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Are Corporations Like Psychopaths? Lessons On Moral Responsibility From Rio Tinto's Juukan Gorge Disaster

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ABSTRACT

There seems to be a striking parallel between the features of psychopaths and those of agential groups, including states and corporations. Psychopaths are often thought to lack some of the capacities that are constitutive of moral agency. Two features of psychopaths are commonly identified as grounds for limiting their moral responsibility: (i) their lack of relevant emotional capacities and (ii) their flawed rational capacities. Roughly, the first argument is that the lack of moral emotions such as sympathy, guilt, or shame negatively impacts moral perception and therewith an agent's capacity for moral reasoning. The second argument is that psychopaths are diminished in their agency as such, not just in their moral agency; they are erratic and impulsive and show other significant failures of rationality. Using the 2020 Juukan Gorge disaster in Western Australia as a case study, I conclude that deliberate or reckless corporate irrationality cannot be grounds for diminished corporate moral responsibility. Corporate agents are chiefly responsible for core aspects of their moral agency, including their internal epistemic structures and decision-making processes. They have obligations to establish or maintain internal epistemic integrity and consistency.

1 | Introduction—The 2020 Juukan Gorge Disaster

On May 24, 2020, mining corporation Rio Tinto blasted two ancient rock shelters at Juukan Gorge in the remote Pilbara region in the north of Western Australia (WA). Previously, the rock shelters had been identified as sites of "highest archaeological significance" in Australia, according to a survey report that Rio Tinto had itself commissioned. Researchers had found that the rock shelters had been continuously occupied by humans for 46,000 years. To the traditional owners of the land, the Puutu Kunti Kurrama and Pinikura People (PKKP), the Juukan Gorge is a sacred site. The rock shelters were destroyed to make way for a long-planned expansion of Rio Tinto's Brockman 4 iron ore mine. Before that, the corporation had sought and been granted legal permission to "impact" the site according to the WA Aboriginal Heritage Act of 1972.

Reports of the destruction of the rock shelters in the Australian media 2 days later were met with widespread outrage, not just among traditional owners but across the public at large. While Rio Tinto's actions met legal requirements, they were widely perceived as unethical and disrespectful of traditional owners and cultural heritage. A Parliamentary Inquiry into the events that preceded the destruction of the site was established soon after. Eventually, Rio Tinto issued an unreserved apology to the traditional owners, the PKKP, acknowledging that the rock shelters should never have been destroyed. Finally, its CEO as well as several members of the senior executive team stood down from their positions.

The titles of the two reports resulting from the Inquiry by the Joint Standing Committee on Northern Australia are programmatic: "Never Again" (Parliament of the Commonwealth of Australia 2020, interim report, December 2020) and "A Way Forward" (Parliament of the Commonwealth of Australia 2021, final report, October 2021). Unsurprisingly, the reports identified severe flaws in WA's heritage legislation and made recommendations for how to better protect Australian Indigenous heritage in the future.[1] However, significant sections of both reports focus on the actions of the mining corporation. Thanks to the public availability of the submissions to the Parliamentary Inquiry, including those by Rio Tinto and the PKKP, we can gain detailed insight into the external actions and internal operations of the corporation. That Rio Tinto was perceived by the PKKP as disrespectful, uncaring, and even cruel is strikingly obvious from the account of their interactions PKKP provided to the Parliamentary Inquiry.

In moral theory and social ontology, the view that corporate agents such as Rio Tinto can in principle meet the conditions of moral agency and can therefore legitimately be considered as *morally* responsible for their actions is increasingly accepted (Björnsson and Hess 2017; Erskine 2001; French 1984; List and Pettit 2011; Tollefsen 2015). In jurisdictions across the world, there exist laws to hold corporate agents legally responsible for (some of) their actions. Conversationally, we regularly refer to corporations (and states) as agents and it is common to morally judge them.

At the same time, it is generally acknowledged that corporations often act in utter disregard for moral principles and there exists a line of thought in popular culture as well as management literature that likens corporations to psychopaths.[2] The 2003 documentary The Corporation and the 2005 book of the same title by Joel Bakan are just two popular examples (Bakan 2005).[3]

My aim in this paper is to put pressure on the idea of moral agency (and moral responsibility) of corporate agents through exploring potential parallels between corporate agents and psychopaths. In doing so, I focus on two lines of argument in particular: (i) like psychopaths, corporate agents appear to lack moral emotions; and, (ii), like psychopaths, corporate agents can display certain types of irrationality. While the first line of thought—the issue of group-level emotions, has certainly received attention in the literature on group agency, the second is relatively unexplored and somewhat controversial. After a brief discussion of psychopathy in the broader literature, I will examine whether these two characteristics undermine the moral agency (and responsibility) of corporate or group agents,[4] using Rio Tinto's destruction of the Juukan Gorge rock shelters as a case study.

The paper challenges the idea implicit in popular conceptions of corporate agents as resembling psychopaths in the ordinary sense, since that would imply that they operate outside the standard moral realm—a claim that I will reject. One of the paper's goals is to demonstrate that corporate agents are chiefly responsible for core aspects of their moral agency, including their internal epistemic structures and decision-making processes. As such, I am also providing a novel argument to support a claim made by List and Pettit (2011) in their seminal book *Group Agency*—that we should hold corporate agents responsible even when they are not fully-fledged moral agents. In doing so, the paper offers a collectivist analysis of the phenomenon of corporate psychopathy, focusing on traits that organizations display at a *corporate* level. My analysis, thus, moves beyond an individualistic lens dominant in some of the literature in Management Studies (e.g., Boddy 2011; Boddy et al. 2015), which examines the link between corporate actors and psychopathy primarily as a problem of the disproportionate presence of individuals with psychopathic traits in managerial positions. Finally, in concluding that corporate actors have obligations to establish or maintain internal epistemic integrity and consistency, this paper contributes to an emerging literature on the epistemic dimension of organizational misconduct (e.g., Warenski 2018, 2024; Meyer 2024). As such, it demonstrates how flawed epistemic structures can lead to corporate wrongdoing without ill intent[5]: even when corporate agents have the right information, they may still fail to employ it in the morally and prudentially best way.

