

# RANKING AGENTS OF JUSTICE: WHEN SHOULD THE CORPORATION ACT?<sup>i</sup>

Athol Williams, University of Oxford

## *Abstract*

Theorists have argued that under certain background conditions the commercial, for-profit corporation might bear responsibility to act to advance justice. However, other agents, too, may be responsible for taking remedial action, especially when the state defaults. This raises the question of the sequence in which the agents should act. I develop a framework that offers guidance in determining when the corporation ought to intervene to advance justice. The existing literature typically identifies responsibility-bearers solely by their capacity to remedy an unjust situation, which I believe to be too simplistic. I introduce two additional grounds for identifying responsibility-bearers—a role-based account and participation-based account—and show that this pluralist approach delivers a better account of who bears responsibility to act and when to discharge this responsibility.

## **Introduction**

Several theorists, including O'Neill and Caney, have recently argued that the commercial, for-profit corporation may bear responsibility to intervene in public affairs of societies in which they operate to promote social justice.<sup>1</sup> The argument holds that this is particularly the case where citizens suffer the burden of injustices while their government is either unwilling or unable to secure justice. Responsibility attribution is typically made on the grounds that corporations possess the capacity to remedy injustices.

This article considers the role of the corporation in advancing justice, and extends it in two ways. Firstly, I argue that a capacity-based account of responsibility used by others to assign responsibility to the corporation is weak and needs to be augmented with the *participation-based* account. This approach takes account of the role the corporation might have played in bringing about or propagating the injustice (akin to the “polluter pays principle” used in climate justice). Secondly, I argue that, in the presence of other potential agents who could remedy injustices, such

---

<sup>i</sup> The word “when” is used to refer to sequential action, that is, in what order agents should act, not the temporal sense as in, at what time an agent should act.

Athol Williams, “Ranking Agents of Justice: When Should the Corporation Act?” *St Antony’s International Review* 14, no. 1 (2018): 83-102.

as multilateral organizations, foreign states, NGOs, and so on, it is not enough to simply identify the corporation as a responsibility-bearer; we also need to offer guidance on *when* the corporation should step in.

Generally, reference to “responsibility” could broadly mean “responsibility for having done something” (this might be termed “retrospective”) or “responsibility to do something” (this might be termed “prospective”). In this article, I refer to the latter meaning; making an argument for the corporation bearing responsibility to act to advance justice.<sup>ii</sup>

The article proceeds as follows. In the first section, I briefly outline the existing argument for the corporation as responsibility-bearer, which I will later augment with the participation principle. This is followed in the second section with the development of a justice intervention framework, which provides the theoretical underpinning for identifying responsibility-bearers and ranking them. Finally, in the third section, I apply this framework to the corporation in three different situations of injustice to determine when it would be required to intervene.

### **The Corporation as Responsibility-Bearer**

The thought of corporations bearing responsibility to advance justice might strike some as odd at first. It is unlikely, though not implausible, that entrepreneurs set out to establish new businesses with the goal of making the world more just. Similarly, established multinational commercial corporations are unlikely to have the advancement of social justice as their main objective.<sup>iii</sup> If the generation of profit for shareholders is the primary purpose of every commercial corporation, why should we look to the corporation to advance justice?

This line of thinking mistakenly suggests that an agent has only one set of duties that it can be called upon to discharge. This is too simplistic a view of the corporation. O’Neill, for example argues that corporations are “economically and socially complex institutions ... their constitutive aims are typically diverse and multiple” and are “evidently capable of throwing their considerable weight in the direction either of greater justice, or of the status quo, or of greater injustice.”<sup>2</sup> Rather than a narrow focus on shareholder interests, Hsieh sees corporate purpose as “allowing members of society to meet their wants and needs by coordinat-

ii I am grateful to the anonymous reviewer for suggesting this clarification.

iii While “corporation” could refer to a university or public broadcaster such as the British Broadcast Corporation (BBC) who might have social justice objectives, my focus is on the corporation whose main purpose is the generation of profit, the type of corporation that would be listed on a stock exchange.

ing labour and capital in the production of goods and services.”<sup>3</sup> Without necessarily neglecting its other responsibilities, the corporation does possess the capacity to advance justice to some degree.

