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Why Corporations Are Not Morally Responsible for Anything They Do

Manuel G. Velasquez, S.J.

Does it really make any sense to say that corporations are "morally responsible" for their wrongful actions? Granted, we often and easily assume that saying this makes perfectly good sense. But a moment's reflection might make us pause before so easily attributing moral responsibility to corporate groups. It is relatively clear what we mean when we say that a human individual is morally responsible for some wrongful act. Simplifying somewhat, we mean, at least, that the individual personally performed or helped to perform the act, that she did so intentionally, and that she is justifiably liable to blame and perhaps punishment. It is not equally clear what we mean when we say that a group of individuals is morally responsible for a wrong--that the Ford Motor Company, for example, is "morally responsible" for causing the deaths of many of those killed in Pinto accidents. Clearly we do not mean that everyone in Ford caused or helped to cause these deaths. Nor do we mean that everyone in Ford should be blamed or punished. Perhaps we mean that the responsibility attaches not to each individual in the group but to "the group as a whole." But what is "the group as a whole" if not every individual in the group?

These are puzzling questions. They are questions that I want to address because of their pivotal importance to the way in which we approach ethical issues in business. On the one hand, some authors assume that only human individuals can properly be held morally responsible and, consequently, think that the proper subject of a business ethic is the individual business person.¹ Other authors assume that moral responsibility should also be attributed to corporate groups, as entities distinct from their members, and, consequently, hold that the corporation must be the (or at least a) primary subject of a business ethic.² I want to show that this second approach is largely mistaken: I will argue that it makes sense to say that a corporation is morally responsible for a wrongful act only as an elliptical (and somewhat dangerous) way of saying that certain human individuals are morally responsible for that act.

I

To fix our sights let me begin by identifying the kind of responsibility that is at issue here, and let me do this by distinguishing different kinds of responsibility. First, the term responsible is sometimes used to mean

"trustworthy" or "dependable," as when we say, for example, "Gonzales is a responsible administrator." In this "aretaic" sense, the term denotes a quality of moral character.³ Second, the term responsibility is sometimes responsibility of business is to serve the public," or "Business has the responsibility of serving the public." In this second sense, the term is usually used to look toward the future, toward what still has to be done. Third, responsibility is sometimes used to indicate that an action or its consequences are attributable to a certain agent, as in "Jones is responsible for yesterday's highway accident." In this third sense, it is used to look toward the past, toward something that has already been done.

We can set aside the first, or "aretaic," sense as well as the second, or "forward-looking," sense. My interest here is in the third, the backward-looking sense. But there are several varieties of this backward-looking sense. First, "X is responsible for Y" may mean simply that X is "the" or "a" cause of Y, as in, for example, "The storm was responsible for last night's power failure." Here, responsibility is roughly equivalent to causality and is attributable to purely natural agents. Second, "X is responsible for Y" may mean X must pay for the damages arising from Y, as in, for example, "The parent is responsible for the acts of his child." Here, responsibility is roughly equivalent to compensatory liability and the person who is held responsible for compensating an injured party for the damages arising from an act need not even have performed the act for which he or she is held responsible. We determine compensatory liability on the basis of a variety of considerations, such as social efficiency, distributive justice, ability to pay, and relationship to the agent. Third, "X is responsible for Y" may mean that X intentionally brought Y about, as in "Hitler was responsible for the deaths of millions of Jews." Although this third sense of responsibility incorporates elements of the first two senses, it nonetheless differs from each of them in important ways. Unlike the first sense, the responsible party cannot be a purely natural agent, since intentions can be attributed only to agents that can act on reasons. And unlike the second sense, the responsible party must have brought about or helped to bring about the act for which he or she is held responsible: unlike compensatory liability, this third kind of responsibility does not transfer to other parties.

Now it is this third type of responsibility that concerns me and it is the type to which I will be referring when I use the term moral responsibility. This type of responsibility is rendered explicit in the classical (i.e., the nineteenth-century common law) notion of criminal responsibility, which is often taken to be a legal rendition of our common understanding of moral responsibility, but one that is subject to the practicalities of legal enforcement. In its classical form, criminal responsibility requires both an actus reus and mens rea. That is, the accused will be found criminally responsible for a wrongful act only if (1) he personally brought about the wrongful act (i.e., the act was the conventional or causal result of his own bodily movements) or he personally helped to bring it about or he failed to prevent the act when he could have and should have, and (2) he did so intentionally (i.e., he was in voluntary

control of the bodily movements that resulted in the act and he knowingly carried out those bodily movements in order to bring about that act or knowingly refrained from carrying out the bodily movements that could have prevented the act). I am, of course, oversimplifying, since most systems of criminal law incorporate a variety of qualifications pertaining to omissions, crimes of possession, defenses, conspiracies, and so on. But at this juncture, the only point I want to make is that the kind of responsibility for wrongdoing with which I am mainly concerned is the kind that lies at the core of the classical notion of criminal responsibility--the kind that we attribute to an agent only if the agent brought about the wrongful act or helped to bring it about through his own voluntary bodily movements (or omissions) and only if the agent intentionally brought about the act through those movements (or omissions).