2 | Psychopathy and (Moral) Agency

Research into the nature of psychopathy and its underlying causes is ongoing and by no means settled with different academic disciplines focusing on distinct aspects of the disorder. Psychologists will study the mind through observing agents' behavior while neuroscientists will study cognition through observing the brain's structures, functioning, and processing. Philosophers will study the normative implications of these empirical findings for our ascriptions of rationality and moral responsibility to psychopaths. Relatedly, legal scholars will discuss their implications for criminal culpability. In management studies, there exists a large literature focusing on "corporate psychopathy"—looking into the behavior of corporations and of individuals within corporations.[6]

We are not able to conduct a review of even a fraction of the literature on psychopathy here, but will provide the briefest overview of those empirically established features of psychopaths that are commonly identified as grounds for limiting their moral agency and responsibility, since that is the issue we are concerned with in this article. Much of the recent research in psychology views the condition as occurring on a spectrum with three separable traits that can be present in varying degrees: disinhibition ("problems of impulse control"), meanness (lack of regard for others), and boldness ("social dominance, emotional resiliency, and venturesomeness") (Patrick, Fowles, and Krueger 2009).[7] Having said that, the fact that in the authoritative Diagnostic and Statistical Manual of Mental Disorders (American Psychiatric Association and DSM-5 Task Force 2013)" psychopathy" has replaced been by "antisocial personality disorder"—a broader concept that covers disorders other than just psychopathy—potentially contributes to some of the lack of clarity around the concept (DeAngelis 2022). Neuroscientists recently established that psychopaths' brains work differently from those of non-psychopaths. According to Arielle Baskin-Summers and Inti A. Brazil, "Whole-brain analyses indicate that many of the major neural networks are disrupted in some way among

psychopathic individuals" Baskin-Sommers and Brazil (2022), 334, see also Koenigs and Newman (2013). In particular, they suffer from an "exaggerated attention bottleneck" when it comes to information-processing, according to Baskin-Summers and Brazil that makes filtering information difficult, constraining "the processing of information to such an extent that the fluid integration of information appears to be disrupted in psychopathy." (Baskin-Sommers and Brazil 2022, 333). Importantly for our argument here, this "primary deficit in attention" is responsible for "observed abnormalities in processing both affective and nonaffective information." (Koenigs and Newman 2013, 102). The philosophical engagement with psychopathy and moral agency takes standard works in psychological research on psychopathy as its starting point (e.g. Blair, Mitchell, and Blair 2005; Cleckley 1976). Recent work by neuroscientists such as Koenigs and Newman (2013) as well as Baskin-Sommers and Brazil (2022) confirm that these analyses are on the right track.

As to the philosophical relevance of the empirical findings summarized above, psychopaths lack some of the capacities that philosophers think are constitutive of moral agency. Therefore, some philosophers argue, psychopaths would not be appropriate targets of reactive attitudes such as blame or could not be held morally responsible for their actions or both (e.g., Haji 2010; Levy 2007).

i. The first feature that may limit psychopaths' moral responsibility is their lack of relevant emotional capacities. Roughly, the first argument is that the lack of moral emotions such as sympathy, guilt, or shame negatively impacts moral perception and therewith an agent's capacity for moral reasoning (Haji 2010).[8] Even if there is some disagreement on what it is for someone to be a psychopath, authors tend to agree that the psychopath's lack of moral emotions is one of their characteristic features.

Philosopher Neil Levy (2007) builds on work by psychologists who view emotional impairment as psychopathy's key feature (Blair, Mitchell, and Blair 2005). Levy writes that

> A psychopath is a persistent wrongdoer, who fails to exhibit any signs of genuine remorse or guilt for his or her past actions. They are not ashamed of these actions, even when they were very wrong, and feel no apparent sympathy for their victims. They are impulsive and irresponsible, unable to carry out long-term plans. Psychopaths are distinguished from ordinary habitual criminals by their lack of prudence: They commit crimes when the risk of getting caught is extremely high, and will gamble the proceeds of a large haul for a small gain. (p. 130)

Baskin-Summers and Brazil confirm this picture from the perspective of neuroscience: "Psychopathic individuals do, in fact, display substantial deficits in emotion processing, including emotion recognition... (Baskin-Sommers and Brazil 2022, 329). Psychopaths display a disconnect between present reactions and future considerations" (ibid., 332). They have "a fractured view of the social world" (ibid.).

ii. The second feature to be discussed here is psychopaths' flawed rational capacities. To state that psychopaths typically or regularly show deficits in rationality may be surprising to some readers: it is not in accordance with a popular view on which psychopaths are hyper-rational, ruthless agents.[9] So let us therefore explain what we mean by "rational" in this context and what aspect of rationality we are interested in.

According to philosopher Jeanette Kennett, the behavior of psychopaths "is characterized by impulsivity and irresponsibility" (Kennett 2002, 341). Kennett's main focus is on the imprudence of psychopaths, including their apparent inability to correct their own behavior. As shown in empirical research, they struggle to self-correct their behavior even where it is clearly contrary to their interest (Kennett 2019). She thinks that this reflects "an absence of any compelling ends and complete indifference to standards of consistency and coherence" (Kennett 2019, 145). She adds that "[i]f you don't notice and you don't care when your actions would undermine a value you claim to hold then you don't in fact hold that value" (ibid., see also Baskin-Sommers and Brazil 2022). In other words, there is a specific type of incoherence and inconsistency that is typical of psychopaths (see also Watson 2013).[10]

Empirical findings show how psychopaths' damaging behavior "is due in part to their uncanny ability to focus myopically on their selected goal" (Baskin-Sommers and Brazil 2022, 325) with regard to single task scenarios. This ability for myopic focus might be the reason that they are seen as hyper-rational but it is really just one side of the coin of an exaggerated attention bottleneck. According to Baskin-Sommers and Brazil, psychopaths are better than other people at ignoring "goal irrelevant distractors" than others for non-complex tasks (ibid., p. 327). However, the picture changes when tasks become more complex: psychopaths have deficits "where trying to process multicomponent" information (ibid.) and "social interactions are cognitively and conceptually complex" (Baskin-Sommers and Brazil 2022, 332). This exaggerated attention bottleneck may be the underlying reason for both the deficient emotion capacities and deficient rational capacities with regard to complex processing. The second philosophical argument concerning psychopaths is that these rational deficiencies diminish their agency as such, not just their moral agency.

