power"[2] – is therefore linked to the globalised operation of oligarchy.

Recognising these complexities in contemporary patterns of globalised kleptocracy adds to the case for reframing the problem beyond a narrow legalistic one focused on small numbers of "politically exposed persons" (though this remains indispensable) and towards a more holistic, moral evaluation of financial flows in the contemporary global economy. Reasserting the social relations at the centre of corrupt money flows is necessary to get to grips with the scale of the problem and plausible avenues to address it. The continuing evolution of the phenomenon adds material and geopolitical urgency to do so, since the failure to tackle globalised kleptocracy emboldens authoritarianism and puts democratic societies at a heightened risk of political manipulation through kleptocratic networks which operate inside the polity of countries sheltering corrupt wealth.

Despite persistent flows of kleptocratic wealth, the reliance on criminal sanctions and regulatory compliance has tacitly supported denialism, allowing countries to maintain a belief in the

[2] Sitaraman 2019.

legitimacy of their markets due to the existence of anti-money laundering law or regulation. The current mode of accountability for globalised kleptocracy tries to isolate the problem while at the same time permitting market incentives and norms which tend to stimulate and entrench it; touted ethical standards and material incentives pull in different directions. Addressing this problem ultimately requires a reckoning with the incentive structure in which corrupt money flows are embedded.

Beyond adjustments to technical regulations to stem the flow of corrupt money, then, we must consider possibilities for transformation in how societies fundamentally conceive of finance: its function in economic life, and the moral and social basis for that function. Yet efforts to refashion the place of finance in the economy have so far been kept apart from what is generally viewed as the more narrow problem of money laundering. We can, instead, link the narrower aims of addressing globalised kleptocracy with the larger ambition to remake finance. My claim is not that anti-money laundering efforts cannot make *any* progress without being linked to a wider reform agenda, but rather that the effectiveness of these efforts will be limited if they fail to make this linkage. The risk of paralysis will continue to undermine the efficacy of regulatory measures so long as any radical attempt to root out corrupt wealth is perceived as threatening an agent's viability in the face of market forces. Moreover, given the links between kleptocracy and wider patterns of inequality, the separation of these agendas restricts opportunities to democratise the market economy.

IV. Denaturalising global financial flows

The first step of my argument against the inevitability of agential elimination is the most fundamental one: there is no single form of a market economy. A major barrier to dismantling the incentive structure for corrupt money flows lies in commonly held assumptions about markets. These assumptions tend to rigidify the dominant normative assumptions about financial markets in particular, conceiving of them as mostly detached from the realisation of economic or social value. In this mode, the free movement of capital across borders is assumed to be an inevitable consequence of greater global interconnectedness, making it harder to justify initiatives that align such flows with the realisation of higher order social or moral objectives via public policy.

The deeper problem here is one of *naturalising the market* in its current form. Socially constructed structures like the market can, in our minds, take on a quality of inevitability, in the sense that they simply reflect how things must be. The logic of the naturalised market becomes its own source of justification for action. As Wolff describes the *capitalist's* alienation in Marx's theory,

for instance: "You can't buck the market. Capitalism has its laws, and you flout them at your peril. If you ignore them, then, just like those who try to ignore the law of gravity, you will come to grief… [O]ur creations come back to take on an independent, oppressive, life… We are 'playthings of alien forces'."[3] While agents may be responding strategically to the circumstances they face, the background structure generating those circumstances is treated as a given, beyond human control or agency. This is closely linked to the idea of *reification*, or treating the products of human action in social contexts (like markets) as if they are things or natural forces (like hurricanes). Human agency enables us to dereify our understanding of a social process and its effects: we have the power to counteract the idea that market dynamics are locked into a particular pattern.

Global financial flows in the contemporary context tend to be naturalised and reified. Cross-border flows of capital are typically represented in narratives of global economics in the reductive terms of market efficiency, downplaying the social and institutional ways in which market arrangements are structured. So, for instance, there is a tendency to focus on aggregate flows or final investments, but less willingness to concurrently weigh the social and political effects of outflows on the country from which the capital originated. Adopting a naturalised conception of "the market", political leaders might justify the unintended inflow of corrupt money into a national economy as an unfortunate consequence of policy settings *necessarily* designed to optimise inward foreign investment. Focusing on the social and institutional nature of financial flows, by contrast, would reveal how human agency and political choices enable financial flows and shape their social consequences. Financial flows are not self-enacting: they are facilitated at each step of a value chain by someone for some purpose. And each step interacts with the institutional arrangements created through socio-political processes.

Advocacy by the anti-corruption and tax justice movements has in recent years made important, though still modest, inroads in making globalised kleptocracy salient in mainstream thought and discourse. Situating the phenomenon in its broader political economic context, rather than limiting it to a criminal or technical compliance issue, invites a wider range of agents to engage in denaturalising the market dynamics involved in moving and protecting corrupt wealth across borders. In the case of the anti-sweatshop movement, the process of dereifying market activity has expanded beyond the original activists, extending from the victims of labour exploitation themselves to multinational firms, legislators, and ordinary consumers going about their everyday lives. In the case of an anti-kleptocracy movement, a comparable process could

[3] Wolff 1992, 40.

plausibly encompass many agents, though it will of course look different given the differences between the phenomena and the range of agents most intensively engaged with it.

Against the naturalised and reified conception of the market, our analysis of potential reform of global finance should move between global legal and economic institutional arrangements (such as the tolerance of opaque shell companies) on the one hand, and the anthropology and sociology of people and their relationships (such as the way in which banking culture shapes behaviour) on the other. Any normative theory which seeks to pluralise and expand moral agency against a structural injustice must be sensitive to the possibilities for reform on both levels, as well as the connections between them. A shift in the sources of esteem inside a profession, for example, can destabilise the legitimacy of institutional arrangements which enable corrupt money flows. A reform in institutional arrangements, such as the abolition of widely abused anonymous shell companies, if crafted well, can create openings for new ethical commitments to emerge among individual lawyers, accountants, and bankers, that gradually erode support in these professions for practices that undermine the common good.

To denaturalise the status quo, it is also important to register how the regime governing cross-border economic flows has its own social, political, and legal history – one which reveals that today's global financial markets represent only one contingent form among many that decentralised, globally interconnected markets could take. We should reject the idea that there is a "system logic"[4] or natural equilibrium to cross-border money flows. These flows have a history that is steeped in institutional arrangements made by human agents and ideological assumptions about how markets work, or should work. This is a key insight to emerge from the International Political Economy (IPE) literature. IPE scholars such as Susan Strange and Eric Helleiner have stressed that contemporary financial globalisation was not an inevitable by-product of technological and market forces but, rather, a result of decisions taken by states in the design and implementation of the global financial order.[5] Indeed, after the Second World War, states created the Bretton Woods system to manage international economic relations. The new system imposed strict limits on the international movement of private capital. From around the 1960s, however, states made policy choices which resurrected global financial markets that had been supressed, including by refraining to impose controls on capital movements.[6]

[4] Kennedy 2016, 7.
[5] See, for example, Strange 1990 and Helleiner 1994.
[6] Helleiner 1994, 6-11.

The move to give market actors greater latitude through liberalisation of international financial markets has been traced to the emergence of the Euromarket in the 1960s.[7] The Euromarket allowed for regulation-free trade in foreign-currency financial assets. Located in London with British support, this new market allowed private bankers to escape controls of the postwar period. The United States also allowed American banks and corporates to operate in the market.[8] This new, permissive policy environment stood in stark contrast with the fading Bretton Woods system which prioritised tight regulations that made it hard for banks to shift their business to low-regulation jurisdictions. Those earlier rules had "reflected policymakers' consensus that financial institutions acted at best like a lubricant for the 'real' motors of the economy – agriculture, manufacturing and business services – and were not significantly productive in themselves."[9] Later, in the mid-1970s, states began to abolish postwar capital controls altogether.[10] Moreover, states chose not to use provisions in the Bretton Woods system to monitor all international transactions to ensure capital controls were not evaded.

Two points about this history are especially noteworthy for my argument. The first is that the unilateral choices of powerful states can have effects on the pattern of international economic life, even if subsequent market dynamics appear to be the result of private actors pursuing commercial interests. With the Euromarket, British and American interests in supporting financial traders led to decisions which unleashed "competitive pressures that indirectly encouraged liberalization and deregulation throughout the system", a process which gathered momentum in the 1970s and 1980s. To compete for newly mobile financial business and capital, other states followed their lead by liberalising and deregulating their own financial systems, leading to a dynamic of "competitive deregulation" among the advanced economies.[11] The problem of corrupt money flows is, at least to some extent, linked to the more permissive environment for capital flows which emerged as a result.

The second point is that policy choices of states in the 1970s and 1980s favouring weak controls of capital movements were supported at the level of ideas by a robust intellectual and ideological infrastructure led by thinkers such as Milton Friedman and Friedrich Hayek.[12] From the 1980s, this helped major governments to justify an aggressive liberalisation of trade and capital flows

[7] This market allowed non-US companies that accumulated US dollars to borrow and lend in that currency outside governmental controls in Europe because European governments had not issued it.
[8] Helleiner 1994, 8.
[9] Mazzucato 2018, 111-112.
[10] Helleiner 1994, 8-9.
[11] Helleiner 1994, 12; references omitted.
[12] Helleiner 1994, 15-16. On the origins and influence of neoliberal globalism as an intellectual movement, see Slobodian 2018.

within a framework the economist Dani Rodrik has called "hyperglobalization".[13] This approach to globalisation sought "to eliminate all transaction costs that hinder trade and capital flows", ensuring that "freedom of capital mobility became the norm, rather than the exception".[14]

Against the tendency to naturalise financial markets, we should recognise that capital inflows, like other forms of transnational economic interaction, are only justified in reference to some other values or social aims, such as social prosperity, human well-being, the development of human capabilities and freedom, and so on. In a democratic society, the citizenry as a whole, drawing on relevant expertise, must determine how to ensure foreign capital inflows advance inclusive prosperity in alignment with these higher order values. To this end, the state must also be prepared to rebel against the dictates of global capital markets where necessary. Countries, of course, regulate imports to conform with domestic health and safety regulations. Capital inflows tainted by corruption should be viewed in a similar way, not necessarily for *economic* reasons but because of *moral* reasons and wider *foreign and security policy* interests. The democratic polity must recognise, then, that building its own prosperity on the back of extraction from others is inimical to basic values of freedom, equality, and justice. Rather than having a presumptive right of entry based on an assumption that money is value neutral, capital inflows should therefore be monitored to ensure conformity to the civic and moral expectations of a polity, and especially alignment with an ideal of freedom as non-domination, including because this ideal underpins an international order hospitable to democracy. To be clear, my argument here is *not* against capital flows across borders per se. Rather, it is to suggest that such flows must serve the common good – through the creation of social and economic value as well as broad alignment with the moral ideals of the polity – and not be justified by the benefits which accrue to a few while undermining the values or interests of fellow national citizens, or exposing those beyond one's borders to harm, exploitation, or oppression. Once these conditions are satisfactorily met, each country should, I think, at least in a normative sense, give due regard to the aim of *increasing* the unimpeded cross-border flow of productive investment as an enabler of collective prosperity, innovation, and so forth. Protectionist measures are mostly unjustifiable within the framework I am suggesting insofar as such measures fail to be justified by reference to the common good.

Practical measures to achieve alignment between financial flows and the common good can build on foreign investment screening processes which already exist in many jurisdictions.

[13] Rodrik 2011.
[14] Rodrik 2018, 28.

These typically consider national interest tests of various kinds, including national security interests. In any case, what is required is an appropriate mechanism – or range of mechanisms – to also weigh *civic* concerns, including those pertaining to enablement of authoritarian kleptocracies, in the regulation of foreign capital flows. The bureaucracy supporting these screening processes would need to be expanded to include diverse kinds of relevant expertise, including officials with geographic, political economy, and human rights expertise. Legal and investigatory capacity, alongside adequate regulatory provisions, will be especially important to close the loopholes that allow beneficial ownership and the original source of corruption to be concealed in these screening processes. As far as possible, the screening process should open space for civil society scrutiny and the voice of affected stakeholders, including citizens in the national polity of the host country and the victims of foreign kleptocracies.