The philosophical roots of this notion of responsibility stretch back to scholastic doctrines on "imputability." These doctrines are nicely summarized in Kant's Metaphysics of Morals, where he writes:

An action is called a "deed" insofar as it stands under laws of obligation and, consequently, insofar as the subject is considered in this under the aspect of the freedom of his will. Through such an act, the agent is regarded as the originator of the effect, and this effect together with the action itself can be imputed to him if he is previously acquainted with the law by virtue of which an obligation rests on him. . . . Imputation in its moral meaning is the judgement by which someone is regarded as the originator (*causa libera*) of an action, which is then called a "deed" (*factum*) and stands under laws.⁴

As Kant's summary indicates, to say that an action or an effect is to be morally imputed to an agent is to say that the action or the effect "originated" with that agent and that the agent knew the action was morally right or wrong. In the scholastic doctrine that Kant is summarizing, an action or an effect is said to "originate" in an agent if that agent directly⁵ carried out the bodily movements that constituted the action or that had those effects and if he did so intentionally--that is, the movements were his conscious execution of a freely formed intention to perform the action or achieve the effect. This philosophical notion of responsibility as moral imputability coincides with the legal notion of criminal responsibility on all points but one: whereas the philosophical notion requires knowledge of the moral rightness or wrongness of the act, the legal notion of criminal responsibility generally does not require knowledge of the legal rightness or wrongness of the act. This difference, however, can be attributed to the fact that enforcement of a law would be a practical impossibility if ignorance of the law were a generally acceptable defense.

In any case, the core concept of moral responsibility that I am trying to identify is the concept that is present in both the philosophical and the legal notions: moral responsibility is the kind of responsibility that is attributed to an agent only for those actions that originate in the agent,

insofar as the action derived from the agent's intentions (the *mens rea* requirement) and from the same agent's bodily movements (the *actus reus* requirement). This notion of "origination" is thus tied to a concept of human beings as having a certain kind of mental and bodily unity. An agent originates an action in this sense when (1) he forms a plan of action or intention in his mind and (2) he executes this intention through bodily movements over which he has direct control. The presence of this direct control is normally expressed by speaking of a body as "belonging to" oneself. The body over which I have direct control is the body I refer to as "my" body, and any actions for which I am morally responsible must be brought about by this body.

As a glance in the pages of a dictionary will show, the meaning of this kind of responsibility is conceptually tied to another set of notions: liability to blame and punishment. To say that a person is morally responsible for an act is to say that the person is justly liable to blame and punishment. But neither blame nor punishment are appropriate (i.e., morally justified) when a person is not morally responsible for an act in the sense that I am trying to identify. That is, if an act is not the (causal or conventional) result of my own, direct bodily movements (or omissions) or if it is not an intentional consequence of these movements, then it is not appropriate to blame or punish me for the act.

Although I do not have the space here to explain fully why liability to blame and punishment are conceptually tied to moral responsibility, it is important for my argument that I indicate briefly, at least, why blame and punishment are justified when and only when a person is morally responsible for a wrong. Blame and punishment are conceptually connected to moral responsibility through the medium of familiar moral principles.

First and most well known is the classical utilitarian justification for attaching blame and punishment to intentional wrongdoing (i.e., to wrongs for which one is morally responsible): by blaming and punishing wrongdoers, we deter them and others from doing wrong in the future.⁶ It would do little good to attach blame and punishment to unintentional acts, since these are acts over which the agent has no control and therefore cannot be deterred from performing by the prospect of blame or punishment. Nor would our utilitarian principles be satisfied if we were to blame or punish one person for acts brought about by the bodily movements of others. True, we might thereby be led to take greater pains to prevent each other from doing wrong, but the psychological costs of this method of deterrence would be certain to outweigh its benefits (or so utilitarians tell us).

Less familiar are the deontological rationales for attaching blame and punishment to wrongful acts we intentionally bring about through our own bodily movements. One kind of deontological rationale rests on a version of the principle that persons should be treated only as they have freely consented to be treated. On the basis of this principle, blame and punishment are justified insofar as we have consented to them or would consent to them if a choice were possible.⁷ To see how such consent is possible, consider

that each member of a society may be viewed as having consented to forbear from harming others on the understanding that others will forbear from harming her. But no one would consent to such an arrangement without some assurance that everyone is going to comply with these restraints. Insofar as the members of society see that blame and punishment for wrongdoing are necessary to secure such compliance, they consent to attach blame and punishment to wrongful acts. However, they would consent to attach blame and punishment only to an agent's own, intentionally committed wrongs because rational persons would not consent to an arrangement by which they could not determine by their own, direct movements whether they will be subjected to blame and punishment. Moreover, by blaming and punishing a person only for her intentional acts, society is treating her as she has consented to be treated. For in freely choosing whether or not one will engage in punishable acts, one is freely choosing whether or not one will be punished. And the punishments themselves are of one's own choosing, since one has consented to attach such punishments to such wrongful acts.