In the rest of the paper, we examine the parallels between psychopaths and group agents both in terms of diminished emotional capacities and potential failures of rationality. We will discuss these two features separately in the paper, though they seem to be very much be connected.[11] We discuss in what sense corporate actors might display either of these characteristics and what that would mean for their ability to be held morally responsible for their actions.[12][13]

Before we do so, let us explain what we mean by groups and group agents. For several decades now, philosophers have been deepening our understanding of the moral agency of groups as distinct from the agency of the individuals constituting those groups (Bazargan-Forward and Tollefsen 2019; Collins 2019; Erskine 2003; French 1984; Hess, Igneski, and Isaacs 2018; List and Pettit 2011; May and Hoffman 1991; Tollefsen 2015). The

debate has been focusing on the ontology of groups, on their status as agents, and on their moral responsibility. While the spectrum of views in this debate is wide, it seems fair to say that scholars increasingly accept the view that incorporated agents with a "constitution" (List and Pettit 2011), including a clear decison-making structure, can and regularly should be considered not only agents but moral agents. That is, many philosophers now agree that corporations, states, and other organizations are rightfully ascribed moral responsibility for their actions and inactions and are appropriate targets of blame. By "group agents," I will henceforth mean these kinds of constituted (or incorporated) groups, the identity of which does not hinge on the membership of specific individuals and which have clear rules for making decisions and acting upon those. I will use "group agents" and "corporate agents" and "organizations" synonymously.

3 | Group Agents and Emotions

Moral emotions like sympathy, shame, and remorse are often thought to be an important part of moral cognition. Emotions are seen to have epistemic value in promoting "our understanding of our world and of ourselves" (Brady 2016, 101), whether they are a constitutive part of epistemic virtues which improve agents' capacity to acquire moral knowledge (Fricker 2007), or in that they are seen to promote reflection and reappraisal of facts, or to capture and consume our attention when it comes to morally important aspects of the world around us (Brady 2016). The lack of capacities for ethical perception can eradicate responsibility because it prevents agents either from recognizing moral reasons or from reacting to them, according to Ishtivaque Haji (2010). On Haji's view, emotional insensitivity can diminish or even remove one's capacity for ethical perception. Naturally, this presumed centrality of moral emotions to moral cognition and deliberation can itself be called into question, but that is not my focus here.

While scholars on group agency often grant that incorporated agents can hold group-level beliefs and even intentions, plans, and attitudes, the view that groups can have emotions is significantly more controversial. One can easily see why such scepticism may arise: even if group beliefs can have the cognitive content of emotions, it seems obvious that group agents would not experience the phenomenal aspects of emotions, nor have the intuitive recognition of goodness or malice (i.e., a specific type of instantaneous perception of moral features of an action or a scenario) that is characteristic of (adept) individual moral agents. Group agents—it would seem—cannot feel emotions the way most human beings do since they lack consciousness, subjective awareness of themselves, or a "group" mind.[14] Group agents, on this view, do not have the emotional states that are crucial for moral perception in individuals and that enable them to be responsive to moral reasons.

However, to conclude, at this point, that group agents, including corporations, can never be fully-fledged moral agents, would be premature for two reasons. First, because it is conceivable that where group agents are concerned, moral emotions are *not* crucial for moral perception and responsiveness to moral reasons. In other words, group agents such as corporations could have capacities for moral deliberation despite being incapable of emotions as a group agent (i.e., at the group level). Second, the conclusion would be premature because it might turn out that group agents can have group-level emotions in the relevant sense after all.

Before proceeding with my argument, it is important to acknowledge that in this article, I cannot do justice to the large and growing literature on collective emotions in philosophy and other disciplines such as psychology and sociology (Brady 2016; Huebner 2011; Salmela 2012; Schmid 2014; Seger, Smith, and Mackie 2009; von Scheve and Salmela 2014). An overview of the main arguments and discussion strands would take up too much space. Instead, I will base my argument on what I perceive to be a metaphysically minimally committed (and therefore, arguably, minimally controversial) account of collective emotion. It is—in my view—sufficient for making my point that, ultimately, corporations have emotional capacities of the relevant kind.

Michael S. Brady (2016) defends the idea of "group emotions." He argues that "group emotion involves or is partly constituted by individual emotions" (Brady 2016, 98). He uses the example of the 2011 London student protests against the UK Government's proposal to increase tuition fees. Basically, Brady's idea is that a group emotion, like collective anger, obtains where (i) individuals in the group experience the same or similar kind of emotion (e.g., anger at the fee increase), and (ii) "individuals have to be aware that others are feeling as they are feeling", and (iii) there has to be something like "the generation of new cases of individual emotion via 'emotional contagion,'" and (iv) "a form of acceptance and endorsement of the emotion of the others" (Brady 2016, 99).

Let us briefly explain the third and fourth criteria. Brady's takes the term "emotional contagion" from research conducted by Elaine Hatfield, Cacioppo, and Rapson (1994), where emotional contagion means the "tendency to automatically mimic and synchronize expressions, vocalizations, postures, and movements with those of another person and, consequently, to converge emotionally" (5). Regarding the fourth criterion, acceptance and endorsement of the emotions of others can be implicit and need not be explicit. According to Hans Bernard Schmid, on whose work Brady also builds, people generally "enjoy being in the same affective states as those around them", something that Schmid calls "affective conformity" (Schmid 2009, 66).

Brady thinks that group emotion in the above-described sense can have epistemic value in a similar way that individual emotion can be valuable for our moral understanding. It can facilitate reflection and reappraisal through the capture of attention. Notably, however, Brady views group emotions individual-based, *interdependent* emotions where group members share first and higher-order beliefs about others' emotions: people feel alike in part by way of and because of others having the same emotion as they do. However, it is not the group as such that has group emotions—there are no emotions over and above (and distinct from) the group members' emotions.