The basic argument put forward by O’Neill and others is that, in a weak state (that is, a state that does not possess the power to secure justice) the corporation, which is assumed to possess the capacity and power to contribute to the advancement of justice, bears a responsibility to do so. O’Neill distinguishes between two types of agents, namely primary agents of justice, who have capacities to determine how principles of justice are to be institutionalized within a certain domain, and secondary agents of justice, who contribute to justice by complying with the demands of primary agents.<sup>4</sup> Caney suggests that rather than *types* of agents who possess fixed characteristics, agents have *roles* which they play in given circumstances.<sup>5</sup> In its secondary agent role, the extent of the corporation’s justice advancing activities would be to comply with just legal requirements. However, this changes (the argument goes) when the state is unwilling or unable to secure justice. In such a case the corporation might bear responsibility to act as more-than-secondary agent, indeed assuming primary responsibility to secure justice. Note that such a responsibility, and the type of responsibility considered in this article, is more demanding than is typically considered by theories of corporate social responsibility (CSR). These theories typically consider socially-orientated acts by corporations to be voluntary, and justifiable only if such acts do not impact the generation of profit.<sup>6</sup> As I will argue, there are circumstances and grounds for assigning this more demanding, non-voluntary responsibility, to the corporation.

To be sure, the corporation is not the only agent that could step in when the state neglects its duties. What role should other states play? What about multilateral organizations such as the United Nations or North Atlantic Treaty Organization, and what about Non-governmental Organizations? If indeed these other agents bear responsibility to advance justice in a domain, in addition to the corporation, the important question for this paper is: *in what order should the agents act?* To begin to answer this question, I now turn to the development of what I have simply termed a *justice intervention framework*.

### **A Framework for Guiding the Sequence of Justice Interventions**

The importance of identifying specific responsibility-bearers is straightforward: the pursuit of justice will be ineffective unless ob-

ligations are assigned to “specific, identifiable agents and agencies which are able to discharge those obligations.”<sup>7</sup> Miller warns that if responsibility is too widely dispersed, then it is of no motivational value because there is no compulsion for any specific actor to act.<sup>8</sup> Everyone will wait to see if someone else acts. Most observers of an injustice would assert that *some actor* is morally required to provide the resources and bring about changes in policies and social arrangements necessary to address the injustices, but few feel particularly *responsible* to work towards their enactment.<sup>9</sup> Consequently, unless we start to define and allocate responsibilities, the practical impact of theorizing principles of justice will necessarily be small.<sup>10</sup> Where multiple agents have been picked out to act, merely identifying them is not enough; without knowing the order or sequence in which they should act and the expected scope of their intervention, we might end up with the same problem as before, in that no-one might act even when we have identified them as responsibility-bearers. We might not want all agents acting simultaneously, not only due to the chaos this might cause, but also because advancing justice might in fact require sequential action. So, in addition to identifying the set of responsibility-bearers, theorizing the responsibility to act must also indicate the order in which agents should act and how the burden of advancing justice should be distributed among them.

Caney offers the useful notion of *levels of responsibility* and suggests that under varying conditions some agents bear greater responsibility to act than others, but offers little guidance on the grounds by which agents could be ranked.<sup>11</sup> The *justice intervention framework* developed here seeks to offer this guidance.

We want a framework that offers guidance on when an agent should act, that is, the sequence or order of its intervention, when other responsibility-bearers exist. So we might identify responsibility-bearers x, y and z, but want to determine who should act first, second and, third. Consider a situation where you and a handful of others are gathered outside a burning building with people trapped inside. Who should enter the building to save those inside? If one of you is a trained fireman then it would be reasonable to look to him to be the first to enter the building, after all, he has the training and special equipment to perform the required rescue tasks. But who would be next in line? Imagine the fireman goes into the building and calls for assistance, or imagine if there was no fireman among those gathered. Whose responsibility would it be to incur the cost of entering the building? We would most likely settle on a subset of those gathered who we deem to possess the requirements for someone to perform the rescue operation. So we might rule out the young child, the elderly man, the

woman in a wheelchair, and so on. Essentially what we would do is rank the available would-be rescuers by their potential ability to perform the required tasks. We might decide that the next person in line to enter the building should be the ablest person who has received some emergency training or the strongest person since both would be able to carry the victims out.