V. Two narratives about finance

Before turning to my own approach to aligning finance and the common good, we should consider two other approaches which make similar claims, directly or indirectly. The first, *market fundamentalism*, views finance through the lens of perfect or "free" markets. This is a vulgar extension of the idea that the pattern of private decisions taken (for self-interested reasons) in a market society will ultimately serve common interests. The dominant capitalist discourses of political economy today insist that financial activity has a singular purpose: to obtain profit. This view has sometimes turned into an absurdity, as when Bear Stearns – a bank which collapsed during the Global Financial Crisis – adopted the creed "we make nothing but money".[15] In this framework, capital is assumed to move where it is most efficient, and social and legal constraints on this movement should therefore be minimised as far as possible. The purpose of law and regulation is only to allow such allocation to take place without threats to property rights and to address market failures if and when they emerge. Such market failures, moreover, are always considered to be localised failures, either in capital markets (for example, from asymmetrical information) or regulatory responses to those localised failures.[16] A breakdown in the link between finance and the common good is never structural in this perspective because price signals in the market are assumed to be efficient, and efficiency is considered the most important attribute of economic life.

We should reject this view not only because of its problematic moral implications but also because of its false empirical premise. As Lothian observes: "The whole panoply of organizations that channel long-term saving into long-term productive investment – the

[15] Cited by Kay 2015, 48.
[16] Lothian 2017, 8-9.

different kinds of banks, capital markets, stock markets, and, more generally, financial and nonfinancial firms that exist in contemporary economies – are inventions developed in politics and thought and confirmed by the law."[17] Historical and contemporary examples of variation in the extent to which institutional arrangements have to a greater or lesser degree linked finance to social productivity, refute the premise of market fundamentalism. In this sense, financial markets are a specific instance of a broader point that market economies can take many forms, combining decentralised initiative and cooperation in diverse ways. The market fundamentalism view reflects, then, an impoverished understanding of what markets *can be* and what an economy is *for*. This reductive conception of finance is contradicted by the reality that markets are constituted in a wider social context in which moral and political considerations are channelled into market-shaping norms, practices, and laws.

The second view, which we can call a *human rights* approach, is critical of the effects of finance but does not go far enough to challenge the institutional and ideological assumptions about markets contained in the first view. In response to the negative effects of market activity, this view seeks to add constraints on finance, through regulation and cultural change, in order to mitigate its abuses and enable it to better advance human rights. It acknowledges that finance can sometimes be an instrument of justice, but its primary concern is that it be regulated to tame the worst excesses of self-interested behaviour.

This approach has been articulated by David Kinley, the title of whose book, *Necessary Evil*, captures this ambivalent stance towards finance. In some respects, Kinley's views come close to the one presented here. He explicitly wants to put finance in service to the real economy and "reclaim finance for the common good."[18] He envisions this coming about through "cultural change at the systemic level,"[19] a revitalisation in the virtue of empathy and of trust, and through the behaviour-changing effects of an economy of esteem geared towards ethical outcomes. What Kinley neglects, however, is the role of human agency in the process of structural change, and how agents can generate opportunities for translating behavioural change into institutional and ideological reconstruction of finance's role in the economy. This requires not merely an accommodation between finance and human rights but social transformation and institutional innovation in the ways capital is coded, deployed, and brought under democratic control. Kinley rightly identifies the need for finance to establish a "social

[17] Lothian 2017, 102-103.
[18] Kinley 2018, 185.
[19] Kinley 2018, 194.

contract"[20] but does not sufficiently elaborate on the contested pathways of complex social, political, and economic change potentially available in a competitive market society.

While Kinley offers a human rights framework to mitigate finance's moral costs and amplify its gains, this does not ultimately offer normative resources to overcome the limits of legalism as an ideology (because it risks replacing one set of rules with another, articulated in terms of rights), an adequate theory of social transformation, or an institutional vision for embedding finance in moral norms and social relations. The human rights framework does not contain within it the full range of values or institutional experimentation for this broad agenda, though it can serve as a powerful input and stimulus. After all, for *structural* injustices like globalised kleptocracy, a large constraint is the difficulty or insufficiency of identifying correlative duties under status quo morality to address specific harms. Yet a rights framework subtly pushes us back into this way of conceiving moral responsibility without sufficiently attending to the background conditions which would be make this viable. We should reject the prioritisation of a grand bargain between human rights advocates and the financial sector, rather than a whole-of-society transformation, because such a bargain would foreclose possibilities for new patterns of value creation and curbing value extraction. At the same time, a human rights approach could helpfully shape strategies against rights-violating practices – especially through better informed and more expansive regulation – in ways that complement structural transformation of economic practices.

VI. Value creation, value extraction, and corrupt money flows

Can an agent seeking to engage in a radically new way of acting in the market – one that would counteract globalised kleptocracy – survive as a viable entity? An initial step requires the agent to self-scrutinise their assumptions and beliefs about value creation and value extraction in the economy. Individual human agents and firms retain some discretion to choose how to define these concepts in a market society. There are two levels where such choices are made: by agents themselves, and how the conception of value is encoded in social institutions and norms. The conception of value at each level can diverge – the agent can take a contrary view of what constitutes value to the one that is encoded in the dominant institutions or norms of their society. This creates what we can call *friction*. When the agent's conception of value seeks to better align market activity and the common good, the resulting friction can be morally productive and drive change in norms and institutions. Morally productive friction has a structural source – the divergence stems from a discrepancy between the agent and background

[20] Kinley 2018, 34.

social processes – but it is manifested through what is *proximate*, that is, the immediate space of the agent's action and decision-making.

A large obstacle to this approach is the grip held by the prevailing paradigm of value in contemporary capitalism. In short, value in the economy has been reduced to price, as set by a morally neutral notion of supply and demand. This systematically skews attention – including moral attention – away from a more discerning conception of economic value. As Mazzucato points out: "If value is defined by price… then as long as an activity fetches a price, it is seen as creating value."[21] Given how far this reductive conception diverges from wider aspirations in human lives and societies, including moral aspirations, we can suppose it is ripe for disruption. That gap is an opening for a new economic way of life that, in a piecemeal fashion, reconciles our conception of economic value with social and moral values. Agents can use the process of challenging the terms of debate over value in economic thought and policy to build a case for embedding finance in social relations. This embeddedness, in turn, gives agents significant leverage in the struggle against globalised kleptocracy at a structural level.

In contrast to the conflation of value and price, we can conceive of value as fundamentally about "the production of new goods and services", and whether what is created is "useful" in the sense that it increases the "resilience of the productive system".[22] Mazzucato acknowledges that "the distinction between what is or is not productive has varied depending on economic, social and political forces" and recognises that economists studying production over some 300 years "have struggled to provide a rationale for labelling some activities productive and others unproductive."[23] The idea of systemic resilience – an economy that can withstand shocks – does provide one way to begin to make such judgements at a more structural level, I think, and to reflect those judgements in public policy. We can identify criteria for systemic resilience – even extending this notion to social and political life – and then experiment and track policies which help advance this objective, including through how these shape the development of the market. Systemic resilience may be a minimalist aspiration, though, and perhaps it is possible to gain democratic support for a deeper conception of human flourishing which the economy should promote.

With the rise of classical economics in the eighteenth and nineteenth centuries, and the seminal contributions of Adam Smith, David Ricardo, and Karl Marx to economic thought, economists began to measure the market value of a product in terms of the labour involved in its

[21] Mazzucato 2018, xviii.
[22] Mazzucato 2018, 6.
[23] Mazzucato 2018, 22.

production.[24] Classical economists like Smith and Ricardo shared two key ideas: value was derived from the costs of production, mainly labour, and subsequent economic activity, such as finance, did not itself generate value.[25] Marx was more subtle in how he drew this distinction in his labour theory of value. He emphasised the role of historical circumstances and the nature of the capitalist system in which capitalists purchase labour power and then realise the value derived from that through the exchange value of the commodities produced by labour. For Marx, the value generated by labour beyond what is needed to restore labour power (that is, the capacity to work) becomes surplus value accrued by capitalists. Industrial capital in Marx's account creates surplus value and commercial capital realises it. He distinguished between the production of goods and services and those functions of capital outside the production boundary, such as circulating capital or lending money. Like Ricardo, Marx viewed rent as income derived from redistributing value, rather than creating it. The neoclassical economists would later eclipse the classical economists with their marginal utility theory of value under which all income generation is tantamount to productive activity.[26] In orthodox economics, and to a great extent in mainstream public policy and discourse, value has thus become synonymous with price.

Mazzucato's key move is to revive an "objective", albeit contested, conception of value so as to dislodge the status quo "subjective" conception; that is, she reasserts the benefits of an objective account of value over one that is determined by the preferences of agents in market transactions, and thus reducible to market prices. Until the mid-nineteenth century, Mazzucato recounts, objective theories of value were considered important in shaping the price of goods and services. Since then, however, the conflation of price and value has dominated economic thought; anything sold at an agreed market price is considered to be value-creating.

My aim in asserting the central importance of value in economic thought and practice, and revising our understanding of it, is not to suggest agents categorically account for value in every decision or transaction. John Maynard Keynes famously suggested in the context of crises, and the need for counter-cyclical government investment, that governments could pay people to dig holes in the ground and then fill them up again.[27] His argument was that some activity, however pointless it may seem, would be better in those circumstances than unemployment. This does not refute my emphasis on value here, however, for three reasons. First, Keynes was still making a case in relation to value-creation, though in that case the value being created was

[24] The historical overview here draws from Mazzucato 2018, 21-74.
[25] Mazzucato 2018, 34.
[26] Mazzucato 2018, 60.
[27] Keynes 2013, 129.

the stimulation of economic activity and the social value of employment *where this has been chosen as a priority*. The implication more broadly, we could suggest, is that we should be sensitive to the way in which economic activity sustains or undermines good jobs. In his example, Keynes held employment, rather than market price, as the reference point for assessing the value of economic activity. Second, the employment in this case is a minimalist objective; it does not deny that there may be some other activity which is *more* productive and fulfilling. Finally, the idea of putting value-creation at the centre of economic debate is primarily about orientating the direction of the economy so that it is more aligned with solving social and public problems, and avoiding a situation in which the ends of economic life are crowded out by the means of economic life. Beyond crises, public policy should set the direction and parameters for the market, crowding in private investment and innovation allied to that direction; this requires a more discerning measure of value and greater debate about how value is generated.

What I have in mind, then, is that citizens can use the concept of value to hold finance broadly accountable for its contribution to democratically determined objectives of the productive economy, and to tighten this linkage. Our notion of value becomes the shared basis for such accountability, translated into law and policy where such judgements need to be made, including in experimental and provisional ways. Value in this sense recognises that the normative basis for wealth production is created through human agency via the conceptual and institutional frameworks we adopt. Given this wider lens, a more deliberate conception of value creation can help promote the right sort of *disposition* and *habit*s, embodied in *economic practices,* through which agents continually scrutinise how their own economic activities affect social and political equality over time, not only utility maximisation. This would represent a shift from a narrow focus on how material goods are distributed to how processes of economic production can rigidify social and political hierarchies. As these habits and dispositions grow stronger among more agents, the social ethos would change.

The technical criteria of value creation is less important in this sense than its role as a meta-frame for economic activity and the generator of more effective ways to make judgements about the social value of different kinds of economic activity. This terrain – the normative dimension of productive activity – is evaded by the orthodox image of the market, offered by thinkers such as Hayek, as a black box beyond human control, rather than as an institutional formation of our own making. Bringing value into the frame, then, is a way to open up a democratic conversation about the overall direction of the economy – how we should measure growth, wealth, and material success in a society – rather than an exercise in ranking or sorting the social worth of every activity. After all, financial activity in my argument, *would* count as socially beneficial to the extent it serves a productive economy that supports inclusive prosperity,

resilience, human flourishing, and so forth. A dogmatic view of value may try to eliminate such activity in counter-productive ways.