A second kind of deontological justification for punishment rests on the natural-law theory that wrongdoing constitutes a disorder that must be set right if justice is to prevail.⁸ According to this view, there is a certain set of relationships among rational agents that is just, and departure from these relationships is an injustice. That is, when a wrongdoer departs from these relationships, he acquires an advantage over others that is not his due. Punishment is required to put the wrongdoer back in his proper place by taking something from him that is equal to the unjust advantage he acquired by his wrongdoing. However, a person is to be punished only for wrongs he personally committed, because if one person is punished for the act of another agent, the wrongdoer would not be put back in his place: instead of restoring order, the punishment would introduce additional disorder. Moreover, only intentional acts are to be punished, because only in their intentional acts are rational agents conceived as acting: to punish an agent whose action is unintentional is to punish someone who has not truly acted.

I have only sketched these three kinds of moral rationales for attaching blame and punishment to moral responsibility. All three rationales, I believe, are present in our common understanding of blame and punishment and in our understanding of the way in which liability to blame and punishment are conceptually connected to moral responsibility. What is crucial to notice is that all rationales connect moral responsibility to blame and punishment through the mediation of moral principles that require that blame and punishment be inflicted only upon agents in whom wrongful acts originate; that is, only upon agents who intentionally carried out with their own bodies the direct movements that constituted or brought about the wrongful acts.

These comments should suffice to identify the concept of moral responsibility with which I am mainly concerned in this essay. The kind of moral responsibility I am talking about is the kind that lies at the heart of the classical notion of criminal responsibility and of the classical idea of

moral imputability and that serves as the basis for justified blame and punishment through the mediation of several moral principles. It is thus a concept that is embedded in a network of psychological, physiological, and moral concepts.

II

Now let me return to the main question: Does it make any sense to say that corporations are morally responsible for the wrongs they commit in the sense of responsibility that I have just identified? Peter French has laid out the most extended and strongest arguments for the view that moral responsibility can legitimately be attributed to a corporation as an entity logically distinct from its members.⁹ The defects of such a view will become obvious if we examine his argument. French argues that corporate organizations can be held morally responsible for their acts because (1) they perform actions that can be attributed only to the corporate organization and not to any of its members and (2) they perform these actions with intentions that can be attributed only to the corporate organization and not to any of its members. Corporate organizations, then, seem to act and they seem to do so intentionally.

French's arguments are significant because they try to show precisely what must be shown if one is to demonstrate that corporations are morally responsible for their acts—namely, that corporations embody the two requirements that are at the heart of the philosophical and legal notions of responsibility: an *actus reus* and *mens rea*. Nonetheless, French is wrong. He is wrong because corporate acts do not originate in the corporation but in the corporation's members.

Consider, first, the requirement of an *actus reus*. Obviously the acts attributed to corporations are not acts that are performed by the corporation as an entity distinct from its members, since corporations do not act except through their members. A corporation may be considered either as a fictitious legal entity to which actions are conventionally attributed or as a real organization comprised of several members whose own actions causally bring about or constitute the corporate act. Considered as a fictitious legal entity, the corporation is related to its members as a legal "principle" is related to those "agents" who are empowered to act on its behalf and whose acts are conventionally attributed to the legal "principle," although the "principle" did not actually perform those acts. Considered as a fictitious legal entity, then, the corporation obviously does not perform any bodily acts itself and it is only by way of a convenient fiction that acts performed by others are conventionally attributed to the corporation.¹⁰ On the other hand, considered as a real organization, the corporation is related to its members as an organized group is related to the individuals who comprise the group. It may thus appear that when a corporate member acts the corporation may be said to have performed the act of the member, much as when a person's bodily limb moves the person is said to have moved his limb. But this similarity is deceptive, because a

group, unlike a body, is made up of autonomous individuals. The individuals who make up the organization are autonomous in the sense that each individual can choose not to carry out the direct bodily movements necessary to bring about the corporate act. And this autonomy is due to the fact that the body of each member is under the direct control not of the corporation but of the individual member. But moral responsibility for an act, as we have seen, can be attributed only to that agent who originated the act in his own body, that is, in the movements of a body over which he has direct control. In corporate agency, action does not originate in a body belonging to the corporation to whom the act is attributed, but in bodies belonging to those human beings whose direct movements constituted or brought about the act that is then attributed to the corporation. Consequently, whether considered as a fictional legal entity or as a real organization, corporations do not originate acts in the manner required by attributions of moral responsibility--namely, by directly moving one's own body.

Moreover, in view of the relationship between moral responsibility and liability to blame and punishment that I sketched out above, it is clear that it is inappropriate to attribute moral responsibility to a corporation on the basis of acts performed by its members. If we hold an agent morally responsible for acts that originate in other agents, we will violate the moral principles that connect moral responsibility to blame and punishment. For, as we saw, to say that an agent is morally responsible for a wrongful act is to say, in part, that the agent is justifiably liable to blame and punishment. But the moral principles that thus attach blame and punishment to moral responsibility require that agents be blamed and punished only for those acts that originate in bodies over which they have direct control. Since the acts of a corporation are constituted or brought about wholly by bodily movements that are under the direct control of agents other than itself, it is inappropriate to blame or punish the corporation for those acts.