Still, we might grant that these are special "we-emotions"—they reference the group in a non-trivial way.[15] In fact, we might want

to say that it does not matter whether or not collective (or group) emotions are really emotions of the group as such. We might say that for a group to enjoy the epistemic advantages of moral emotions, it is sufficient for *its members* to experience the kind of "plural emotion" Brady describes.

Take the following example of corporate wrongdoing and the collective backlash against it. In 2015, academics at the University of Western Australia (UWA) protested collectively (and successfully) against the University's attempt to establish a research centre under the leadership of Danish economist Björn Lomborg. Protests were largely due to the academics' perception that Lomborg's research was too closely aligned with a controversial political agenda and that it would damage the university's reputation to be home to a research centre headed by him. It is fair to say that the University leadership's decision sparked collective anger and outrage amongst its employees. "'The scale of the strong and passionate emotional reaction was one that the university did not predict'", said the University's Vice Chancellor at the time about UWA academics' strong opposition, which ultimately forced him to retract the offer to Lomborg (ABC 2015).

Can we say that the group of protesters at the University of Western Australia displayed a group emotion (such as anger or outrage) in the sense that is required for (or conducive to) moral reasoning? Notably, the protests expressed moral fault lines within the university rather than reflecting the view of the university as a whole. In any case, it could be argued that a large proportion of staff shared that particular emotion (excluding the University's leadership, presumably) and in that sense their collective anger and outrage at the offer to establish a Lomborg-led research centre may have been a group emotion in the sense that Brady envisages.

Even if a group emotion is not shared by all members of a corporate group agent we can agree that interdependent shared emotions as described by Brady would regularly contribute to the group's epistemic enhancement. In relation to our example, we might say that due to the group emotion's public expression, the university as a whole made a better decision than it otherwise would have.[16]

If we accept this kind of argument, then we might also want to accept that the diminished moral perception argument does not really hold for group agents or even loose groups—at least not categorically. As such, there would be no reason to assume that group agents have diminished moral responsibility simply because they do not have emotions at the group level.[17] In other words, if plural (in the sense of shared and interdependent) emotions can play the role in the moral perception, decision-making, and action of collectivities that standard non-plural emotions play for individual agents, then there is no reason to think that the fact that groups' emotions lack the "felt" component (subjective mental states or qualia, a group mind or group consciousness) would make groups less capable of moral responsibility than individual moral agents. And neither would it matter that a group emotion is not necessarily shared by every single member of the group or that it is not an emotion of the group, distinct from the emotions of individual group members.[18]

However, it might be worth pausing here. We might contend that for individual moral agents, experiencing moral emotions is the norm, whereas based on our examples, for groups, it does not appear to be. As to individual agents, moral emotions seem to guide our moral perception and responsiveness to reason in many cases of moral decision-making. In contrast, what we have just described—sharing a group emotion with others, which guides ethical perception and, ultimately, leads to collective action—may not be all that common. Moral outrage culminating in mass protest is rare, and such protest movements are often highly volatile, too. In other words, one might wonder if plural emotions, even though they may play a similar role in collective moral deliberation and action, as individual-based moral emotions play in individuals' moral decision-making, perhaps do so less frequently and perhaps less reliably than the latter.[19] Further, we know that mob dynamics can grossly interfere with people's ability to make sound decisions—people can get carried away in the heat of the moment. Collective outrage may arise even if the decisions made by our organizations and political communities are morally sound, for instance, when misinformation is ripe or when elites are morally more progressive than their constituencies. The exact relationship between emotion and moral judgement is complex and subject to ongoing debate.[20]

Earlier, I distinguished two positions concerning the relationship between the moral agency of groups and group-level moral emotions. One suggestion was that group agents such as corporations may have capacities for moral deliberation even if they *lack* group-level emotions. The other position was that group agents may have emotions at the group level after all. Our discussion shows that the first position is fairly plausible: it can make sense to ascribe "group emotions" in the sense of "plural emotions" to group agents (and, arguably, to unstructured groups, too) without postulating a group mind (and group-based psychological states), and such group emotions can still play a valuable role in a corporate agent's moral perception. Group emotions or plural emotions are interdependent, shared emotions of group members, which are essentially social: they differ from emotions held individually, which do not reference other agents and their emotions in a significant sense. This conclusion leaves open the possibility of the second position being true, namely, the view that groups (and group agents) can have minds and special group-level psychological states including emotions.[21] We are not denying that possibility here, but are instead suggesting that the first position—which is easier to defend than the second—is sufficient for rejecting the view that corporations cannot be moral agents for an allegedly lack of moral emotions.

Ultimately, decisions made by incorporated agents are made by (or result from decisions and actions by) individual moral agents—operating as part of the corporation's board of directors, for instance, or a nation's government or cabinet. As long as these individual moral agents have full moral capacities including capacities for moral emotion, there is relevant emotional input into the corporation's decisions and actions. Corporate agents can thus benefit from the epistemic value of ethical perception (e.g., to capture our attention and force us to reconsider and re-evaluate facts). Of course, this defence of organizations' moral agency based on their individual members' moral abilities, including individuals' emotional capacities, does not hold

for groups that are made up of psychopaths or where psychopaths' judgments are given undue weight![22]

4 | Failures of Rationality in Corporate Agents

Let us now turn to the other aspect in which psychopaths are said to be deficient, which poses a different challenge to the idea of corporate moral agency. Jeanette Kennett and Gary Watson emphasize that diagnosed (individual) psychopaths are often irrational in certain ways. The authors claim, for instance, that "psychopaths display … complete indifference to standards of consistency and coherence" (Kennett 2019, 145). Watson is cautiously supportive of the "linkage thesis"—the view that the moral and prudential flaws of psychopaths are linked (Watson 2013). Watson believes that this is due to a common cause: "an incapacity for evaluative self-scrutiny" (Watson 2013, 287).