Now imagine we discover that among those gathered is a person who was involved in setting the building on fire. We might be inclined to push him to the front of the line to enter the building to rescue the victims, although some might worry that since he started the fire he may not want to rescue those inside. It would be reasonable to expect the person who caused the bad situation to bear some responsibility to fix it. To add one last complication, what if the woman in the wheelchair is the one who started the fire? Now we face a dilemma—we believe that the person who bears responsibility, owing to their causal involvement, should be the one to bring remedy, but we also want the rescue to be successful. It is unlikely that someone confined to a wheelchair would be able to enter a burning building and rescue those trapped inside. Do we therefore rule out the woman in the wheelchair and continue down the line of those gathered to identify the next rescuer or can we still hold the woman primarily responsible?

This example offers us guidance on at least three steps we would need to follow to determine when a target agent should act to remedy injustice, in the presence of other responsible agents:

- Step 1: Establish that the target agent bears responsibility to act to remedy the injustice.
- Step 2: Identify the set of other responsibility-bearers.
- Step 3: Rank the set of responsibility-bearers to reveal when the target agent should act.

Step 1 requires that we develop the grounds for identifying agents who bear remedial responsibility, and then applying it to our target agent, in our case, the corporation. Step 2 requires a scan of possible agents using the grounds established in Step 1 to determine who else might bear responsibility to act, especially those who might have responsibility to act before the target agent. This list of agents will necessarily depend on the background conditions and the injustice in question. Finally, Step 3 requires that we establish a ranking logic and apply this ranking to the agents identified in Step 2 and our target agent. Suppose that Step 3 determines that responsibility-bearers *x*, *y*, and *z* are responsible to act in that order. We think that after *x*, *y* is next most responsible, such that if *x* defaults, then *y* should act. Then, if *x* and *y* defaults,

z should act. It is conceivable that both y and z bear responsibility to act if x should default—if this is the case, then it should be stated clearly in the sequencing of responsibility-bearers.<sup>iv</sup> In the next section, I will develop the grounds for Step 1 and the ranking logic for Step 3, and then apply the framework to the corporation to answer the question of when it should intervene.

### **Grounds for Identifying Responsibility-Bearers**

The burning building example is a good illustration of the challenge we face in identifying those actors who ought to intervene to remedy an injustice or act to restore justice. In situations where multiple agents are present, it is not obvious who should act first, or who is next in line after the bearer of primary responsibility has acted or neglected to act. The example suggests that there are at least three accounts for identifying responsibility-bearers, namely a *role-based*, a *capacity-based*, and a *participation-based* account.

#### *Role-based identification*

Identifying the fireman as the agent to act in our burning building example demonstrates the role-based account of identifying the responsible agent. We do not identify the fireman because of any natural attributes or capacities but because he has been trained and equipped to perform a role in society. We would argue that it is his duty to act and that he is permitted to act since society has legitimized his actions (within a remit) by assigning him this role. We assign to him certain role permissions by virtue of his job: we permit him to break certain road rules, for example, allowing him to speed through traffic or drive up one-way streets in the course of performing his assigned duties. He also bears certain role obligations by virtue of his job; society expects him to enter burning buildings, an expectation we do not have of ordinary citizens. It is not unreasonable for non-firemen to step out of the way so that the fireman can act since it will almost always be better to let those who have been assigned responsibility to get on with the job.<sup>12</sup>