The moral dimension of what constitutes value can, however, help guide legal and social accountability across market interactions in a similar way that moral accountability provides "a standard of expectation and assessment" when holding specific firms accountable.[28] This involves difficult judgements and will always be imperfect. The aim should be to derive a commitment to objective value – refuting its conflation with price – so as to provide an orientation for structural reform, while leaving open to ongoing deliberation the substantive content of what value entails. While we cannot provide a precise prescription for how to calculate what counts or doesn't count as value, the debate can itself help shape institutional design and social commitments that would help redefine the measures of economic success, for example by giving greater weight to resilience or care work in economic policymaking. To be sure, there are some instances when a decisive institutional judgement has to be made, such as what to include in quantified indicators such as Gross Domestic Product (GDP), though even these judgements should be open to learning and revision.

Reclaiming the language of "objective" value creation opens up space for contesting the direction of democratic control over market norms and institutions, and how economic policy can meet the aspirations and interests of equal citizens in a society. There are other areas of economic life where we also have to make critical judgements about the deeper value of a headline or aggregate outcome or goal. For instance, we can make a distinction between a job and a *good* job, and though we may not be able to fully prescribe what each category entails, we can deliberate on the parameters for what counts as "good". Once these rough parameters are widely accepted as something to aspire to, we have a directionality for policy to work towards, even if the precise details of how to create good jobs remain inconclusive.

A key distinction we should draw is between value *creation* and value *extraction*. Mazzucato defines value creation as "the ways in which different types of resources (human, physical and intangible) are established and interact to produce new goods and services" and value extraction as "activities focused on moving around existing resources and outputs, and gaining disproportionately from the ensuing trade."[29] Rent – unearned income – is the main vehicle for value extraction. Problematically, the dominant mode of contemporary economic thought – neoclassical economics and its marginal utility theory of value – calculates every kind of return

[28] Lane 2005, 234.
[29] Mazzucato 2018, 6.

(whether wages, profits, or rents) in the same way, the assumption being that individuals are maximising their utility and firms are maximising for profits. The social dynamics involved in *production* are mostly obscured in this framework. Rent, which involves gaining a return without contributing to the production process, is largely removed as a category of economic analysis since income from rents is conflated with income from production.

A particular problem with the abandonment of objective theories of value is the effect it has on the calculation of GDP, which in turn affects policymaking. The fact that some kinds of economic effects can be readily quantified, as is the case with profits, creates an asymmetry that disfavours the incorporation of moral and social goods which do not fit easily in a utility maximisation framework. Similarly, when anything which receives a price is included in GDP, profit and rents become indistinguishable at an aggregate level, and perverse signals are sent to policymakers about sources and levels of productive activity.[30] National productivity becomes associated with the sum total of market prices, meaning final consumption rather than welfare is captured. These problems with GDP are by now well known[31] but they have specific implications when it comes to finance.

Finance and the creation of value

Finance can facilitate value creation or engage in value extraction, as when it profits from barriers between the providers and receivers of finance. A particular worry arises when the financial sector grows disproportionally to the rest of the economy, pulling talent and resources away from nonfinancial activity without contributing commensurate growth in output or productivity in the real economy. This worry has been labelled *financialisation*, which one commentator describes as involving "the substitution of trading and transactions for relationships".[32] Indeed, finance is Mazzucato's chief example of economic activity which has managed to successfully *claim* it creates value simply because it earns a price in the market, even when it *objectively* does not create value.[33] Rather than being directed as an engine of productive activity, finance has largely become an end in itself. The new orthodoxy in the advanced economies adopted a circular logic: "finance is valuable because it is valued, and its extraordinary profits are proof of that value."[34]

[30] Mazzucato 2018, 76.
[31] See, for example, Stiglitz, Sen and Fitoussi 2009.
[32] Kay 2015, 16.
[33] Mazzucato 2018, 16.
[34] Mazzucato 2018, 141.

Yet finance remains, at least in theory, well placed to specialise in creating value in the real economy. This potential has not been realised in practice: despite the growth of the financial sector, non-financial firms are now more engaged in self-financing through the retention and investment of their own profits than drawing on external finance. Banks in the major economies are not generally focused on turning household savings into commercial investment or innovation: only about 15 percent of funds in finance are channelled to nonfinancial industries.[35] A survey of the last 130 years of rising investment in the financial sector found that there has been no improvements in the sector's overall productivity.[36] And as finance has become more detached from the real economy, the sector's knowledge of real-world business has declined, leading to higher returns being demanded to offset greater levels of risk.[37]

Despite these troubling indicators, financial sector activity since the 1970s has been included in national GDP figures, with its growing size and influence making it difficult to exclude.[38] This has occurred without regard to whether the activities involved actually enhance production. Finance went from being perceived as a mechanism for *transferrin*g value and rent, to its own *internal* activity being considered a *producer* of value; activities of commercial banks were cast as "financial intermediation", and those of investment banks as "risk-taking".[39] Classifying finance as *inherently* productive has had a significant influence on public policy as the priority has shifted to ensuring regulation does not unnecessarily burden the sector, rather than policy innovation to maximise its contribution to wider economic objectives.

A crucial question is whether, and how, financial markets create value in the objective sense. Some who worry about financialisation contend that it does not, pointing to evidence that the financial sector is more interested in circulating money within itself if the prospective return on such activity is higher than, say, financing small businesses, renewable technology, or medical innovation. Crucially, however, finance can be induced to support production in the real economy. It is an artefact of our own making; value extraction is not axiomatic to finance. The financial sector can be embedded in the real economy, which, in turn, should be embedded in social relations and higher order ideals.

It is worth considering, in this light, an intellectual tradition which has explicitly sought to embed the economy in social and moral relations – the idea of a *moral economy* – and attempting

[35] See Mazzucato 2018, 136.
[36] See Mayer 2018, 169.
[37] Mazzucato 2018, 104.
[38] Previously, only fees for direct services, such as the cost of opening or closing a bank account or getting mortgage advice, were included.
[39] Mazzucato 2018, 96-97.

to reclaim its contemporary relevance.[40] The idea of a moral economy makes moral or social value *intrinsic* to economic transactions. This term was coined by E.P. Thompson[41] but the idea has a longer history.[42] Its most famous use is perhaps that of James C. Scott in his account of peasant life in Southeast Asia.[43] In the early twentieth century, R.H. Tawney articulated a vision of economic life which assumed a spiritual conception of the person, and argued for moral, not material, relationships as the paradigm of interaction. Karl Polanyi famously argued in *The Great Transformation* that economic life is embedded in distinctly social relations, institutions, and values. Pointing to the structure of social obligations in pre-capitalist economies and the central role of the state in structuring ostensibly laissez-faire economies, Polanyi argued that there is no natural form of the free market detached from social relations.

Rather than being fixated on whether particular categories of activity fall inside or outside the production boundary, the idea of a moral economy could orient us, I want to suggest, to the task of remaking institutions and interactional norms of the economy so that finance is geared towards the realisation of public purposes and civic ideals. The central normative question arising from within this tradition is whether there can be viable forms of productive economic exchange and investment that do not reduce to material utilities. In this light, the question is how to remake finance so that it serves society by enabling the economy to produce, through investment, what is socially beneficial – defined by the flourishing of a society of equal citizens – but would not otherwise materialise without the pooling and deployment of capital through markets. We must ask how finance can enlarge the space for decentralised initiative, creativity, and innovation in a way that accrues benefit to common good interests over time. There are potentially vast possibilities and implications of this alternative way of conceiving of finance, though here I will only focus on some of the most relevant to the present challenge of confronting globalised kleptocracy in private markets.

The turn to moral economy demands, at the most basic level, re-embedding the economy in social and moral relations. This, in turn, requires the *democratic reconstruction of finance*, the first priority of which is to tighten its connection to the real economy. Rather than restricting itself to regulating localised market failures and behavioural breaches, this constructive agenda would involve crafting policy that encourages the financing of inclusive, productive investment, notably to serve the interests of ordinary people and communities (and especially marginalised people and communities), as well as humanity at large (such as would be the case with the

[40] On the contributions of R.H. Tawney, Karl Polanyi, and E.P. Thompson to this tradition, see Rogan 2017.
[41] Thompson 1963. Thompson was referring to pre-capitalist production and exchange.
[42] For an overview, see Adelman 2020.
[43] Scott 1976. Scott was referring to local resistance to commodification of land and labour relations.

financing of climate change mitigation). The institutionalised tightening of the relationship between finance and the real economy has been described by Lothian as *financial deepening*.[44] Financial deepening recognises the generative and progressive potential of finance when deployed in service of the real economy, helping expand output, improve productivity, and spread economic opportunity by changing the configuration of market power. Finance could be enlisted, for instance, to disseminate knowledge-intensive practices across the economy, including to small business. Such tightening of the link between finance and the real economy would enable finance to achieve its underlying purpose. This purpose cannot be defined in the self-referential terms of a naturalised view of the competitive market. Instead, the purpose of finance must be defined in terms of deeper human aspirations – noninstrumental goals of life – including collective goods at the national and global levels. It is a tool, in other words, to generate opportunities – through work, firms, and market interactions – that enhance our collective capacity for creativity, care, imagination, fraternity, dignity, freedom, and so forth.

Value and globalised kleptocracy

As indicated by the calculation of GDP, value-extracting activities can appear as value-creating ones. Discriminating between these categories involves making social and political judgements. Applying this distinction to the phenomenon of globalised kleptocracy helps to reframe those elements of industries and regional economies that have benefited from the enablement and management of corrupt wealth. Through this lens, we can recognise that while such activity fetches a price in the receiving economies, boosting certain firms and sectors such as finance, law, and real estate, it is *economic activity premised on a crude form of value extraction* – ranging from outright theft to systematic cronyism – in the source country. The current way of thinking about growth, and the institutions of global markets, conceals and obfuscates this extraction. Indeed, as the financial sector takes greater prominence in a country's self-perception of economic success, policymakers may be inclined to ease controls on corrupt money when weighing the costs and benefits of robust action. Any threat to the inflow of capital, within this conception of success, will be viewed as a threat to economic growth.

A goal of institutional reform should therefore be to make salient the transferral of value occurring through globalised kleptocracy and to strengthen mechanisms to prevent it from occurring. The economic activity which enables kleptocratic money flows doubles down on the initial form of extraction, deriving profits through services that conceal the kleptocratic origins of wealth. Only once we properly account for the extractive premise of such activity can we

[44] Lothian 2017.

make assessments of what economic value it is objectively creating in the world. This assessment would put citizens and policymakers in a better position to make holistic ethical judgements, both with regard to the structural phenomenon of globalised kleptocracy and the activity of individual actors in it. Sensitivity to value would enable us to see kleptocratic wealth and corrupt money flows as an *economic* phenomenon, not just a criminal one, linked to other activities which may or may not be value-creating.

To be clear, kleptocratic wealth is not necessarily *deployed* in a value-extracting way. Corrupt money can be just as easily invested, for example, in renewable energy projects or affordable housing as it can in coal mines and luxury real estate. Rather, the discourse on value enables individual and group agents, including policymakers, to gain a clearer sense that the capital they are dealing with cannot be treated as amoral, detached from broader patterns of social power or economic objectives. The habit of discerning value denaturalises the flow of corrupt money in the financial plumbing of the market economy.

Consider that when the social and public purpose of finance is diminished, it can be more readily enlisted in the service of kleptocratic interests, even as its positive contribution to GDP sends a perverse signal to policymakers. The language of value creation and extraction offers a way to put corrupt money flows in a structural economic perspective. By shifting the aims of banking activity away from the narrow vision of profit-making back towards social purpose, those resisting structural change (including the enablers of corrupt money flows) would be exposed in the public sphere as morally unreasonable and self-serving, opening themselves to social criticism as well as more intensive regulatory and political scrutiny. It could have a similar effect on specific policies too. The problem of anonymous shell companies, for instance, could be reframed not as a niche legal concern of a small group of economists, lawyers, and activists, but as a mainstream concern for citizenries and policymakers concerned with erecting legal structures best able to create value. If the evidence suggests that such shell companies are generally tools for value extraction, this could generate policy space to regulate their use more robustly.