It is true, as French points out, that some corporate acts cannot be "attributed" to its members in the sense that such acts cannot be predicated of its members. When one corporation merges with another, for example, we cannot say of any individual member that he has himself "merged." But this does not imply that the individual member is not morally responsible for such corporate acts. An example may clarify this point. Suppose I deliberately chop down a tree and the tree falls. The fall can be predicated only of the tree (i.e., it is then correct to say, "The tree fell"); it cannot be predicated of me (i.e., it is not correct to say "I fell"). Nevertheless, I am morally responsible for the fall of the tree since I am the one who intentionally brought it about. Similarly, there are a variety of corporate acts that can be predicated only of the corporation (such as mergers, entering into certain contractual arrangements, bringing legal suits, etc.) and that cannot be predicated of the corporation's members. Nevertheless, the corporation's members can be morally responsible for such acts, since they are the ones who bring about all corporate acts. A corporate merger, for example, is an act constituted by or brought about by the bodily

movements of certain of the corporation's members. (This does not mean that corporate acts are "reducible" without remainder to acts of individuals: corporate acts require a certain social context and the existence of certain constitutive rules.) Those corporate members who intentionally bring about a corporate act through the medium of their own bodies are as morally responsible for the corporate act as they are for anything else they intentionally bring about. It is a mistake to assume (as French does) that when some act can be predicated only of a corporate group, the corporate group must be the locus of the moral responsibility for that act. Moral responsibility for a corporation's acts lodges with the agents who bring about those acts and not with the corporate entity of which the act is predicated.

French is also wrong in claiming that the intentions we attribute to corporations are the kind on which moral responsibility rests. He is wrong, that is, with respect to the *mens rea* requirement. According to French, corporate "intentions" may be inferred from the corporation's official policies, decision-making procedures, and lines of authority, to which corporate members must adhere and which are typically designed to ensure that the concatenated decisions and actions of these corporate members will achieve certain objectives. French calls this system of policies, procedures, and lines of authority a "CID" (for Corporate Internal Decision) structure that "accomplishes a subordination and synthesis of the intentions and acts of various biological persons into a corporate decision." Although no particular member of the corporation may intend to achieve the objectives mandated or generated by the CID structure, nonetheless the corporation may be said to "intend" to achieve those objectives. And these intentions, according to French, are sufficient to render corporate acts "intentional."

French may be correct in saying that we can infer intentions from a corporation's policies and procedures and that these intentions may be attributed to the corporation and not to its members. But for that very reason, these intentions do not render the corporation's acts intentional. A corporate act, as I have argued, is brought about by the corporation's members, and if these members do not act with a certain intention, then their corporate act cannot be the act of carrying out that intention. But an act is intentional only if it is the carrying out of an intention formed in the mind of the agent whose bodily movements bring about the act. The intentions French attributes to corporations, then, do not mark out corporate acts as intentional because the intentions are attributed to one entity (the corporation) whereas the acts are carried out by another entity (the corporate members).

The underlying reason for corporate policies and procedures being unable to generate intentional action is that the concept of intentional action, as I have suggested, is rooted in the concept of an agent with a certain mental and bodily unity that corporations do not have. Intentional agents are mental insofar as they have minds by which they form plans or intentions; they are bodily insofar as they have bodies whose movements they directly control; and they are a unity insofar as the agent who forms

intentions also directly controls the bodily movements by which those intentions are executed. It is in virtue of this fact--this unity--that I am said to originate actions (when the actions are the carrying out of intentions I originally formed) and it is also in virtue of this unity that my actions can be intentional: intentional action in the world requires a unity of mind and physical instrumentality. Corporate agents, as we know them, do not have this kind of unity and consequently their "intentions" do not connect with their actions in the proper way. There is a sense, of course, in which corporations do have minds and bodies: the minds and bodies of their members are at the service of the corporation. But these minds and bodies do not exhibit the proper unity. This does not mean that it is impossible to conceive of a corporate collectivity that does possess the proper kind of unity. Science fiction narratives, in fact, often ask us to imagine what such a collective agent would be like. In science fiction stories, for example, we are sometimes asked to imagine a situation in which bodies are gradually taken over by a single group mind. Here we are being asked to imagine a collectivity that has acquired the proper kind of unity between mind and physical instrumentality.

It is clear, then, that when French and others ask us to look upon the corporation as a collectivity that acts intentionally, they are asking us to conceptualize the corporation as exhibiting a unity of mind and body that a collectivity can possess only if it has a group mind. The genius of French's argument is that it identifies a corporate element--the system of corporate policies and procedures he calls the CID structure--that looks like it might be capable of playing the role of what I have called a group mind. Corporate policies and procedures, however, cannot serve as corporate minds for the simple reason that they are not minds: they do not form intentions, nor do they have direct control over any bodies by which they might carry out these intentions. Because they do not themselves originate intentions and because they do not themselves carry out intentions, corporate policies and procedures cannot be said to originate intentional actions. On the contrary, corporate policies and procedures are themselves wholly the products of the intentional actions of other agents and are carried out only when other agents freely choose to adhere to them.