In this way, it is not unreasonable—when looking to an agent to secure justice—that we look to the state. State legitimacy is derived from its commitment to secure the human rights of its citizens. States, too, possess capabilities that may be deemed essential to secure justice—Nagel, for example, argues that the state is the only agent endowed with the required coordination ability and coercion of the scale and type that is required for justice.<sup>13</sup> Society grants states permission to perform certain duties and

---

iv I am grateful to the anonymous reviewer for suggesting this clarification.

places role obligations on the state, such as requiring it to remedy injustices that arise, and certainly not to be perpetrators of injustice. Even O'Neill, who challenges the exclusive focus of states as agents of justice, acknowledges that it is hard to institutionalize principles of justice: although states quite often do not do very well as primary agents of justice, they are the best primary agents available, and thus are indispensable for justice.<sup>14</sup>

Could a role-based account identify other agents? We certainly would not identify the corporation as an agent of justice on the role-based account. Regardless of our account of the corporation's constitutive purpose, it is unlikely to include the pursuit of justice as its main purpose. We currently do not have any institution other than the state whose role it is to secure justice; that is, an institution whose constitutive purpose includes the securing of justice. While we may assign such responsibility to agents on other grounds (as we will discuss shortly) none have been created for this purpose. This is particularly the case when we are considering global justice: we can justifiably doubt that humanitarian intervention could be codified into international law in such a way that an international body could pronounce on which agent (or agents) should intervene.<sup>15</sup> The weakness of a role-based account of responsibility is that it offers no guidance in the situation where the role-bearer fails to perform its duty, whether through negligence or being unwilling or unable to do so, a situation which is our focus.

### *Capacity-based Identification*

The *capacity principle* states that responsibilities to remedy or protect against harm or injustice ought to be assigned according to the capacity that agents possess to discharge these remedies or protections.<sup>16</sup> In a capacity-based account of identifying responsibility-bearers, lies the fact that an agent possesses the capacity to remedy deprivations, which entails the responsibility to do so.<sup>17</sup> As we did in our burning building example, a capacity-based form of identifying responsibility-bearers picked out the ablest person who has received some emergency training or perhaps the physically strongest person since rescuing the fire victims would entail heavy lifting. While Pattison focuses on effectiveness of interventions in determining who should intervene in humanitarian crises, he acknowledges that capacity to intervene successfully is the most obvious requirement of an agent to intervene.<sup>18</sup>

In theorizing responsibility to act to restore or remedy injustice, effectiveness matters significantly. We want the injustice to be effectively remedied, and so it is reasonable that we look to

agents who we deem to possess the requirements to perform the required tasks. As O'Neill points out, capacities are "constitutive of agency, and without agency any account of obligations will be no more than gesture."<sup>19</sup>

However, the capacity-based account bears several flaws. In claiming that the possession of the capacity to act entails the responsibility to do so, the capacity principle is "insensitive to costs to potential responsibility-bearers."<sup>20</sup> A reasonable constraint to action is that if acting imposes an unfair cost on the agent or creates a new harm then the agent would not be deemed blameworthy for not taking the action.<sup>21</sup> The principle would pick out for action an agent who may live a frugal lifestyle and save his resources, but would overlook an agent who is reckless with his resources, even if the latter was involved in the injustice. The principle assumes that the capacity possessed by the first agent is unencumbered and so available to be deployed for the remedial purposes, but the agent could have had plans for deployment of the resources. Perhaps a modification of capacity principle would be to assess available or unencumbered capacity which would be less insensitive to the costs to potential responsibility-bearers.