A change in the practical aims of finance would have a number of second-order effects, including to shift the emphasis in regulatory policy away from attracting foreign capital at whatever cost to regulatory effectiveness, including diminished control of corrupt money, and towards bolstering the ties between finance and production in the real economy. As Lothian suggests, "the best way to tame finance is to make it more useful."[45] We can expect a financial

[45] Lothian 2017, 1.

sector oriented around the revitalisation of communities and cities to receive less interest from kleptocrats prioritising concealment and private enforceability of property rights above dynamic economic outcomes. Moreover, the widespread acceptance of the social purpose of financial markets could engender a political climate which empowers the state to institute more discerning public assessments of the value-creating effect of inward international financial flows.

Value and the struggle against kleptocracy: A wider ecology

Linking the problem of corrupt money to the broader aim of enhancing value creation and reducing value extraction would also have the *strategic benefit* of connecting disparate social and intellectual movements, bringing them together around civic ideals of justice and equality, not just economic productivity. This would increase opportunities for what I have called *adjacent moral agency* – the idea that moral agents who are not deeply entangled in an injustice, or involved directly in projects addressing it, can take up responsibilities in their own circumstances to transform broader dynamics which influence the unjust phenomenon.

Causes geared towards remaking economic policy so that it properly recognises value creation and value extraction have the potential to attract a wider range of supporters than current anti-kleptocracy activism. Intellectually too, we could include here the currents of thought and policy inspired by contemporary critiques of wealth concentration.[46] My conjecture, then, is that if handling corrupt money can come to be viewed as a crime (in some phases of the process) *and* as a rent (in general), then the effectiveness of the regulatory regime to control it would receive greater popular support from the citizenry of rich countries. This is because it would become clearer in the public mind that processes used to undermine the economic freedoms of ordinary citizens are concurrently being exploited by foreign kleptocrats; it would unify disparate social forces against infrastructures of global inequality. Moreover, since kleptocratic wealth often engages in traditional forms of rent-seeking, broader reforms in that area could open a second, indirect front in controlling corrupt wealth, better regulating how unearned wealth is insulated from moral accountability. Whereas globalised kleptocracy narrowly construed is only ever likely to attract the *focused* engagement (as distinct from passive support) of policy elites, lawyers, experts, human rights or anti-corruption activists, along with some segments of the citizenry, the question of value has the potential to attract the active engagement of the whole citizenry. Once the mainstream view of value is recalibrated, those fighting globalised kleptocracy could gain more mainstream support, helping shift the balance towards robust institutional reform and enforcement.

[46] Most prominently Piketty 2014. On Piketty, see also O'Neill 2017.

Globalising the conception of value

There is a particular barrier in integrating an analysis of corrupt money flows with that of value extraction in the sense that the main source of extraction in this case is foreign. There are at least two, mutually reinforcing, ways to address this. The first is a *direct appeal to cosmopolitan values*. Globalised kleptocracy provides a relatively straightforward example in which value extraction from anyone, anywhere in the world, is *equally* problematic from a moral standpoint. When framed in terms of the predatory transfer of value, the moral concerns involved may resonate more intuitively than other appeals similarly premised on moral equality, including appeals on the basis of global altruism (Singer) or unjust global rules (Pogge).

The second is an appeal to *cosmopolitan patriotism*. Collectively discerning value creation and extraction inside a national society helps to build conceptual resources and ethical capacity to critically scrutinise the inward cross-border flow of extractive capital. The civic duty to promote liberty as non-domination in one's own polity should generate commitments to that ideal in foreign entanglements. Because of the way it perpetuates hierarchy in social relations and exploits institutional weaknesses in linking economic life to the common good, value extraction via globalised kleptocracy is both a form of domination (between countries) and an enabler of domination (within countries). Therefore, cosmopolitan patriots should be acutely concerned about the linkage between domination and value extraction, and thus resist the acceptance of kleptocratic wealth flows into their polity's economy.

More broadly, a reorientation to value allows us to view global capital movements in a new light, one that explicitly connects those inside a state with those outside it, since the aims of both sides become joined in one *unified project*: to promote financial deepening. This joint objective is not only material in nature; it promotes solidarity between citizens and foreigners. It ultimately views various forms of value extraction as a threat to prosperity for *all* people and productive investment as a contribution to *global* prosperity, because such categories can only be fully comprehended in a *global context*. With regard to the environment, this insight is clear: destroying the atmosphere to make a profit is extractive, even if prices in the market reward that behaviour inside a particular national economy, and such destruction is self-evidently global in nature. This globalised view of value extraction is also gradually becoming more widely accepted with regard to labour in supply chains. Through social action and argumentation we can add to the list of domains where the conception of value extraction becomes globalised. Specifically, there is a compelling case for bringing corrupt financial flows within this global conception of value extraction.

VII. Radical reciprocity

The discussion of value creation and value extraction has so far been mostly abstract, with some reference to the way in which friction between different conceptions of economic value can practically lead to broader normative, institutional, and social change. There is, however, significant ferment inside contemporary market societies which provides a glimpse of the possibilities for new practical conceptions of value creation and value extraction in market economies. Real-world experiments are especially valuable given that the democratic reconstruction of finance would involve a significant social and political project, one that requires new ways to think and talk about finance that are mostly unfamiliar to the frameworks offered by major political economy discourses: capitalist, neoliberal, social democratic, socialist, and so on. There are a growing number of people and organisations interested in what a progressive vision of finance could entail. These practitioners and thinkers are spread across different sites – universities, think-tanks and foundations, networks of entrepreneurs and investors, specialised investment professionals and pockets of the traditional financial sector, and community and city-based initiatives for economic revitalisation. These actors are sometimes associated with efforts to promote "corporate social responsibility" (or "corporate responsibility") or "responsible investment", ideas that have often been more closely associated with branding than a serious attempt to internalise responsibilities to the public, but are now extending to credible experiments. It is difficult to envision these disparate actors joining forces to transform the moral orientation of global finance. However, based on an ecological approach to social change – one which takes the potential of small acts seriously – there are reasons to think these efforts can cumulatively advance structural change, including by encouraging more experimental and innovative public policy.

A fundamental challenge posed by these currents of thought and action is to the way in which private interests in the market are conceived and legitimated. These currents seek to revitalise, or generate, a conception of the corporation oriented towards some public or social purpose, and to amplify private investment towards similar ends. To the extent such a conception has existed historically, this sense of purpose was gradually lost in mainstream thought and law during the twentieth century and thoroughly refuted in recent decades by Milton Friedman and those working in his shadow.

While there is no universally accepted way to measure the extent of activity in contemporary markets which runs counter to the one-dimensional view of value as price, we can gain some sense of this empirically. One leading scholar cites "[t]housands of firms" that have committed to a purpose larger than profitability, and points out that "nearly a third of the world's financial

assets are managed with some kind of sustainability criterion."[47] We can observe a rise in the number of impact investors – those who "seek a decent return, but [whose] goal is to make a difference in the world rather than to maximize profits"[48] – as well as consumer- and employee-owned firms. Environmental, Social, and Governance (ESG) metrics are becoming more influential, with 20 percent of all financial assets under management which were invested in 2018 using ESG-based information.[49]

One of the key drivers of change at the level of individual firms has been the potential for reputational damage that stems from neglecting social responsibility. Yet, as discussed earlier, this has not yet had a material effect in the case of globalised kleptocracy. The idea of reputational risk can, however, be anticipatory: firms can perceive a growing sense of social expectations and adjust their behaviour *prior* to any material effect on profits. A driver of change with regard to globalised kleptocracy risks may turn out, then, not to be reputational damage itself but the *perception of risk stemming from future reputational damage*. In this regard, the key is for *some* leaders inside the market and the professions to respond to socio-political or moral expectations to address corrupt money flows, and then position themselves as ethical leaders. This could stimulate a cascade effect, changing the calculation of others more reluctant to take robust action. The potential for such a cascade could itself help motivate those pushing for change, since it suggests even modest progress, at crucial points, can spur outsized outcomes. Along the way, every step in a progressive direction may seem unlikely until it is achieved. This is roughly the pattern of other ethically-driven movements inside contemporary financial markets, including the integration of ESG indicators in investment decisions and the initial push to support renewable energy in capital markets.

Two prominent ideas in the contemporary context are those of "shared value" (business strategies which aim to solve social challenges while making profit)[50] and a "stakeholder theory" of business (or "stakeholder capitalism"). A comprehensive analysis of these concepts is not required for our purposes. However, it is helpful to acknowledge recent developments in thought and practice which could have a bearing on the kind of social transformation that would alter the trajectory of globalised kleptocracy. As a preliminary point, there are two tendencies we should guard against when evaluating these developments. The first is *extreme cynicism*. It is tempting for those interested in structural change to dismiss every effort to align corporate interests with societal interests as superficial and self-serving. This view assumes most

[47] Henderson 2020, 9.
[48] Henderson 2020, 142.
[49] Henderson 2020, 39.
[50] Porter and Kramer 2011.

corporations are only interested in projecting an image of responsibility to enable continued maximisation of profits and retention of economic power. The second is *quixotic flattery*. This is the trap of accepting corporate commitments at face value, which can lead to highly perverse outcomes such as the stalling of effective public policy that runs counter to the interests of private power.

The stakeholder theory of business

The stakeholder theory of business has already gained some mainstream traction. Consider the January 2018 letter from the CEO of BlackRock, Larry Fink, the largest financial asset manager in the world, to the CEOs of the companies in his portfolio. It read, in part: "Society is demanding that companies, both public and private, serve a social purpose. To prosper over time, every company must not only deliver financial performance, but also show how it makes a positive contribution to society. Companies must benefit all of their stakeholders, including shareholders, employees, customers, and the communities in which they operate."[51] Fink was, in effect, challenging the dominant view of the firm, popularised by Friedman in the 1970s, as having a singular objective: to "use its resources and engage in activities designed to increase profits so long as it stays within the rules of the game, which is to say, engages in open and free competition, without deception or fraud."[52] Increasing shareholder value remains the widely assumed premise of business, providing directors with a convenient way to interpret their fiduciary duties, both to the corporation itself and to shareholders. In practice, a similar profit-maximising logic has been adopted by firms more broadly.

The idea behind stakeholder theory, then, is a powerful one: firms create wealth by drawing on the resources and talents of many, including their own employees, as well as suppliers, distributors, consumers, governments, and the wider community (though note there is not a universally agreed list of potential stakeholders). The normative implication is that businesses must therefore factor the interests of these stakeholders into their decision-making. Stakeholder theory has the potential to recast our dominant image of profit-seeking entities as agents who stand at what Elizabeth Anderson describes as "a 'nexus of reciprocal relationships' with internal and external stakeholders."[53]

Once the firm is re-envisioned as a collective agent whose constitutive elements are socially defined through relationships, the duties of its owners and managers can also be extended

[51] See Henderson 2020, 9.
[52] Friedman 1970, 126.
[53] Anderson 2015, 191.

accordingly. These duties would not be restricted to what is codified in the law or commercial contracts because they would need to factor in moral criteria such as trust, respect, dignity, and equality. The stakeholder theory of business acknowledges that the role of these wider relations may not be reflected in the price of the company, thus breaking the reliance on reputational cost as the single motivation for social responsibility. In this sense, stakeholder theory has potentially far-reaching social and economic implications, redefining the meaning of business success by making the social aim of good relations *intrinsic* to a firm's own aims.

To make this practicable, I suggest, the firm would need to actively inculcate a new *disposition towards justice* in relations with all stakeholders, ranging from shareholders, workers, and customers through to individuals and communities affected by the firm's operations. A disposition towards justice would require that each relationship honours the moral worth of each stakeholder, premised on a principle of human equality. This disposition would have to operate at a collective level, such as through the firm's public commitments and policies, and then translated to the individual level, including through the incentive structure for individual managers. In this way, there would be a chance to adhere to a standard articulated by Anderson's reciprocity model: "the firm's interactions with each stakeholder should be reasonably expected to be beneficial ex ante, and (in the normal case) actually be beneficial ex post, to every party that interacts with the firm."[54] The legitimation of the for-profit firm would be judged, then, by its willingness to deliver over time on its reciprocal commitments to all stakeholders. In this way, the growth of the firm would be permanently linked to the creation of social value.