Let me summarize my main criticisms. Those who, like French, want to attribute moral responsibility to corporations must distinguish two entities, the corporation and the corporation's members, for they want to hold that the corporation, as distinct from its members, can be morally responsible for its acts. However, moral responsibility for an act attaches to the entity that originates the act--i.e., the entity that formed the intention to bring about the act and that carried out that intention by its direct bodily movements. Since the acts of a corporation are brought about not by the direct bodily movements of the corporation (as an entity distinct from its members) but by those of its members, and since the intentions of the corporation (if there are such things) are not the intentions with which those members acted, it follows that the corporation is not the entity that is morally responsible for those acts.¹¹

Who, then, is morally responsible for the acts of a corporation? There is no single answer to this question. To the extent that certain members of a corporation each intentionally decide to bring about a corporate act together, those members are each morally responsible for that corporate act. To the extent that a corporate act is the result of policies and procedures that were intentionally designed by certain persons to produce precisely that type of act, those persons are morally responsible for that act. And to the extent that a corporate act is the unintentional result of the concatenated actions of several corporate members, none of whom knew about or intended that outcome, the corporate act may be an act for which no one is morally responsible: it is an unintentional happening.

III

Let me leave French's views now and turn to a second set of arguments that show that corporations as distinct from their members cannot be morally responsible for what they do. This argument will also clarify what we might properly have in mind when we say that a corporation is "morally responsible" for a wrongful act. The argument relies on the way the concept of moral responsibility is conceptually connected to the concepts of blame and punishment. Although I have already indicated how these concepts are connected, I have not yet mentioned that the main reason we are interested in attributing moral responsibility is precisely in order to impose blame and punishment where they are due. This, I take it, is what has motivated many of the authors who have tried to show that corporations may legitimately be held to be morally responsible for wrongful acts. Many of us share, I believe, a legitimate intuition that someone should be blamed and punished for the wrongful corporate acts that we read about in the newspapers. Since the acts are attributed to corporations, we conclude (mistakenly) that "the corporation" should be blamed and punished for the act; and since blame and punishment presuppose moral responsibility, we may assume (again mistakenly) that corporations are the legitimate bearers of moral responsibility. The literature on corporate moral responsibility may thus be seen as an attempt to make sense of these mistaken conclusions and mistaken assumptions. What I will try to show now is that because of the way that moral responsibility is tied to blame and punishment, it makes little literal sense to say that corporations are morally responsible for their wrongful acts.

Obviously, we often say that this or that corporation is morally responsible for a wrongful act and that it should be blamed or punished for the act. Two questions regarding this statement must be addressed here: (1) What is the entity to which we can be referring when we say "the corporation" and (2) What can we mean by saying that that entity (and not another) is morally responsible and should be blamed and punished?

There are, I believe, three main answers to the first question. We sometimes use the term corporation to refer to a legal but fictitious entity recognized by the law. In this sense the term refers to an entity distinct

from the group of human beings that constitutes its members. We sometimes use the term to refer to an organization of human beings, and then it may refer to one of two things. First, it may refer to the set of relationships that obtain among a certain group of human beings. In this sense, "the corporation" refers to the structured set of relationships that allows us to identify a group of human beings and their activities as a corporate organization. Second, when referring to the corporation as an organization we may simply be referring to the group of human beings that constitute the members of the corporation. In this sense, "the corporation" refers to the human beings who make up the corporate organization.

There are, then, three main entities we may be referring to when we use the term corporation: (a) the fictitious legal entity, (b) the organization as a structured set of relationships, and (c) the organization as a set of human beings. We may safely set aside the first sense. When people attribute moral responsibility to a corporation and imply that it should be blamed and punished for its wrongdoing, they do not take themselves to be referring to a fictitious entity. That is, they are not referring to that legal entity classically described as "an artificial being, invisible, intangible, and existing only in the contemplation of law."¹² People who hold corporations morally responsible for their acts have in mind real agents that exert physical causality upon the world independently of the law. That is, they are referring to the corporations as an organization either in sense (b) or in sense (c).

Let us turn, then, to the second question: What can one mean by saying that the corporation in sense (b) or in sense (c), and not some other entity, is morally responsible for a wrong and should be blamed or punished? Consider sense (b) first. In attributing moral responsibility for a wrongful act to a corporation in sense (b), one is attributing moral responsibility to a structured set of relationships, and one is implying that this structured set of relationships, and not some other entity, should be blamed and punished for the act. But there are two reasons for thinking that this cannot be what people have in mind when claiming that corporations are morally responsible for a wrongful act. First and most obvious is the fact that it makes little sense to speak of "punishing" relationships. In what sense can relationships feel the shame that is the appropriate response to being blamed and in what sense can relationships experience the suffering or loss that accompanies punishment? When people claim that corporations are morally responsible for some wrongdoing and should be blamed or punished for that act, they are not talking about "punishing" relationships. Second, in saying that a set of organizational structures, and not some other entity, is morally responsible for an act, we imply that only those organizational structures, and not the organization's members, should receive the punishment consequent on that attribution of moral responsibility. (Of course, when we say that a corporation is morally responsible for a wrongdoing, we might want to hold morally responsible the members, in addition to the corporation's structures. But here I am focusing only on the moral responsibility attributed to those structures and on the punishment and blame that should be levied on those structures in virtue of their alleged moral responsibility. That portion of

the blame and punishment to which a corporate structure is liable in virtue of its own (alleged) moral responsibility for a wrong should not fall on the shoulders of the corporation's members.) All that a corporation's members should have to suffer is the blame and punishment consequent on their own moral responsibility; to make them suffer the punishment that should have been levied on the corporate structure would be to punish them twice. But in fact it is not possible to impose blame or punishment upon an organizational structure without having that blame or punishment fall on the shoulders of the corporation's members. It is the members who will feel all the effects and bear all the injuries if the corporation's structures are "fined," if its "public image" is "tarnished," or if these structures are altered or perhaps even dissolved. These members are therefore being unjustly forced to bear the punishment for another entity's moral responsibility (in addition to any punishment they may have to bear for their own moral responsibility for the act). And such unfair shifting of punishment away from the morally responsible party is certainly not what one has in mind when one says that corporations are morally responsible for their acts and should therefore be blamed and punished for them.