As pointed out earlier, while the idea of prudential deficiencies seems to be at odds with a common (folk) perception of psychopaths as hyper-rational in their selfish pursuits, it is central to key empirical studies in psychology see Watson (2013), who builds on Cleckley (1976); Hare (1999) see also Patrick, Fowles, and Krueger (2009).[23] Neuroscientists believe this to be the result of attention anomalies that disrupt the flow of information processing (e.g., Baskin-Sommers and Brazil 2022). Michael Koenigs and Joseph P. Newman contend that "psychopathy is essentially a disorder of decision making" (Koenigs and Newman 2013, 93), which in turn is in part due to "dysfunction in the allocation of attention" (99). They suffer from a "deficit in information-processing that systematically prevents consideration of all relevant information" (98). Baskin-Sommers and Brazil (2022) point out that "social interactions are cognitively and conceptually complex and evidence considered to offer the strongest support for emotion deficits in psychopathy comes from studies that use complex stimuli and/or that place demands on rapid processing" (Baskin-Sommers and Brazil 2022, 329).

Keeping those empirical findings in mind, let us return to our main question regarding the moral agency of corporations. Our strategy in the paper is to look for parallels between individual psychopaths and corporate actors. There are several questions that need to be distinguished for the purpose of our investigation:

1. Which rational capacities are psychopaths (usually) lacking in?
2. In what sense does the absence of those capacities impact on their agency in general and moral agency in particular?
3. Can corporate agents be said to lack those capacities, and where they do, is it (i) as a matter of principle or (ii) a contingent feature?
4. Does the absence of those capacities in corporate agents equally diminish their agency in general and moral agency in particular? Does it matter whether the corporate agent lacks those capacities as a matter of principle or contingently?
5. What does any of this mean for the practice of holding these agents morally responsible (or potentially blaming them for their actions)?

We have already addressed the first two questions, and we do not have time to specifically address question 5 in this paper.[24] Our focus is squarely on questions 3 and 4. In order to address those two questions, let us return to our initial example: Rio Tinto's destruction of the Juukan Gorge rock shelters. In our discussion of events, we will draw on the material from the Parliamentary Inquiry.

To start with, we should note that with increasing complexity, the potential for rationality failures becomes greater. The many ways in which individuals can fail to be rational multiply where group agents come into play. We will come back to this point in a moment.

In this paper, as indicated, we have a narrow focus and so examine only certain failures of rationality. Both Kennett and Watson identify a lack of coherence and consistency in psychopaths.[25] According to Watson, psychopaths' so-called discursive incoherence shows as their being "unmoved by anything like norms of evidence, consistency, and discursive answerability" (Watson 2013, 286). Kennett attributes to psychopaths a global "indifference to reasons" (Kennett 2002, 355), arguing that

> "Unsurprisingly, then, he is not troubled by cognitive dissonance when he makes inconsistent judgements about what he may do and what others may do, or when he changes goals and activities without justification, since he is not concerned about, does not understand, the point of rational justification in the first place" (ibid.).

Watson interprets Kennett not as suggesting that psychopaths are not reason-responsive, but as claiming that they are indifferent "to whether any of their attitudes conform to norms of evidence or consistency" (Watson 2013, 285):

> "A concern that one's beliefs be reasonable, or probably true, or consistent with one another, of defensible to others, reflects an ideal of how one conducts oneself doxastically. But such scruples are either practical, pragmatic or ethical in some broad sense: they belong to a conception of how one should conduct one's epistemic life. For most of us, it matters how things go for us epistemically, and not just instrumentally" (ibid.).

The idea behind Watson's comment is that epistemic standards matter to us because upholding them is conducive to our acquiring knowledge, which will help further our aims. It is important to note that this "doxastic laxity," as one might call it, is only part of what Watson and Kennett identify as the agency-diminishing features of psychopaths, yet it is the aspect I will be focusing on.[26] It is easy to see how doxastic laxity

will impact a person's agency since having beliefs—the crucial element in intentional agency—presupposes that one's beliefs are consistent with one another (to a high degree) or that—at the least—one cares about whether or not they are consistent. According to Watson, psychopaths do not necessarily have such epistemic scruples.

The way in which this is relevant to our examination of corporate agency becomes apparent when we think of the epistemic life of corporate or group agents. Assuming we accept the basic premise that group agents can have beliefs, it would appear that countless corporate agents are epistemically or doxastically inconsistent. What comes to mind is the way in which, in particular, in large and complex organizations (including for-profit corporations, but also organizations like universities) tensions if not outright contradictions between the group agent's beliefs are common. For academic philosophers, perhaps one of the most egregious and most commonly observed inconsistencies is that between their employer's professed belief as to the value of teaching critical thinking and ethics (both for their relevance to university education in general and because of their desirability as graduate attributes in the labor market) and the belief that philosophy departments—home to those university teachers who are uniquely qualified to teach those very subjects—are a luxury at best and anachronistic at worst. Fast-changing executive and administrative regimes can exacerbate such organizational inconsistency, which is not only epistemically burdensome for employees but which also undermines the organization's agency and efficacy.

Naturally, the greater an organization's (or corporate agent's) complexity, the greater is the potential for internal doxastic inconsistency. There is a special corporate type of doxastic inconsistency that can only occur in complex structures: where one part of the organization does not "know" what the other part "knows"—in other words, where knowledge (here understood as true belief)[27] is not distributed in the right way and hence beliefs are not held by the corporate agents in the right way to ensure that it is acting on its relevant beliefs.

It is this particular type of corporate doxastic inconsistency that best describes the mining corporation Rio Tinto's epistemic state in the days, months and, in fact, years preceding the disastrous destruction of the Juukan Gorge rock shelters. The Standing Committee's final report, but also Rio Tinto's own submission to the Parliamentary Inquiry identified a "communications breakdown" within Rio Tinto, most notably between the unit responsible for cultural heritage management and the executive (Parliament of the Commonwealth of Australia 2021; Rio Tinto 2020).