This would demand a major reorientation in corporate governance around social and public purpose, rather than shareholder value. A disposition towards justice could be both stimulated and strengthened by legal and policy reform along these lines. Purpose would be defined with reference to a company's stakeholders, including communities and citizens. The point of such reform would be to break the illusion that discrete regulation of conduct will ever be enough to stem the structural pressure on firms to relentlessly pursue short-term profits. Since public law grants private firms the ability to incorporate, public law can also be used to reform the firm's commitment to social obligations. Colin Mayer suggests the law should force companies to articulate their purposes, incorporate them in articles of association, and credibly commit to realising these purposes in practice, including through the company's culture, leadership, measurement, incentives, and performance. Through the law, all stakeholders would thus gain a point of reference to hold the firm morally accountable in their relations with it. It would also

[54] Anderson 2015, 188.

serve as a guide to the practices and organisational processes inside the firm. It is crucial that middle managers in particular back any purpose-based vision, since this is often where there will be the greatest pressure for divergence between a public-based mission and the realisation of short-term, profit-based results. A firm's internal structure and processes will need to reflect the firm's commitment to purpose.[55]

To that end, it is worth registering the potentially useful function of behavioural insights in the design of organisational processes so as to encourage those working at all levels of a firm to adopt ethical practices consistent with policies or purposes articulated at a high level. Iris Bohnet has made this case in relation to realising equality for women in the workplace,[56] but it can be applied more broadly to other challenges faced by companies, including in relation to money laundering risks. The key claim of this literature is that organisational processes – recruitment, meetings, symbols and iconography, performance measurement, recognition, and so on – can be designed in ways which integrate ethical objectives. The specific measures implemented would thus make ethical decisions and actions more readily adoptable, based on empirical evidence of what sort of measures work in practice. Rather than relying on individual virtue that runs against organisational culture, practices, and norms, a company would seek to align values-based goals in everyday operations. These organisational changes should not be viewed as solutions in isolation from broader social transformation. We should use behavioural design, then, without any illusion that such interventions would alone be sufficient for addressing structural problems. Wider change will also be required, for instance, to generate the kinds of accountability, commitments, and leadership needed to take hard decisions and ultimately to eschew unethical activity even when it threatens profits, or to ensure firms conform to the public interest as expressed in law and regulation without seeking to manipulate or undermine those standards (such as through lobbying) for self-seeking ends. Organisational design can serve structural reform without becoming a substitute for it.

The elements of radical reciprocity

While stakeholder theory points us broadly in the direction of structural reform, its dominant formulations remain insufficient for that task. Stakeholder theory is ripe, then, for *immanent critique*, that is, for us to use the theory's own criteria to identify what would be needed to realise its explicit or implicit aims. The radical potential of stakeholder theory, building on a disposition towards justice in relation to all stakeholders, is to make profit secondary, derivative to the pursuit of purpose, rather than a primary objective in its own right. Applied in a more

[55] Mayer 2018.
[56] Bohnet 2016.

comprehensive fashion to all stakeholders, stakeholder theory amounts to a new moral doctrine or ideal for for-profit firms which social norms, practices, and law could be reformed to support. Social institutions and policies would have to be redesigned to ensure that the pursuit of purpose does not degenerate into an instrumental goal, contingent on profit. Taking this radical core of stakeholder theory to the hilt would entail that some activities, and even some firms, may be legally permitted but still fall below the threshold of moral legitimacy.

We can call an approach which embraces a strict prioritisation of purpose over profit on the basis of the moral equality of persons, even where this entails eliminating some spheres of economic activity or entities, *radical reciprocity*. Unlike the idea of shared value, radical reciprocity actively guards against the degenerative risk of one-sided claims to "win-win" outcomes. Radical reciprocity repudiates the conflation of the firm's interests with the aim of profit-maximisation. Profit would remain important only as a derivative consequence of mutually beneficial relations with all stakeholders on terms which preserve respect, and thus build trust, given the moral equality of persons. In contrast to the standard stakeholder model, radical reciprocity demands this trust-building orientation from for-profit entities *even when less powerful stakeholders have not been able to articulate their claims directly*; that is, even when the voice of the stakeholder is silent due to institutional deficiencies or power imbalances in the social order. This approach demands, then, reciprocity based on substantive and objective connections pertaining to economic value creation and extraction. Radical reciprocity has implications for policy reform, since it implies law and regulation should, as far as possible, be used to close the gap between profit and purpose, and create a level playing field between firms within those parameters. Radical reciprocity would also apply to the professions, including lawyers, bankers, and accountants.

Radical reciprocity demands agents make themselves *vulnerable* to the point of elimination in cultivating a disposition towards justice in a market society hostile to such a disposition. This may require the agent to push the boundaries of ethical action in the market. The collective or individual agent must therefore learn to cope with vulnerability by drawing on a distinct set of virtues and economic capacities – creativity, ingenuity, coalition-building, entrepreneurialism, innovation, and so on – which strengthen their chances of ongoing viability. In this way, the *friction* generated when the agent takes a contrarian view of what constitutes value to the one that is encoded in the status quo market would afford that agent a certain amount of *space* – practical, perceptual, and moral – to allow themselves and others greater scope for such activity in the future. The potential to create such space is often greater than can be envisioned before taking action; it reveals itself through experimentation and iteration, and the disruption of

existing patterns of activity. Economic success, and reward, should be redefined to recognise this space-creating capacity of market agents.

If, however, the agent's viability is genuinely threatened, then a threshold question of *sacrifice* must be addressed. In some cases, this will entail sacrificing oneself as an economic entity of a particular kind, including to preserve a sense of honour, duty, esteem and so on. So, for instance, a legal firm that creates corporate vehicles may need to adjust its primary revenue-making activity if its business model is not viable without assisting those wishing to find loopholes in beneficial ownership regulations. Even where a licit pathway for continuing exists, the entity would have ethical duties to retreat, including as a contribution to an emerging ethos anchored in common good interests. Crucially, the entity would have this duty regardless of whether other entities fulfil theirs, not only as a matter of principle, but as part of an effort to relate to itself properly, that is, to maintain integrity in relation to its own purposes as a particular kind of entity. This would mean that agents which identify a structural injustice appear to have *more* demanding duties to contribute towards its reconstruction. This may appear to be a troubling view analytically, but not from the perspective of restless freedom. Individual agents implicated in such a case, in making a sacrifice for the common good, manifest a deeper appreciation of their own social reality, and an apt response to it. By fulfilling their ethical duties to disengage from certain types of economic activity, these agents develop a more robust basis for self-realisation, and flourishing, than those who persist in a material sense but are alienated from, or indifferent to, their social reality.

This raises a second crucial distinction between conventional stakeholder theory and radical reciprocity. Stakeholder theory remains within the bounds of *private reasoning*; it seeks to include more stakeholders in one's conception of interests. Radical reciprocity, in contrast, makes the twin goals of value creation and the elimination of value extraction *explicit with reference to the common good* since this is the only way to enter into mutually satisfactory relationships with all relevant stakeholders. Radical reciprocity aims, over time, to dislodge the stranglehold of prices as the key determinate of patterns in the market economy, while retaining decentralised initiative, reward for initiative that benefits common interests, along with private property rights where necessary to enable this pattern of initiative and reward. Through agential and institutional commitments to value creation over value extraction, radical reciprocity would provide a *solidaristic* basis for investment and exchange in a market, whereby the interests of others are given a status akin to one's own interests. Such solidarity would be exhibited to the extent an agent is genuinely committed to value creation over value extraction.

The social order – its laws, norms, and associations – should give agents relevant protections and material support so that their vulnerability in responding to injustice need not entail elimination. Such protection and material support can be deepened in a piecemeal fashion even before new standards of justice aligned with those advocated or embodied by the progressive agent emerge. That is, the state should provide protection and support on the basis that it seeks to stimulate pluralistic action in the market economy, without predetermining every form this action could take. In addition to providing suitable protections to deepen collective action and counteract free riding, the state and the citizenry can also reinforce the market agent's morally progressive activity by clarifying and amplifying public problems to be addressed. The state could empower and incentivise those market agents which respect their stakeholders and link their private activity with whole-of-society outcomes. So, for instance, a firm willing to act decisively on money laundering risks could be prioritised for public-private cooperative ventures. This would, in turn, put more pressure on other firms to adopt similar practices, or risk being viewed as laggards. In this sense, the morally progressive stance of an agent can transition from a source of vulnerability to a source of strength through a "race to the top" in terms of values-based alignment of private and public interests. Firms with a credible track record could also be afforded more voice in multistakeholder deliberations, alongside independent experts and civil society voices, to address a public problem.

Radical reciprocity would address at least three limitations of the conventional version of stakeholder theory. The first is its reluctance to grapple with the *epistemic* difficulty of identifying agents' roles in reproducing *structural* harms. In the case of globalised kleptocracy, many agents would claim that existing regulation *already* accounts for the relevant stakeholders. In reality, this phenomenon requires a different orientation, one in which agents recognise the injustice and its victims at a structural level and then seek out openings to address it individually and collectively. The stakeholder view, in contrast, can create a false illusion that an agent has fulfilled their responsibilities because the obligations to stakeholders identified *within the status quo* conception of the firm's social entanglements and moral obligations have been satisfied. The nature of structural injustice is that wrongs may not yet be recognised: radical reciprocity views the active, dynamic identification of affected agents and interests as an integral part of a for-profit entity's moral and social responsibilities. An entity's disinclination to adopt this exploratory, open-minded, and front-footed approach toward its own potential responsibilities would itself be considered a failure of responsibility, and a basis for social criticism.

A second, related limitation is that while stakeholder theory has potentially radical implications, in practice it tends to evade critical questions of *power*. Without empowerment through the law and new norms of dialogue, stakeholders may not have their interests properly addressed and

have little recourse when they aren't. Moreover, the questions of *who counts* as a stakeholder, and what their level of decision-making influence should be, are hugely consequential, and difficult to resolve from within the theory itself because these questions, if they are to be legitimately addressed, cannot be answered by the firm itself but must be answered by society as a whole.

Contrast this evasion in the conventional theory with Danielle Allen's argument for giving *political equality* primacy in a theory of justice. Allen asks: "What basic structure protects equal basic liberties in such a way as to generate social and economic dynamics that don't undermine those very liberties?"[57] This leads her to formulate a "difference without domination" principle which "identifies social patterning that does not eventuate in any group's having either direct or reserve control over another group, nor any individual's having direct or reserve control over another merely because of each party's social background."[58] In the economic realm, Allen suggests this shifts the emphasis away from a narrow focus on redistributive policy towards "egalitarian empowerment", including in the realm of production and in the relationship between economic power and political voice. It is this notion of empowerment which stakeholder theory, as it is currently conceived, decidedly lacks. While focused on safeguarding the minimal interests of different stakeholders, it is yet to realise, at least in practice or at a significant scale, the idea of mutually beneficial relations whereby stakeholder participation is considered an intrinsic good *because it secures each agent a substantively free – that is, non-dominated – place in economic life*.

The evasion of power in conventional stakeholder theory presents a potential blockage for change on an issue such as globalised kleptocracy. The victims of kleptocracy have little voice and are systematically rendered invisible in key arenas of decision-making. Recall how the way in which public wealth is stolen means these citizens may not even be aware of the details surrounding the injustices done to them. In these cases, a for-profit entity would have to include these victims as stakeholders – endowing them with rights and a voice – or as relevant members of society at large, *even in the absence of articulated claims*. The firm could act in trust to protect victims' interests, including by appointing designated agents to play this role, but the power asymmetry would remain stark. In that light, more creative, experimental channels to make marginalised interests salient must be considered, including in decision-making processes and financial reporting.

[57] Allen 2020, 37.
[58] Allen 2020, 45.