That leaves us, then, with sense (c): in saying that corporations are morally responsible for wrongful acts, we would have to mean that the group of human beings who constitute the corporation's members are morally responsible for that act and should bear the blame and punishment for the act. But here, again, it is possible to have a number of different things in mind. First, in saying that the group of people who make up the corporation should bear the blame and punishment for wrongful corporate acts, we might mean (1) that the blame and punishment should be imposed only on the "group as a whole" and should not be distributed among any of the particular members who make up the group; (2) that blame and punishment should be distributed to every member of the group; or (3) that blame and punishment should be distributed only to particular members of the group. We can immediately dismiss (1) since it is not possible to punish a "group as a whole" without having those punishments fall on the shoulders of particular members who make up the group. Moreover, these punishments would either fall on the shoulders of every member of the group, and then we would have case (2), or they would fall on some particular members, and then we would have case (3). So we can dismiss (1) and concentrate on (2) and (3).

It is clear enough, I believe, that when people say that a corporation is morally responsible for a wrongful act and thereby imply that it should be blamed and punished for that act, they cannot properly mean that blame and punishment should be distributed to every member of the corporation. For some members of the corporation may have been innocently ignorant of that wrongful act, may have done nothing whatsoever to contribute to the act, and may have been in no position to prevent the act. It would obviously be wrong to impose punishment and blame on such persons for acts of which they were ignorant and with which they had no causal connection. To punish and blame such people (who might include janitors, secretaries, stockholders, etc.) would clearly violate the moral principles on which, as I argued,

liability to blame and punishment rests. I take it that when people say that a corporation is morally responsible for a wrongful act and should therefore be blamed and punished, they are not advocating punishment of the innocent (i.e., punishment of those in whom the corporate act in no way originated). We may therefore dismiss (2).

This leaves us, then, with (3). Saying that a corporation is morally responsible for some wrongful act is acceptable only if it is an elliptical way of claiming that there are some people in the corporation who are morally responsible for that act and who should therefore be blamed and punished. Who would these people be? Since it violates our moral principles to impose blame and punishment on those in whom a wrongful act did not originate, we must be elliptically referring to those people in the corporation who intentionally brought the act about through their direct bodily movements or who knowingly contributed to the act (or, in case of omissions, who knowingly failed to carry out the direct bodily movements they could and should have carried out to prevent it). We are often forced to adopt this elliptical way of speaking because, as outsiders, we are usually ignorant of the inner workings of a corporation. Suspecting that some members of a corporation knew that an act they were intentionally carrying out (or helping to carry out, or failing to prevent) was wrong, but not knowing who those members were, we refer to them under the rubric of "the corporation" and say that the corporation is morally responsible for the act. Obviously when we say this we do not mean to indict everyone in the corporation regardless of their complicity. Nor do we mean to indict a merely fictional entity, nor a set of relationships. We are pointing, rather, to the presence within the corporation of people who intentionally brought about the wrongful corporate act. To say that a corporation is morally responsible for some wrongful act, then, is but an elliptical way of saying (if what one is saying makes sense) that some people within the corporation are morally responsible for the act; it is not a way of attributing moral responsibility to some entity or structure called "the corporation" or to the entire corporate membership (except in the special case in which every individual intentionally contributed to the wrongful act). It is thus incorrect to attribute moral responsibility to the corporation as such.

Someone may object that when a company like Ford manufactures a product that injures a number of people, there is a sense in which everyone in the company contributed to the product and thereby contributed to the injuries. Moreover, when law courts compensate victims of such products, all the members of the company end up paying for the compensation (in the form of lowered salaries, decreased earnings, etc.) and all are thus in effect punished for the injurious act. This shows, someone may want to object, that we hold each member in a corporation morally responsible for wrongful corporate acts, whether that member intentionally helped to carry them out or not, and we are quite willing to punish each one merely for being a member of the corporation.

Such an objection, however, would be based on a confusion of different types of responsibility. Nothing that I have said here precludes us from

claiming that entire corporate groups may be held "responsible" for a wrongful act in any of the other senses of responsibility that I identified at the beginning of this essay. But it is important not to confuse attributions of responsibility in these other senses with attributions of moral responsibility. For example, corporations "as a whole" may legitimately be held causally responsible for an act or an effect. It thus makes perfectly good sense to attribute to every member of a corporation the causal responsibility for producing the products the corporation manufactures. But attributing causal responsibility to a corporate group is clearly not the same as attributing moral responsibility.