The interim report of the parliamentary inquiry states that "Rio knew the value of what they were destroying but blew it up anyway. … Rio knew of the site's archaeological significance and its cultural significance to the PKKP [the Puutu Kunti Kurrama and Pinikura People, traditional owners of Juukan Gorge]." (Parliament of the Commonwealth of Australia 2020). However, this statement on what the corporation knew brushes over an important insight: According to Rio Tinto's submission, it was only the "Communities function"—the unit responsible for dealing with cultural heritage and traditional owners—that had full knowledge of the importance of the rock shelters, while management, in particular the senior executive, did not.[28]

A further important detail is that by the time Rio Tinto sought legal permission to impact the rock shelters, the true archeological significance of the site was not yet known to the organization (or to any experts in the field). It was only *after* Rio gained legal permission through the WA Aboriginal Heritage Act that they commissioned a detailed archeological survey of the rock shelters. This 2014 survey and an accompanying requirement to salvage all removable artifacts from the shelters were part of the conditions of the legal permission granted. It was therefore only after the internal decision to impact the site had been finalized that facts of the outstanding significance of the site and the duration of its continued occupancy by humans became known. However, and this, arguably, is the real problem, that novel information—despite its significance—did not trigger any reassessment of their mine expansion plans within the corporation. There was simply too great a disconnect between the unit responsible for cultural heritage and those in charge of the development, expansion and operation of mine sites.

In their Submission to the Joint Standing Committee on Northern Australia (July 2020) and their Board Review of Cultural Heritage Management (August 2020), Rio Tinto admit to the following epistemic shortcomings in the process leading up to the destruction of the rock shelters:

- "It is clear that various opportunities were missed to re-evaluate the mine plan in light of this material new information" (referring to 2014 excavation) (p. 3, Inquiry)
- "there was insufficient flexibility in our operating procedures in terms of responding to material new information about the cultural heritage significance of the Juukan Gorge area…" (p. 15, Review)
- "The Communities function (and Heritage in particular) have been … too siloed in their operations; and they have been insufficiently integrated into Iron Ore's strategic planning and project management decision-making …. The level of information available about cultural heritage sites at an operational mining level was inadequate" (p. 16, Review)
- This created a "'blind spot' for operational management" where "with changes in personnel over the years, knowledge and awareness of the location and significance of the Juukan rockshelters among operating and senior management were lost" (ibid.)

In their Interim Report (Dec 2020), the Parliamentary Inquiry into the destruction of the rockshelters lays bare the following epistemic shortcomings

- "The culture and institutional structure within Rio Tinto did not adequately prioritise Indigenous heritage" (Section 1.10)
- "severe deficiencies in the company's heritage management practices, internal communication protocols" (1.15)

- "a structure which sidelined heritage protection within the organisation, lack of senior management oversight and no clear channel of communication to enable the escalation of heritage concerns to executives based in London" (1.16, our emphasis)

A particularly galling aspect of the epistemic failings of the corporation is that when the traditional owners found out that the destruction of the rock shelters was immanent, they asked for the detonation to be suspended (or at least delayed). Rio's own Heritage unit then requested internally for the loading of explosives into blast holes to be halted. After that request was received, more blast holes were loaded (Interim Report 2020: 1.17–1.22).

In sum, the following flaws in the internal epistemic structure of the organization were identified as responsible for the disastrous decision:

- No internal mechanism/safeguard for revising the decision on destroying the Juukan Gorge rock shelters after new facts concerning its significance emerged (once the cultural artifacts were removed from the caves, the area appears as "cleared" of protection status in their systems) 2014 and again in 2018.
- No appropriate escalation mechanism where increased significance of the rock shelters and their planned destruction should have been clearly flagged with the company's executive but was not.
- Internal information flows were grossly inadequate, in that explosives were placed even after the company's own Heritage unit internally recommended to suspend the planned detonation.

The flawed information flows within the company ended up costing it dearly: Rio Tinto was mandated to abandon the planned mining expansion, meaning losses of millions of dollars in revenue, to restore the rock shelters as far as possible, to grant traditional owners unlimited access to the area.[29]

The reports' conclusions suggest that as an organization, Rio Tinto at the time lacked doxastic consistency and coherence in an important regard: information was not distributed within the organization in a way that enabled the corporate agent to effectively act on moral, but also on prudential reasons. As a result, the company, it can be said, lacked structures for appropriately responding to such reasons. Does this mean that Rio Tinto as a corporate agent was not fully rational at the time? In our view, the company displayed a type of corporate irrationality.

Does Rio Tinto's corporate irrationality undermine the corporation's moral agency and diminish the extent to which it can be held moral responsible for its actions and inactions? I do not think that this conclusion is warranted. Here is why: psychopathy in human agents is a pathology—a psychological condition arising from a neurodevelopmental disorder that those who are suffering from it are not at fault for.[30] It is much more difficult to make the same argument for corporate agents. In Rio Tinto's case, the lack of coherence and consistency were not so much contingent but, what is worse, of their own making and perfectly avoidable. In fact, the Standing Committee's report firmly expressed the view that these flaws were the result, specifically, of not taking cultural heritage and the interests of traditional owners seriously enough (Parliament of the Commonwealth of Australia 2021) and as such are an expression of the company's (or its leadership's) lack of appreciation of Indigenous cultural heritage. If the Standing Committee's assessment is accurate, then we are dealing with a case of premeditated corporate doxastic laxity, and with deliberately or at least recklessly generated corporate irrationality. Deliberately or recklessly generated corporate irrationality cannot be grounds for diminished corporate moral responsibility.

5 | Conclusion

Since corporations have on occasion been likened to psychopaths, it is worthwhile examining the parallels between them, in particular their alleged lack of moral emotion and diminished rationality.

Our argument started from the observation that individual psychopaths are regularly seen as having diminished moral responsibility for their actions because of their (i) diminished capacity for moral emotions and also potentially for their (ii) lack of rationality along certain dimensions. The assumption implicit in such an observation is that agents who display (i) and (ii) do indeed have diminished moral responsibility. Both in popular discourse and in academic literature corporate agents are often likened to psychopaths in the sense of having (some of) the same features as human psychopaths.