Existing models of stakeholder theory would not give the victims of kleptocracy an adequate voice in influencing management decisions. Addressing this deficiency will require firms to reimagine their embeddedness in *globalised* social relations, and to take the steps necessary to mitigate the harms which might ensue from the way those relations are currently structured. This would involve institutionalising the principle of global obligation put forward by Onora O'Neill: one owes ethical standing to any agents about whom one makes implicit or explicit assumptions when taking an action.[59] In the meantime, before such an inclusive vision of stakeholder theory is enacted, a plausible way for victims of globalised kleptocracy to be counted in the decision-making calculus of firms is through the establishment of public-private independent monitoring bodies or multistakeholder appointments to executive and governing positions in the firm. These recognised stakeholders could then advocate for the interests of others who fall within O'Neill's doctrine but are not yet sufficiently recognised within prevailing institutional structures. One immediate option would be to hold regular consultations between corporate executives and stakeholder representatives, including anti-corruption and financial transparency advocates, so as to facilitate frank exchange and potentially shift the psychological distance between corporate representatives and the victims of globalised kleptocracy.[60]

This raises the third limit of stakeholderism we should consider: the tendency to relegate the importance of ongoing *governmental action*, including at the supranational level, in addressing collective problems that cut across many interests. Though firms can work cooperatively to cultivate their purposes and fulfil their obligations, this is not generally a suitable *substitute* for addressing a collective action problem which requires multistakeholder coordination and robust enforcement. There is a risk that stakeholder models might mask how difficult it is for firms in practice to support governmental action and policymaking in specific domains where such action or policy directly conflicts with short-term profits. In the case of money laundering, for example, firms may welcome the opportunity to work with governments collaboratively to establish joint mechanisms for sharing information, while at the same lobbying against regulatory changes that would end the non-transparency of corporate ownership. Radical reciprocity entails a transformation in the way business relates to collective action through the state. This would include negative commitments to refrain from actions that would undermine justice or equality (such as lobbying for looser controls on corrupt money flows) and positive commitments, including cooperation on knowledge-sharing initiatives.

[59] O'Neill 1996.
[60] This idea is adapted from Hale 2003.

VIII. Equitable self-interest: a grounding social ethos

The discourse on stakeholder theory lacks an articulated grounding ethos which can guide agents to develop the requisite virtues and habits to enact it consistently in the face of countervailing pressures. I have argued a disposition towards justice is needed in the relationship between market agents and their stakeholders. More broadly, however, it is worth considering what kind of shared *social* ethos might be needed in the economy as a whole to underpin radical reciprocity, particularly in light of the space in my framework for private profit-making. Radical reciprocity extends the original stakeholder concept but my exposition of this idea has, so far, lacked any such ethos. Robust discussion, in the public sphere as well as intellectual debates, over what such an ethos could entail, is beneficial for both moral and strategic reasons. Morally, the articulation of a shared ethos for radical reciprocity offers the potential for shared terms of self-scrutiny and a deeper basis for making claims on others. Beyond market exchanges, it could be used as a heuristic in related sites, for example in the pedagogy of business schools. Strategically, the emergence of a shared ethos can support a compelling narrative of renewal and reconstruction of social relations in the economy, one with the potential to attract those who may be sceptical of radical reciprocity's feasibility or benefits.

A social ethos does not provide definitive institutional prescriptions. It is geared towards shaping practical attitudes and motivations embedded in ordinary activities and decisions. Institutional details aligned with an ethos would be developed experimentally as part of an ongoing, iterative process. The commitment to a grounding ethos in a particular domain is deepened through the process of solving real problems and collective struggle, rather than by way of stipulation or abstraction from above. In the economic domain, perhaps the function of normative theory in relation to a possible social ethos is to provide a plausible starting point for further democratic deliberation. This is at least what I will assume here.

At a normative level, stakeholder theory fundamentally destabilises the belief that rivalrous self-interest in pursuit of private advantage – the self-interest of utility-maximising economic payoffs – is axiomatic to economic interactions in the market economy. At the level of principle, radical reciprocity overturns this axiom. In its place, it offers the possibility for an alternative conception of economic interaction: agents can internalise a view which enables them to engage beneficially in decentralised initiative and enterprise in the market, while preserving and reinforcing the common good. Agents come to view their own success through the success of the whole of which they are a part. Borrowing a concept developed by Allen (who draws on Aristotle) in the civic and political realm, we can call this alternative ethos of market interaction *equitable self-interest*. As I repurpose it, this notion is both morally appealing and grounded in the

reality of a socially embedded market in which agents are able to be rewarded for their contribution to innovation, entrepreneurship, and material flourishing more broadly.

We can understand this notion in the first instance by considering how it applies to friendship. Whereas law is used to "restrain rivalrous self-interest", friends recognise "that if we always act according to our own interests in an unrestrained fashion, our friendships will not last very long." Friendship suggests agents can and should moderate their own interests *for their own sake* because they wish to preserve the relationship.[61] Friendship in this sense mirrors the goal of systemic resilience in the conception of economic value creation. Internalising this insight, agents would come to view the global economic and political order itself as a common *project* whose resilience must be assured over time in order for it to serve the interests of all who live within it. The danger of kleptocratic networks metastasising and ultimately undermining the core elements of democracy and self-determination of free peoples, even outside the most extreme kleptocratic states, makes this point about our interconnected resilience even clearer. The basic mutuality of social relations, in this view of global order, underpins the prospects for resilience.

Aristotle introduces the concept of "utility" friendships, or political friends, as when citizens who are strangers interact "in ways that look like friendship" even if "they don't feel like friendship" because they lack the requisite emotions.[62] For Aristotle, Allen explains, the core practices of the best friendships can be converted into "habits for resolving rivalrous self-interest into consent", including in political and commercial contexts.[63] The internalisation of equitable self-interest, I suggest, would enable agents in the financial sector to coherently commit to their moral responsibilities and civic duties even in markets which simultaneously offer the prospect of an economic return based on engagement in for-profit activity.

The key move I want to draw on is that equitable self-interest can make the social good, or public value, *internal* to one's own interests, transforming even what appears as a loss into something valued. In this sense, my argument builds on Aristotle's idea of friendship:

> In being a friend to their friend, friends care for their own good. For the good man in becoming dear to another becomes that other's good. Each party therefore both loves his own good and also makes an equivalent return by wishing the other's good.[64]

[61] Allen 2004, 126.
[62] Allen 2004, 127.
[63] Allen 2004, 127.
[64] Aristotle 1975, 8.5.5.

"Whereas rivalrous self-interest is a commitment to one's own interests without regard to how they affect others," Allen explains, "equitable self-interest treats the good of others as part of one's own interests."[65] This ethos turns out to be more radical the more it is cultivated, extending beyond justice as articulated in law. The divergent purposes and hopes of friends are able to be yoked to preserve equality, as well as each friend's security and autonomy.[66] Most importantly, it opens the door to a sustainable version of sacrifice. A friend surrenders "wealth and power for friends and country, confident that the honor he receives instead is the greater good." In a political order, "Ethical reciprocity begins with an act of sacrifice". This is because the order cannot "meet the requirement that every collaborative decision be a perfect bargain for all parties" over time. "Politics thus constantly opens exchanges that remain open for difficult lengths of time, or even forever," Allen explains, "and nothing but ethical reciprocity can make such delay bearable." Ethical exchange is made possible by friendship because it ensures "social contexts are shaped by equitable, not rivalrous, self-interest."[67]

What is true here of politics, I want to insist, is also true of social relations in an economy. We could ask: What would an *economy of friends* look like? And how would this social imaginary transform our economic practices over time? In light of this alternative possibility, there are at least three ways in which the pervasive notion of rivalrous self-interest can form a significant barrier to moral learning and progress. First, it may induce us to lose track of how *interests, including economic interests, have a history, which reveals their content is contingent*. In this sense, the very notion of "interests" is a conceptual innovation created and shaped by human action and ideas in different contexts across time. After all, we use concepts such as "narrow self-interest", "enlightened self-interest", "short-term interests", and "long-term interests" to make these distinctions. As Albert Hirschman cautioned, the concept of interests can easily become "diluted". He notes that during the seventeenth and part of the eighteenth century the notion of interest-guided action became ascendant, viewed as "vastly preferable to violent and unruly passions", while at the same time the interests of the non-elite majority came to be defined as "economic, material, or 'moneyed' interests, probably because the non-elite was deemed to busy itself with scrounging a living with no time left to worry about honor, glory, and the like." This helped "bestow legitimacy and prestige on commercial and related private activities that had hitherto ranked rather low in public esteem".[68] With the rise of capitalism, the "passions" of moneymaking and pursuit of private wealth accumulation progressively came to be identified with the calmer notion of "interest", regardless of how "passionate or irrational" such activity

[65] Allen 2004, 133-134.
[66] Allen 2004, 133.
[67] Allen 2004, 133.
[68] Hirschman 2013, 200.

actually was.[69] This suggests the concept is open to being reconceived and transformed in new circumstances, particularly as the image of humans as utility-maximising *Homo economicus* comes under greater pressure.

Second, the pervasiveness of rivalrous self-interest may induce us to lose track of how *humans are embedded in social relations*. Beyond market exchanges, people and societies retain numerous conceptions of their own interests which are tied to family, friendships, community, the nation, and humanity. Consider, again, the civic republican tradition which suggests we cannot separate the "interests" of the citizen from the realisation of values at the level of the civic community: the citizen sees herself in the social whole, and feels diminished by its moral failures. The notion that such conceptions of human interests cease to apply when agents engage in the market should be rejected. The goal should be, rather, to find meaningful ways to carry those values which inform a holistic conception of human interests into our economic life, whether as consumers, workers, managers, or investors.

Third, focusing on rivalrous self-interest may mean we lose opportunities to *more fully master economic life – to become empowered by it – by imagining what it can become*. Since we can reimagine finance and the market in more cooperative forms, aligned with our moral ambitions and values, we should guard against assuming that our current experience of economic life is the only possibility available to us.

By cultivating an ethos of equitable self-interest, "stakeholders" can be recast as "friends" (in the political sense), and a basis created for new habits and dispositions to emerge which cast the success of one's stakeholders as tantamount to one's own success. This ethos would help agents grapple with the way in which economic activity that appears morally trivial at the level of individual transactions can be cumulatively significant. The difficulty of recognising the significance of the wider pattern of market activity is highlighted by thinkers such as Hayek and Rawls. Each agent presses for their own advantage: the banker seeks another account, the law firm wants to retain their client, the real estate association wants to keep the next wave of investment flowing, the province wants to attract another foreign investor to use its corporate services sector so that it can retain those local jobs, the country wants its major financial centre to outdo rival centres, and so on. Once agents adopt this competitive pathology, the cumulative consequences of micro decisions are easily obscured, as are alternative ways to structure economic relations. An ethos of equitable self-interest, then, supplies a narrative and conceptual

[69] Hirschman 2013, 208.

frame for an alternative orientation to economic life, one which could underpin new institutional arrangements.

In the context of the market, the move to operationalise equitable self-interest at scale is only feasible if agents in general have robust protections that guarantee a level of economic security and welfare. This would enable, for instance, a just transition out of value extractive or exploitative activities, without pushing new groups into economic precarity. To the extent that the end of some extractive economic activities would destroy individual livelihoods, the state must guarantee a just transition through direct or indirect support. Beyond what it would standardly owe its citizens, this support would also reflect the state's duty to facilitate a polity's commitment to addressing structural injustice, including by compensating those unduly affected by the transition to a more just state of affairs (while avoiding creating a moral hazard). In the case of globalised kleptocracy, this means supporting the transformation of sectors and localities that are heavily reliant on poorly regulated global financial flows. For example, the state should systematically empower the enablers of globalised kleptocracy to redirect their skills and energies into productive activities, thereby allowing these agents to eschew value extractive activity without jeopardising basic welfare interests.

IX. Problem-solving democracy

A critical question with regard to agential elimination is whether a new ethos of equitable self-interest can find institutional support that would enable this ethos to grow in the absence of universal endorsement or enactment. This is especially important *prior* to robust institutional arrangements being established to safeguard a new justice norm. A moral ecology encompassing diverse agents could, over time, support the emergence of institutions which address a structural injustice, progressively creating further room for moral agency. While recognising the vital role of the state, we should also consider other elements of an emergent institutional order with the potential to shape the social ethos of the market, as well as the possibility of multistakeholder coalitions to address specific large-scale public problems.