Although the issue is more complicated, it also makes perfectly good sense to attribute "compensatory" responsibility for an injury to every member of a corporation, even though not every member of the corporation may be morally responsible for the injury. When a party has been injured, of course, we generally rule that the injured party should be compensated by the person who is morally responsible for the injury. But we often abandon this rule when considerations of efficiency, fairness, ability to pay, causal connections, or risk distribution lead us to separate compensatory responsibility from moral responsibility. The law of torts holds, for example, that when an employee injures a third party in the course of the employee's work, the injured party is to be compensated by the employer because the injured party thereby has a greater chance of recovery (since the employer has a "deeper pocket" than the employee) and because the employer can more easily spread the risk for such injuries by purchasing insurance. Here considerations of social efficiency and risk distribution lead us to pin compensatory responsibility for an injury upon an employer, who may not be morally responsible for the injury, and through the employer upon the insurer, who must ultimately compensate the injured party. Charges of this kind, levied upon individuals who bear compensatory responsibility for an injury, obviously should not be counted as forms of punishment or blame (they do not carry with them any opprobrium nor any implication of moral guilt). Such charges are more like taxes levied upon individuals in order to spread among them the costs of our social intercourse in some morally appropriate way. Thus, it is quite appropriate to hold that all members of a corporate group should be made to pay for the damages arising from a corporate act even if not all members are morally responsible for that act. Considerations of efficiency, risk distribution, formal relationships, and ability to pay often lead us to attribute compensatory responsibility to a corporation in a way that affects all its members, even those who are innocent of any wrongdoing. When we thus pin the compensatory responsibility for an act upon a corporation, we are not punishing or blaming its members, nor are we holding them morally responsible for any wrongdoing. We are merely trying to spread among the members of society the cost of injuries arising from our social intercourse. And such distributions of costs should not be confused with implied attributions of moral responsibility.

It is clearly important to keep the various senses of responsibility distinct. It is also important not to run together the meaning the term

moral responsibility may have when it is applied to human individuals with the meaning it may have when it is applied to corporate organizations. For as used of human beings, the term is embedded in a system of psychological, physiological, and moral notions that distinguish human beings and their modes of acting from corporate groups and the modes of action proper to them. The differences between a human being and a group of human beings are so obvious and enormous that it is quite astonishing to find people wanting to assimilate one to the other. Unfortunately, applying the term moral responsibility indiscriminately both to human beings and to corporate groups tends to confuse and hide these morally important (and actually quite gross) differences between them and their modes of acting. Nothing is gained by attempting to lump both human moral responsibility and corporate responsibility under the same term. Doing so merely forces us to look for other ways of drawing the important distinctions that separate the two.

IV

I will end by giving two reasons for thinking it is dangerous to accept the erroneous view that the corporation is a moral agent, that is, an agent that is morally responsible for its actions. First, if we accept the view that moral responsibility for wrongful corporate acts rests with the corporation, we will tend to be satisfied with blaming or punishing only the corporate entity. Instead of pointing our blame and aiming our punishment at the people who carried out the actions that produced these wrongs, we will do nothing but futilely wave our hands before the corporate veil. If we are to deter corporate wrongdoing and be assured that corporate members will comply with our moral and legal norms, our blame and punishment must travel behind the corporate veil to lodge with those who knowingly and intentionally bring about the corporation's acts. Since corporate acts originate in them, they must be blamed and punished for those acts.

Second, and perhaps more important, viewing the corporation as an entity that can "act" and "intend" like a large-scale personality will result in our being tempted to look upon the corporation as a larger-than-human person whose ends and well-being are more important than those of its members. We will be tempted, that is, to look upon the corporation as organic theories of the state looked upon the state: since the corporation is a whole person (with its own group mind) and the member merely a part, the interests of the corporation's members may legitimately be sacrificed to the corporation's interests and the good of the individual may be subordinated to the corporation's good. The extent to which this organic model of the corporation has already started to dominate managerial theory and has led practicing managers to subordinate the individual to the corporation is nicely documented by William Scott and David Hart, who write:

The word "health" was seldom used in connection with organizations. It has appeared more frequently, in the last fifteen or twenty years, as the analogy of the organization to an organic system has gained widespread acceptance. . . . The organizational imperative [has now become] . . . absolute: Whatever is good for the individual can only come from the modern organization. . . . Therefore, all behavior must enhance the health of such organizations. . . . The overriding concern of managers is to keep their organizations healthy; if their clients are served as a consequence, it is a happy secondary result of the primary managerial concern.¹³

Scott and Hart, of course, note the drift toward an organizational totalitarianism that this organic theory of the corporation implies. My view is that philosophers who subscribe to the theory that the corporation is a moral agent that is morally responsible for its wrongful acts are unwittingly allying themselves with this new form of totalitarianism. As loyalty to the corporation becomes the basic virtue and service to the corporation the basic moral act, the individual will end by being swallowed up by the corporation.