The question I hoped to answer is this: If corporate agents display (i) and (ii), does this mean that they have diminished moral responsibility for their actions? My answer is that to the extent that corporate agents have diminished capacity for moral emotions—feature (i)—they display it in a way different from individual psychopaths. Corporate agents are capable of acting on moral emotions even if they lack such emotions at the corporate (or group) level. Further, to the extent that corporate agents show a lack of rationality in regard to doxastic consistency—feature (ii)—they display this trait in a way different from human psychopaths. Whereas human psychopaths would arguably be able to exercise little or no control over their doxastic (in)consistency, corporate agents are.

In sum, corporate agents do not display the two responsibility-diminishing features in the relevant way. Group agents—including corporations—can successfully employ moral emotions toward improving moral perception and deliberation. Further, corporate irrationality such as doxastic inconsistency or lack of responsiveness to reasons will not absolve them from moral responsibility where such corporate irrationality is an avoidable or—worse—a deliberately or recklessly generated trait. So even though corporate agents resemble psychopaths in important ways, it does not follow that they have diminished moral responsibility for their actions (or at least not for the same reasons that individual psychopaths have diminished responsibility). Even where a specific corporate agent shares features of individual psychopaths, they

do not lack in agency in the same way. To the extent that a corporate agent—in contrast to the human psychopath—has control over these traits, corporate agents should be seen as responsible for their moral failures resulting from such organizational deficiencies. Corporate agents, then, share features with psychopaths by their own choice if you will (or they do so recklessly or negligently). Hampering their agency does not absolve corporate agents from responsibility for moral wrongdoing since they have the ability to prevent or at least repair those deficiencies.

More research is needed to fully explore the link between corporate epistemic structures and corporate moral responsibility, with an emerging body of literature on the epistemic aspects of organizational misconduct (e.g., Warenski 2018, 2024; Meyer 2024) setting out to do just that. Better understanding the link between group-level properties and corporate wrongdoing allows us to address the latter on a structural level, rather than merely from the point of view of individuals' conduct. This is especially important in cases where grave consequences ensue despite everyone playing "by the rules."

For both prudential and ethical reasons, corporate leaders and decision-makers should have an interest in ensuring that internal informational structures and practices are fit for purpose. The design of internal systems for information flow and decision-making is a reflection of a corporate actor's values. Well-designed internal structures enable corporate actors to enact and live up to those values and prevent corporate wrongdoing. Corporate social responsibility, then, is not merely outward-looking but also inward-looking.

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Consent

The author has nothing to report.

Conflicts of Interest

The author declares no conflicts of interest.

Data Availability Statement

Data sharing is not applicable to this article as no new data were created or analyzed in this study.

Endnotes

[1] The 2020 Juukan Gorge disaster prompted a change in legislation. However, the result of that change, the Aboriginal Cultural Heritage Act 2021 proved to be shortlived. In 2023, it was repealed for a number of reasons—including industry backlash (see e.g. WA Government 2023). Indigenous heritage protection remains a fraught issue in Western Australia.

[2] See for instance Boddy et al. 2015; Boddy 2023. I view my contribution as complementary to this literature: I am asking what it means for a corporate agent to (not) have certain characteristics, concretely what it means for them to (not) have emotions or to (not) be rational. Ultimately, I aim to answer the question of what this means for their moral responsibility.

[3] "The Corporation" (documentary) available at: https://www.youtube.com/watch?v=zpQYsk-8dWg.

[4] I do not by any means claim that these are the most important challenges to the notion of corporate or group agency.

[5] I am not suggesting (nor denying) that in the case at hand the corporate agent acted with ill intent. I leave this question open.

[6] The focus in that literature is mainly on the behavioral level, so is substantially different from our focus in this paper. In order to address questions of moral agency and responsibility, we must move beyond the behavioral and analyze the causes or structures behind the behavior.

[7] See Christopher Patrick et al.'s "triarchic conceptualization of psychopathy" (Patrick, Fowles, and Krueger 2009). Kevin Dutton's description of the three traits is fairly similar: "one area would be labeled Fearless Dominance and include three components, Social Influence, Fearlessness, and Stress Immunity, which are all self-explanatory. Another section, called Self-Centered Impulsivity, would feature four traits: Machiavellian Self-Interest, Rebellious Nonconformity, Blame Externalization, and Carefree Nonplanfulness (a devil-may-care attitude toward the future). The third region would have a single dial: Coldheartedness." (Dutton 2016).

[8] It is important to point out that the ethical implications of this feature are not necessarily as clear as Haji suggests. According to Elliot, "[m]ost arguments for exonerating the psychopath center on what is historically the most consistent feature of the disorder, and philosophically the most interesting: his lack of moral sensitivity. However, what seem to be initially plausible arguments for exoneration often raised vexed questions about moral knowledge and what it is to understand morality." (1992, 203). I am not going to discuss this in any detail but will instead ask whether *if* a lack of moral sensitivity undermines (or limits) moral agency in *individual* agents the same applies to *corporate* agents?

[9] The claim that psychopaths can lack rationality in some regards also seems somewhat at odds with a view that psychologists like Kevin Dutton and others have put forward, namely, that psychopaths can display a specific type of "wisdom" that can make them exceptional leaders (Dutton 2016). Dutton and co-authors argue that displaying "fearless dominance"—a psychopathic trait—is "tied to an elevated probability of occupying leadership and management positions. Nevertheless, the magnitudes of these relations were modest." (Lilienfeld et al. 2014). They further find that "psychopathic propensities are associated with holding high-risk occupations, such as police work and firefighting" (ibid.). It should be noted, however, that so-called "corporate psychopaths" have been associated with mismanagement and, directionless leadership by others (Boddy et al. 2015), creating "emotional turbulence", "resulting in an extreme workplace environment" (Boddy 2023). It is unclear whether Boddy et al. and Dutton operate with the same definition of "psychopath" and we are not able to go into more detail on this discussion here. Suffice it to say that we are interested in one particular aspect of psychopathy—the lack of rationality, for example, with regard to doxastic consistency—but not in others.