In this light, it is worth considering the potential role of associational, or associative, democracy in our conception of a moral ecology of finance. The idea of associative democracy considers the potential democratic role of nonfamilial groups which operate between the level of individuals or firms and the state. These include business associations, civic groups, and labour unions. The theory of associative democracy helps recast what institutions matter in collective life, acknowledging a wider set of agents in a given social domain than is typical of other

conceptions of democracy. For a problem such as globalised kleptocracy, the associative model points to the responsibilities not just of states, firms, or individuals, but to the wide range of associations across economic, social, political, and educational life that could co-generate just institutions or norms, and provide accessible platforms for moral agency to challenge unjust practices.

Theories of associative democracy have traditionally focused on a reform program where power and decision-making is distributed across different groups in society.[70] Archon Fung summarises at least six ways associations enhance democracy:

> through the intrinsic value of associative life, fostering civic virtues and teaching political skills, offering resistance to power and checking government, improving the quality and equality of representation, facilitating public deliberation, and creating opportunities for citizens and groups to participate directly in governance.[71]

I do not take a view here on a key proposal of associative democrats to distribute decision-making powers. I am instead interested in the potential of associational life to generate new moral, conceptual, and social resources, and to heighten the tempo of participation in democratic life, thereby contributing to structural change. There are *already* a constellation of associations which are part of the institutional landscape in a domain such as finance, especially if we avoid an overly restrictive definition of what counts as an "association", and these could be empowered to join multistakeholder struggles against structural injustices. In the area of anti-corruption advocacy, civil society coalitions illustrate some of the potential of associations, though others kinds of associations would be in a better position to shape market dynamics.

Associations often play an important role in politics and society, including by helping "to set the political agenda, to determine the choices from that agenda, to implement (or thwart the implementation of) those choices and to shape the beliefs, preferences, self-understandings and habits of thought and action that individuals bring to more encompassing political arenas." To cite James Madison, some may act as "mischiefs of faction".[72] Given the role associations already play, it is vital that their contributions to collective life are aligned with broadly democratic goals and the interests of ordinary people, rather than serve oppressive or hierarchical interests. Like Joshua Cohen and Joel Rogers, then, I think we should "curb faction through a deliberate politics of association while netting such group contribution to egalitarian-democratic governance."[73] There are a range of contested values driving different associations

[70] Cohen and Rogers 1992; Hirst 1994; Cohen and Rogers 1995.
[71] Fung 2003, 515.
[72] Cohen and Rogers 1995, 7.
[73] Cohen and Rogers 1995, 44.

at a given moment. We can track these and the sources of organised influence, or potential sources of influence, shaping a particular social domain. This mapping is beneficial for addressing structural injustice. In practice, many agents do this kind of mapping in the course of pursuing their strategic objectives, but we should also consider how associational life and decision-making processes can serve distinctly normative goals, particularly in relation to structural injustices.

In pursuing restless freedom, citizens have an opportunity to use the associational life available to them to advance the goals of structural justice. The greater one's associational ties, the more intensive we should expect this participation to be. The goals of the citizen in associational life are best understood not in terms of decisive outcomes, but rather as a process of moral learning and social advancement over time, including through bottom-up experimentation and deliberation, and constructive contributions to the public sphere. What is crucial is to translate a vision for structural change *across* the constellation of relevant agents – encompassing citizens, firms, the state, and associations – in order to identify opportunities to advance moral learning and new possibilities for moral action. Associations can play a particularly constructive role in moral learning and social change in those areas where other institutions fail to obtain a legitimate or effective voice because they are too closely knitted with narrow conceptions of rivalrous self-interest, or are perceived as hostile to common interests. So, for instance, an individual bank may be wedded to a predatory profit-seeking model, whereas a professional association of bankers may be more open to engaging seriously with questions of moral and social values, and provide a platform for considering new normative standards and spreading ethical practices among peers. For the individual banker, too, the workplace and professional bodies will present different sorts of opportunities to address moral concerns.

Associative democracy can serve the aims of a broader idea of participatory democracy because associations offer pathways for citizens to shape the institutional life of society. The ideal of associative democracy helps generate conceptual resources to counteract, in particular, the inclination towards apathy and disengagement which Carol Pateman astutely observes in some models of electoral democracy.[74] Pateman argues in favour of a "participatory society" in which citizens have multiple ways to engage in political activity, very widely understood.[75] Her theory of participatory democracy is built on the idea that individuals and institutions must be considered together, and that maximal participation by all must be supported through "social training" for democracy, to develop "individual attitudes" and "psychological qualities",

[74] Pateman 1970.
[75] Pateman 1970, 20-21.

outside national representative institutions.[76] In making her case, Pateman draws on a longer tradition including Jean-Jacques Rousseau, John Stuart Mill, and G.D.H. Cole. Both Rousseau and Mill made the case powerfully for the capacity of people to learn to link their private interests with the public interest. Mill even saw industry, particularly its cooperative forms, as an arena where individuals could gain experience in managing collective affairs; the cooperative organisation could lead to "friendly rivalry in the pursuit of a good common to all… and the conversion of each human being's daily occupation into a school of the social sympathies and the practical intelligence."[77] Cole, meanwhile, explicitly formulated a theory of associations, viewing society as a "complex of associations held together by the wills of their members."[78]

Building on these reflections concerning the moral and social force of associative and participatory democracy, let me offer an alternative framing which may be more apt for progress against structural injustices: *problem-solving democracy*. The central idea of problem-solving democracy is that in social domains where an entrenched injustice has begun to be identified as a public problem, an inclusionary means of democratic participation should be established in which citizens, civic groups, firms, labour groups, public officials, and so on, can all be *crowded in* – empowered and incentivised – to jointly and individually find ways to address the problem. The range of concrete solutions would remain open, as would the specific formats for deliberation. The state could play the central role in coordination and agenda-setting, though it could give greater coordinating space to other agents because of their epistemic advantages, community ties, and so forth. In some cases, other agents may take the lead. The idea would be to create a standing forum for multistakeholder action. In the case of globalised kleptocracy, this forum could bring together different groups, enabling them to openly deliberate on strategies to prevent corrupt money flowing into a national economy. This forum could establish a joint public-private action fund, with a cross-sectoral board, to pursue the recovery of corrupt assets and invest in new prevention strategies. Different groups and individuals would be empowered to ensure the success of the forum's initiatives, and to identify complementary activities to support its objectives. The key shift here is not the specific measures themselves but the sense of societal and political momentum they generate, thereby sharpening wider perceptions of the problem and stimulating deeper institutional reforms.

A virtue of problem-solving democracy is that it avoids dogmatic blueprints on reforms in response to structural injustices. It would give us a way to take seriously the insight that citizens

[76] Pateman 1970, 42.
[77] Cited by Pateman 1970, 34.
[78] Cited by Pateman 1970, 36. See also Stears 2002, 168-198.

may be motivated to take action on multiple levels, including below or outside the level of the central state, and that these motivations can be channelled towards constructive social change on a large scale to tackle major societal challenges, even global injustices. In this way, we can adopt the notion of cosmopolitan patriotism, and localise and pluralise its implications all the way down and across society, for example extending it to professional associations (like those of bankers or lawyers), cities (such as those where stolen assets congregate), and graduate business schools (where the norms and practices of finance are reproduced). In each case, the moral agent would seek to advance civic ideals, such as freedom as non-domination, to help ensure the associational life of a society supports those values. Ideally, this constructive agenda could also help curtail the potentially self-seeking inclinations of associations by channelling energy and resources towards the common interests of society.

Leveraging associational power could be especially beneficial for addressing the problem of corrupt money flows as neither the state nor private firms alone can effectively regulate the problem by themselves.[79] Cohen and Rogers suggest these are the kinds of problems where associative governance can be especially helpful "because of the distinctive capacity of associations to gather local information, monitor behavior and promote cooperation among private actors." They suggest that in some cases the associative strategy could include enlisting associations "explicitly in the performance of public tasks."[80] Where associations might be expected to undermine egalitarian-democratic norms, Cohen and Rogers suggest counteracting this tendency by enlisting them to contribute constructively to reform, namely through information sharing, equalising representation, civic education, and alternative (social) governance. This may, I think, be especially relevant with regard to associations that represent the interests of powerful firms. Recall that most of the administration of the anti-money laundering regime has been outsourced to private firms already. A problem-solving democracy would reassert the essentially political nature of those arrangements in a way that would allow its values dimension to be more explicitly acknowledged and communicated. The state could restructure this arrangement so that public and private entities would be compelled to jointly resolve to root out corrupt money, overturning the perception of the anti-money laundering regime as a regulatory impost by the state that distracts from the real business of banking, lawyering, accounting, or managing real estate deals. This reframing of the problem has the

[79] Lisa Herzog specifically makes the case that bankers have shared responsibilities *as a profession*, including "to take steps to prevent systemic harms, or at least to minimize the risks of their occurrence." She suggests professional associations have the potential to form a collective focal point for efforts to share information, articulate commitments and hold parties accountable to them, and promote new ways to incentivise and improve ethical performance. See Herzog 2019, 536.
[80] Cohen and Rogers 1995, 45.

potential to disrupt the corrosive effects of legalism which undermines the current regulatory regime around corrupt money flows.

Professional associations specifically could make an alignment with moral values an integral part of a community of practice and peer to peer recognition, helping to counteract pressures to prioritise profit over purpose and championing radical reciprocity. These associations could be especially helpful in addressing the evolving threat of globalised kleptocracy, including with regard to sharing information so as to enable more discerning judgements on the boundaries between corrupt and noncorrupt activity in a world where private and public power is increasingly merged.

Despite these democratic possibilities, the phenomenon of globalised kleptocracy makes it clear there will be areas of law and regulation where centralised, albeit democratic, decision-making must be retained. Ideally, we should combine strong but accountable, high-integrity central state power with vibrant, experimental, bottom-up agency. This combination would ensure standards and enforcement are robust. On globalised kleptocracy, the status quo combines legalism (the crowding out of morality and politics) and weak rule of law (specifically an unwillingness to subject corrupt wealth to tighter control). A problem-solving democracy would help us abandon legalism while emboldening a vigorous embrace of the rule of law.

X. Conclusion

This chapter has made the case for anchoring global financial interconnectedness in the realisation of economic value in the real economy and, ultimately, embedding markets in social relations characterised by justice and reciprocity. As individuals, firms, and states build their commitments and skills in channelling finance towards the realisation of economic and social value, they should concomitantly enhance their abilities to radically curtail forms of value extraction. The project of stemming the flow of corrupt money can be integrated into that larger objective; after all, kleptocratic wealth is an extreme form of value extraction. To make this transformation towards a new moral economy viable, firms and professions will need to recast their basic purpose in terms of reciprocity with their stakeholders, prioritising this over profit. This shift would be grounded in a shared social ethos of equitable self-interest which sees the prosperity of the other – and the ongoing resilience of collective life – as integral to one's own flourishing. Individuals and firms can meaningfully advance that revolutionary task, and the state must promote, reinforce, and protect it. Associations in a democracy can also be empowered to play a constructive role in institutional renewal, not necessarily through the

dispersal of decision-making authority but by engaging the citizenry as widely as possible in the realisation of a polity's ideals, including those of justice and equality with a global scope.

Conclusion: Towards a Globalised Moral Economy

I have offered a normative account of globalised kleptocracy – the nexus between grand corruption and transnational financial flows which enable the wealth stolen from citizens to find protection in regular markets. I covered two broad levels of moral response. The first level focused on liability for those complicit in perpetuating specific transgressions against a global anti-kleptocracy norm. I tried to demonstrate the limits of this approach when it functions in isolation from wider social and moral forces. My focus therefore moved to a second level of response: to recast the phenomenon as a structural injustice, embedded in wider patterns of social and economic relations. This account of the phenomenon, offered in Chapter 1, brought moral agency for structural transformation to the fore of my inquiry.

In Chapter 2, I tried to show how the status quo anti-kleptocracy regime has failed to respond from this structural perspective. Like other structural injustices, globalised kleptocracy is perpetuated through largely normalised behaviour and practices. Policies which seek to address these behaviours and practices, including the global anti-kleptocracy norm, are mostly impotent because they neglect the background social processes which enable the flow and protection of corrupt wealth. As the *injustice* of the phenomenon goes unacknowledged, we fail to register the legitimate and morally weighty interests of its victims, and undermine the possibilities for social change. Under the status quo, we have traded structural transformation for a legalism which crowds out morality and politics, and thus crucial aspects of moral agency.