NOTES

1. See Manuel Velasquez, *Business Ethics: Concepts and Cases* (Englewood Cliffs, NJ: Prentice-Hall, 1982), p. 17; Michael Keeley, "Organizations as Non-Persons," *Journal of Value Inquiry* 15, no. 2 (1981):149-55.
2. See Thomas Donaldson, *Corporations and Morality* (Englewood Cliffs, NJ: Prentice-Hall, 1982), pp. 32-34. Donaldson argues that certain types of corporations are "moral agents" (i.e., that they can be held morally responsible for their actions) and then devotes several pages to elaborating a social-contract argument that is supposed to generate a business ethic for these corporate agents. Donaldson is at pains to distinguish his view from what he calls the "moral person view," but in the end his argument attributes to certain types of corporations all the significant characteristics of moral personalities. See also David T. Ozar, "The Moral Responsibility of Corporations," in *Ethical Issues in Business: A Philosophical Approach*, ed. Thomas Donaldson and Patricia Werhane (Englewood Cliffs, NJ: Prentice-Hall, 1979), pp. 294-99; Kenneth E. Goodpaster and John B. Matthews, Jr., "Can a Corporation Have a Conscience?" *Harvard Business Review* 60 (1982):132-41.

3. The importance of this usage was pointed out to me by Kenneth E. Goodpaster, who commented on an earlier version of this paper delivered in Columbus, Ohio, at the 1982 meeting of the Western Division of the American Philosophical Association; see Goodpaster and Matthews, *op. cit.*, p. 133.
4. Immanuel Kant, The Metaphysical Elements of Justice, trans. John Ladd (New York: Bobbs-Merrill Company, 1968), pp. 24, 29.
5. The notion of a "direct" bodily movement is neither mysterious nor obscure. A "direct" bodily movement is simply a bodily movement over which I have the kind of direct control that I have when I deliberately move my arm in a normal manner; this kind of direct control is absent when my arm is paralyzed or "asleep" and I have to move my arm indirectly by pushing or lifting it with another part of my body.
6. See Richard B. Brandt, Ethical Theory (Englewood Cliffs, NJ: Prentice-Hall, 1959). Brandt's account of the utilitarian basis of punishment is derived from Jeremy Bentham's Principles of Morals and Legislation.
7. For the Kantian roots of this view of punishment, see Jeffrie G. Murphy, "Marxism and Retribution," Philosophy and Public Affairs 2 (1973):217-43; and Jeffrie G. Murphy, Kant: The Philosophy of Right (London: Macmillan and Co., 1970), pp. 109-12 and 140-44.
8. See Saint Thomas Aquinas, Summa Theologica, I-IIae, Q. 1, a. 1; Q.87, a.3, a.8.; and Saint Augustine, De Libero Arbitrio, bk. I, chap. xv, chap. xvi; bk. III, chap. ix.
9. Peter French, "The Corporation as a Moral Person," American Philosophical Quarterly 16, no. 3 (July 1979):297-17. Similar arguments appear in Ozar, *op. cit.*; Goodpaster and Matthews, *op. cit.*; Thomas Donaldson, "Moral Agency and Corporations," Philosophy in Context 10 (1980):51-70; and D. E. Cooper, "Collective Responsibility," Philosophy 43 (1968):258-68. See also the articles collected in Peter A. French, ed., Individual and Collective Responsibility: The Massacre at My Lai (Cambridge, MA: Schenkman, 1972), especially David Cooper, "Responsibility and the 'System'"; R. S. Downie, "Responsibility and Social Roles"; and Virginia Held, "Moral Responsibility and Collective Action."
10. See Larry May, "Vicarious Agency," a paper delivered at the University of Illinois at Chicago Circle, May 15, 1981, for the Conference on Business and Professional Ethics. May argues that all corporate acts are only "vicariously" attributed to corporations. His argument seems to be based on the assumption that corporations may be conceived only as fictitious legal entities, an assumption I do not share.

- II. I will surely be accused at this point of trying to "reduce" corporations to their members. But nothing in my account implies such a reductionist view of the corporation. On the contrary, my view is that a corporation consists of (1) a set of positions ordinarily filled by human beings and (2) a set of relationships that obtain between each of these positions as well as between these positions and other people in society. In addition, it is clear that a corporation cannot exist unless there also exists an accepted set of constitutive rules stipulating that such a set of positions filled by such human beings in such relationships shall count as "a corporation." Thus it is wrong to try to "reduce" a corporation to its members, since corporations not only consist of more than their members, but they also require the existence of a background system of constitutive rules. I also do not hold that the acts of a corporation can be "reduced" without remainder to the acts of its members. For a corporate act requires, besides the acts of the members, a certain set of relationships among these acts and the members and between their acts and society, as well as a background system of constitutive rules stipulating that when such corporate members act and when such relationships obtain, their acts shall count as the act of the corporation. Thus a corporate act is an effect brought about by or constituted by the voluntary bodily movements of corporate members (or the omissions of such movements) who are related in a certain way and who act against a background system of constitutive rules. I do, of course, hold that all corporate acts "originate" only in the members of the corporation (in the sense defined above) and, as I will later argue, that the moral responsibility attributed to the corporation does indeed reduce to the moral responsibility of its members. But a reductive view of moral responsibility does not imply a reductive view of corporate acts.
12. Chief Justice Marshall, Dartmouth College v. Woodward, 4 Wheat 518, 636 (1819).
13. William G. Scott and David K. Hart, Organizational America (Boston: Houghton Mifflin Company, 1979), pp. 37, 43, 47.