[10] Jurjako and Malatesti, somewhat more in line with the attention deficit hypothesis in cognitive science, suggest that psychopaths are not aware of the means to their ends—rather than having diminished instrumental rationality (Jurjako and Malatesti 2016).

[11] Watson (2013) and Kennett (2019, 2022) suggest this and Baskin-Sommers and Brazil (2022) seem to confirm .

[12] As such, we are putting critical pressure on the idea that corporate actors are appropriately seen as moral agents and can be judged by moral standards, an idea that appears to be widely—albeit implicitly—accepted in much of the literature on corporate psychopathy in Business and Management (Boddy et al. 2015). In our view, this is not self-evident and, what is more, the ascription of psychopathic traits can itself be used to question corporate moral agency.

[13] We will not discuss the implications of our findings for law and public policy, even though we acknowledge that it is important to discuss what impact our findings should have on the legal, especially the criminal responsibility of offending psychopaths. Another discussion we will bypass is whether psychopathy is a handicap that ought to be compensated for or that should trigger early intervention measures like (other) forms of disability (Godman 2018).

[14] Schmid (2014) provides an overview of recent discussions on group emotions. Schmid himself defends the view that group agents can have emotions.

[15] This view would affirm what Robert Wilson (2001) calls *the social manifestation thesis*, namely, "the idea that *individuals* have properties, including psychological properties, that are manifest only when those individuals form part of a group of a certain type" (S265). This obviates the need for postulating a group mind, that is, the need "to posit group psychological properties" (S266).

[16] For a complementary argument regarding business corporations' reactive attitudes; see Björnsson and Hess (2017).

[17] This does not preclude the possibility that a convincing argument can be made that group agents can have emotions at the group level (e.g., a group mind with psychological states).

[18] Naturally, group emotion can also diminish a group agent's moral capacity, much like individuals' emotions can stand in the way of good moral judgment. Also, for groups, the potential to "feel torn" is greater than for individuals. Where the members of a group are emotionally divided this may undermine the group's (moral) agency.

[19] Alternatively, plural emotions—that is, emotions with a plural cognitive component—could be thought of as not only a common but an essential feature of political communities and social movements. They could be seen as the invisible social glue that keeps our communities together. Moreoever, it is well known that corporations will often invest in generating an emotional attachment and a sense of community among employees. As such, plural emotions may be a critical element of successful, enduring corporate agency (and, more generally, of social agency).

[20] For an overview, see, for example, Huebner (2015).

[21] Hans Bernhard Schmid defends this position; see Schmid (2014).

[22] The suggestion has been made that corporate leadership roles attract psychopathic individuals (Boddy 2011) but a recent meta-analysis of the available data shows that the relationship is less straightforward (Landay, Harms, and Credé 2019).

[23] Presumably, what people have in mind when they compare corporate agents to psychopaths is the ruthless maximizer of self-interest. However, the philosophically much more interesting discussion is the one focusing on their presumed lack of rationality and the parallel between both kinds of agents along those lines. The discussion of corporate rationality allows us to put pressure on the idea of corporate moral agency as such, whereas an ethical discussion of self-interested corporate conduct would merely state the obvious: that such behavior is regularly morally problematic.

[24] For a discussion of collectives' blameworthiness; see, for example, Collins and de Haan (2021). For a discussion on the benefits of holding corporate actors morally responsible, see List and Pettit (2011), chapter 7.

[25] Other failures of rationality that Kennett and Watson have identified in psychopaths do not appear to be especially typical of corporate agents or otherwise pertinent. These include an inability to "stand back from their desires and evaluate them" (2019, 145).

[26] Kennett's key observation is probably this one: "[T]he psychopath fails to form any extended and coherent conception of his own or others' ends, and therefore of the ways in which those ends generate and sustain reasons over time" (2002, 234). Carl Elliott, in a similar vein, writes that the psychopath's "poor [prudential] judgment seems to stem not so much from the psychopath's inadequate conception of how to reach his ends, but from an inadequate conception of what his ends are" (Elliot 1992, 210). Watson concludes that "psychopaths are incapable of experiencing anything as meaningful" (2013, 280).

[27] We will not enter into the discussion of whether or not knowledge is best understood as "true belief" or as "justified true belief."

[28] One could be doubtful as to whether or not Rio are truthful in their claim but we find the statement that senior executive were not aware of the details of a particular site fairly plausible. The moral issue, of course, is that they should have known or should have had internal structures in place to make sure the company would use existing knowledge effectively. Interestingly, in the *Interim Report* (Dec 2020), the Parliamentary Inquiry into the destruction of the rockshelters casts doubt on Rio's own description of their top executive's ignorance: "In evidence to the Committee, Mr. Jacques [RT's CEO] stated he was unaware of the significance of the rock shelters until 24 May 2020. This is also difficult to believe and, if true, would indicate that Ms. Niven [Group Executive Corporative Relations, under which relations with Traditional Owners sit] and Mr. Salisbury [Iron Ore CEO] facilitated a state of deliberate ignorance for Mr. Jacques." (1.30/1.31). Unsurprisingly, there are empirical studies showing a link between individuals' psychopathic traits and reckless behavior; see, for instance, Ray and Jones (2011). However, studies focused on individual agents' observed behavior are not necessarily providing insights into corporate agents' behavior. Further, the question of what it would mean for a corporation—as opposed to an individual agent—to "lie" or "deceive" deserves discussion in its own right and must be left open here. On this topic, see Hormio (2024) and Marsili (2023).

[29] Again, the parallel between this particular instance of corporate behavior and the typical behavior of individual psychopaths is illuminating. Carl Elliot writes: "[W]hile the psychopath seems pathologically egocentric, he is nothing like an enlightened egoist. His life is frequently distinguished by failed opportunities, wasted chances and behaviour which is astonishingly self-destructive" (Elliot 1992, 210).

[30] Some authors go as far as suggesting that since psychopathy is mostly a handicap, we might—on luck egalitarian grounds—have to compensate psychopaths for their disadvantages (Godman 2018).

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