In Chapter 3, I developed the conceptual apparatus of *restless freedom*, an ideal which underpins active moral agency against structural injustice. In light of the idea of moral progress and the role of human agency in it, this form of human freedom pertains to the realisation of our potentialities to contribute to progress against structural injustice. This conception of freedom makes our response to structural injustice internal to self-realisation by taking seriously the need for an apt relation between the self and an unjust world. It is restless because it is active, open-ended, and cannot be definitively resolved.

Restless freedom as a response to structural injustice faces two dilemmas of agential paralysis: powerlessness and elimination. In Chapter 4, I addressed powerlessness by trying to dissolve persistent scepticism that individual agents cannot ground their responsibilities for addressing global structural injustice in a viable phenomenology of agency. By combining an argument

about the radicalism of small acts and the potential of moral imagination, I offered a *dynamic phenomenology of agency* which provides an agential basis for individual global responsibilities.

Finally, in Chapter 5, I addressed the problem of elimination by attending to the wider project of transforming the market economy by addressing the legitimate interests of all stakeholders of market activity. In the context of finance, I drew particular attention to the distinction between value creation and value extraction, and sought to show that the ambition for a stakeholder theory of market relations should be radicalised through what I called *radical reciprocity*. Radical reciprocity prioritises purpose over profit among for-profit entities so that value extracting activity in the economy becomes acutely marginalised and stigmatised, and accepts the need for an institutional order to support this ambition. Under radical reciprocity, agents are empowered to create friction by adopting a conception of value creation or extraction which deviates from an unjust status quo. They permit themselves to become vulnerable by advancing a disposition towards justice in market relations and learn to cope with the threat of elimination. The success of an agent on these terms generates opportunities for greater moral agency, both for themselves and others. Over time, this dynamic can contribute to the emergence of a contemporary form of moral economy, one grounded in a social ethos of *equitable self-interest*. This new moral economy would address the concerns of the victims of globalised kleptocracy as an integrated aspect of the social and economic order. In this conclusion, I offer further reflections on this possibility via the idea of rooted cosmopolitanism as it might pertain to economic life, through what we might call a *globalised moral economy*. This idea ties together different threads of my argument and offers provisional material for further inquiry in normative political economy and political theory.

I. Structure, agency, and progress against globalised kleptocracy

In avoiding the pitfalls of a technocratic approach to the problem of globalised kleptocracy, we encounter far-reaching questions about ways of life, moral identity, and social change. The nature and scale of the problem demands this kind of reckoning. My account of globalised kleptocracy has suggested that the phenomenon is linked to aspects of the competitive market economy driven by incremental gains in economic growth and profit, that is, a reductive conception of economic value. Without considering the moral quality or social dimension of profit-making activities (on the micro level) or economic growth (at the macro level), including how the dynamics of the market pertain to questions of equality, progress against the wrong of globalised kleptocracy will be impeded. Agents in the market should, therefore, refashion their habits and dispositions to align with a new conception of value creation that generates the moral

and social resources needed to control the extreme value extraction of globalised kleptocracy. And law and public policy should empower them to undertake this task.

The struggle against globalised kleptocracy, in this light, is to a great extent one of moral imagination: to reconceive how the world works and our place in its transformation. We must critically discover and make salient the injustice of the phenomenon, recognise its victims, commit ourselves to reconstructing the discourse and norms which perpetuate it, and undertake the experimental work of institutional innovation and renewal. These are the moral tasks of many: bankers, professionals, investors, journalists, regulators, politicians, and ordinary citizens. Complex structural injustices, viewed from the perspective of an ecology of moral progress, presented multiple openings for constructive human agency.

Whereas notions of responsibility, including Young's conception of political responsibility, tend to treat agents as having distinct interests and goals which then must be adjusted in response to a structural injustice, the idea of restless freedom offers a different way to conceive of the relation between the self and an unjust world through the mastery of one's roles and activities. Restless freedom is based on how agents fashion a sense of their own selves – their purposes, identities, interests – *through* their perceptual and practical response to structural injustice. Responsibility flows, then, not as a burden but as a means of self-realisation in an unjust world.

Unlike conceptions of freedom that are rooted in safeguarding immediate interests, or Rawls's outer limit of freedom which is retrospective, restless freedom is a form of freedom oriented to the future. Restless freedom concerns the human capacity to shape future norms and social institutions, to manifest the hopes of our moral imagination, step by step and in cooperation with others. If moral progress is not limited to moments of historical crisis but is possible to advance in some form at *any* moment, then it is a deprivation of the soul to be denied pathways to contribute towards such advancement. The realisation of restless freedom is thus connected to enlarging society's collective capacity to break out of the stagnation or complacency which restricts moral progress. A vitally important task is to make this breakout capacity universal, so that each person develops the skills, virtues, concepts, and ideological space to realise their own capacity for furthering reconstruction and renewal of the world, defined in proximate terms to the agent's own circumstances and context. The practical expression of restless freedom may well provoke disappointment, and even scorn. That scorn might come from vested interests or cynicism and apathy from those wishing to avoid disruption and preserve the status quo. For the agent possessing it, though, restless freedom is emancipatory because their understanding of social reality is illumined and their active relation with the world is apt.

II. A new moral economy

I have suggested that economic relations, and interactions in financial markets in particular, should be guided by an ethos of equitable self-interest, translated into habits and dispositions where the good of one's stakeholders come to be perceived as one's own good. My conjecture is that such habits and dispositions, and the ethos they deepen, could facilitate the emergence of a moral economy in which agents are able to incorporate moral commitments into economic life increasingly over time. I have tried to show that there are currents of thought and practice which make such a conception of market relations not only conceivable but practicable if we are willing to subject these currents to immanent critique and radicalise them. To be sure, this new moral economy would not be an integrated system, brought about in a revolutionary moment, but an ongoing experiment of social order-building.

The distinction between value creation and value extraction is perhaps the most potent conceptual resource in this transformative process. Viewed as an iterative judgement about the intentional ends of economic life, one that is internal to economic practices and promoted by institutions, rather than a definitive list of valuable activities, this distinction draws our attention to the possibilities for a new ethos of social relations inside the economy. The great success of the marginalist economists was not only their influence over institutional design and public policy, but also in shaping how agents think about themselves and their relationships with others in the market. In this regard, neoclassical economists were building on other thinkers since Adam Smith who had begun to separate economic questions from, as Karl Polanyi put it, "the moral world of which the body politic had hitherto formed part".[1] What is true about this process of separation is even more true with regard to finance, where the price-as-value assumption has become largely unquestioned. This mindset locks in a one-dimensional view of the human in which *rivalrous self-interest*, or what Aristotle called *pleonexia*, is the prevailing paradigm of human interaction. *Pleonexia* means "'wanting more than' – more than someone else, more than what one deserves, more than is consistent with concord in the city."[2] Equitable self-interest seeks to dethrone rivalrous self-interest as the dominant mode of market relationships, serving as a shared social ethos for the transformation of stakeholder theory into radical reciprocity. Radical reciprocity takes social connection and power relations seriously, including in a globalised market context, and embraces cooperation across sectors to address public problems.

[1] Polanyi [1944] 2002, 117.
[2] Allen 2004, 126.

A theory of the firm which integrates all stakeholders challenges the supposed naturalism of rivalrous self-interest in the market economy. If we adopt a reciprocity-based conception of the nexus of relationships that constitute a firm, then we must make judgements about how it should balance the interests of diverse stakeholders. These judgements, embodied in practices, can remake our economic way of life over time. Firms would have to articulate their public purpose and make tangible commitments to realise this. In what I have called a problem-solving democracy, associations of different kinds would be turned into platforms for channelling information, ideas, energy, and coordination towards whole-of-society goals. Structural injustices such as globalised kleptocracy could be reframed as public problems, enabling more agents to find more opportunities to realise their own capacity to address it.

The normative vision here rests on a premise that humans in financial markets retain their status as holistic moral beings even as they seek rewards for their work and investments. Bringing coherence to these aspects of life is a revolutionary task for economic thought and practice. Progress on this task could help us address globalised kleptocracy, and moral learning on this specific problem can support or prefigure wider transformation of the market economy. The systematic tendency in economic thought since the marginalist revolution is to adopt a reductive view of interests, or self-interest to be more precise, which relegates the moral identity of persons to a secondary, constraining force in economic transactions. This is a moral mistake which is, moreover, based on highly partial empirical assumptions (though these can be self-fulfilling). It assumes that the material interests of agents can be separated from their moral interests, even when agents in the real world value a plurality of ways of living and flourishing, or that moral interests do not play a functional role in economic life, even when it is clear that an economy detached from morality will fail to empower ordinary people.

Few domains of social life would seem to lend themselves to such a reductive view of interests as self-seeking utility maximisation than that of finance. This view of interests is, in a sense, built into many of our beliefs about financial activity in a market economy. Yet even the inhospitable terrain of finance is not reducible to the calculation of interests understood narrowly in terms of utility-maximising economic payoffs. Against the dominant mode of thought and practice, finance is best understood as an instrument for deepening and expressing human values and enlarging the capabilities of all. To the extent that our institutional arrangements and ideological thinking limits this from being realised, these arrangements should be subject to reform and reconstruction. As agents act on their commitment to an ethical conception of finance, friction is created within an economic and social order that is antagonistic to such an orientation. That friction creates opportunities – or space – for advancing structural change, in a piecemeal and experimental fashion, over time. Rather than inviting elimination as a viable

entity, action creates room for greater moral agency in the economy over time, and it spurs institutional reconstruction and renewal.

III. Towards a global moral economy

A critical question raised by the phenomenon of globalised kleptocracy is whether the ethos of equitable self-interest can be applied in relation to solidarity on a *global* scale. This globalising move is a core part of my conception of radical reciprocity. Can a new ethos help reorient citizens of one state to see the good of their own community, including its economic life, as bound to the good of those outside? Equitable self-interest reframes one's own interests to incorporate a sense of belonging to a global community which, in turn, preserves the success of collective life at lower levels, including the national polity. Equitable self-interest can orient us, then, towards realising the ambition of a *rooted cosmopolitanism* that reconciles a commitment to universal freedom with our attachments to communities at different levels.[3] This rooted cosmopolitanism would animate us to give up a "priority to the demands of immediacy" whenever such priority reinforces "structural privilege in our interactions",[4] *without* perceiving this an abandonment of more local attachments. In this moral outlook, globalised kleptocracy would come under intense pressure, since it is a phenomenon which supplies privileges for an elite few off the back of the oppression of others. Ending the value extraction of grand corruption inside kleptocracies, which masquerades as value creation in those societies where stolen wealth finds a haven, would become a collective project of justice.

Equitable self-interest can also be scaled up to the level of relations between states. Consider, for instance, the way in which democracies claim to pursue their self-interest by attracting capital flows. When this permissiveness extends to corrupt money, however, it begins to undermine their long-term interests. This is because the cumulative effects of grand corruption undermine global order. Such an order relies on individual countries building the rule of law and inclusive prosperity, something that kleptocracy attacks directly and also corrodes over time as the influence of kleptocratic networks spread transnationally, imperilling even apparently strong democracies. To the extent that kleptocracy entrenches an authoritarianism which undermines global peace and security, kleptocracy also becomes a threat to the security of all. One's own interests, and the interests of one's national society, are ultimately safeguarded by the good of an equitable order for all people and all nations. A new moral economy and our material interests are not so far apart, if only we can learn to see those interests anew.

[3] On rooted cosmopolitanism, see Appiah 2007. On the connection between rooted cosmopolitanism and equitable self-interest, see Parham and Allen 2015.
[4] Young 2011, 164.

A deeper, restless freedom unleashes our capacity to contribute to the development of a global moral economy which builds on transformation at more localised levels, in one's community, firm, profession, or national polity. In the face of global structural injustice, these different sites are constitutive parts of a unified moral ecology. They are sites where the self must reconcile itself with an unjust world. Amid global injustices that draw us into connection with others across borders, as kleptocratic wealth does so tragically, freedom for the self *is* the struggle to end the unfreedom of others.

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