A further weakness is that the principle is conceptually vague: what do we mean when we say that an agent possesses the "capacity to remedy an injustice"? This seems to require the co-ordination of expected actions and resources required for the remedy with some assessment of the agent's possession of these resources and the ability to deploy them effectively. This cannot be known *ex ante*, and as Miller points out, leads us into the terrain of informed conjecture.<sup>22</sup> Furthermore, it is unlikely in most cases of injustice that a single agent can bring about remedy. More likely, it will require actions from multiple agents over an extended period, sometimes several years or decades. Therefore, speaking of assigning responsibility to an agent to "remedy" injustice or "restore" justice is misleading. A more accurate statement would be that we are assigning responsibility to contribute to a remedy. What follows is that, in most cases, every conceivable agent would possess some quantum of capacity to contribute to justice, thus rendering the concept completely hollow because responsibility would be too dispersed. While I agree that we should pursue paths that will offer most likely possibility of effective remedy, I do not believe that the capacity-based identification approach offers us the best way to achieve this. Its flaws render it too weak to compel an agent to act. As I show below, I am not arguing that we discard the capacity-based account, but that it will be useful in conjunction with the participation-based account, which offers stronger attribution of

responsibility and overcomes the flaws of the capacity-based account.

### *Participation-based Identification*

A participation-based identification of responsibility-bearers appeals to our negative duty to do no harm. Agents bear a duty not to cause harm—this duty unfolds into a responsibility to avoid harm, remedy harm, and prevent harm. Remedial responsibility derives from violation of these duties. We assign responsibility to put out the fire or save the trapped victims to the person who set the building alight because of our intuition that an agent who causes harm has a responsibility to act to remedy this harm. The *participation principle* states that an agent can be identified as a responsibility-bearer on the grounds that it participated or participates in direct acts or institutional arrangements that cause or perpetuate injustices. By this principle, we pick out the blameworthy agent. By holding this agent responsible we not only create a mechanism for remedying the injustice, but we also help to put right the moral imbalance between the actor and victims. The principle reflects the ideas of *connection* described by Miller, Young, and others which connect the actor and the injustice or victim of injustice. It also captures Barry's *contribution principle*, in which agents are held responsible for remedying a harm when, and to the extent that, they have contributed to creating harm. Additionally, it includes what Krosiak refers to as *involvement* prior to and during the acts of injustice as a criterion for identifying responsibility bearers.<sup>23</sup>

The participation principle picks out actors who are, or have been, *actively* engaged in acts that relate to the victim or social process in perpetrating, benefitting, or perpetuating an injustice. It is not the passive relation that matters or the mere fact of being a member of a community, as Miller suggests, but the act of *actively participating* in the unjust situation.<sup>24</sup> In what follows, I identify four ways in which an agent can participate in an injustice, and thus, acquire remedial responsibility on a participation-based account.

Firstly, a *perpetrator* of an unjust act is an actor who *causes* harm to a person or persons with *intention* to cause this harm.<sup>25</sup> If person x is identified as having intentionally set the building alight, then x can straightforwardly be identified as the perpetrator. A second way that an agent could participate in an injustice is as a *collaborator*. This is an actor who does not perform the unjust act but *intentionally supports* the perpetrator in his commission of the act. While x might have poured the petrol around the building

and set the fuel alight with a match, his friend *y* could have collaborated by driving *x* to the building, or could have helped him acquire the petrol and matches all with the intent of setting the building alight. Though not as blameworthy as *x*, *y* certainly participates in the unjust act. A third role, that of *bystander* is an actor who neither commits nor supports the commission of the unjust act; however, even though he has some power to stop the act, allows it to happen, especially if he knows that harm will befall the victim. If *z* observes the scene with *x* arriving to set the building alight but does nothing to stop him, even though he is able to, *z* would be regarded as a bystander in the wrongful act and would not be blameless. It might seem harsh to categorize a bystander as participating in the injustice, but by not intervening to stop the injustice, the bystander has contributed to the injustice coming to pass. The bystander would not carry as much moral culpability for the injustice as the other two actors.

A fourth potential role that an actor could play in an injustice is that of *beneficiary*. Suppose that an actor has played no causal role in the process that led to a victim's deprivation but has nonetheless benefited from that process, for example, by gaining resources that belonged to the victim. If, after *x* delivers a disabling punch in the face to *y*, *x* takes money from *y*'s pocket and shares it with his friends, including *z*, who played no role at all in the punching or robbing. We would consider *z* a beneficiary of the unjust acts. By benefitting from the injustice, *z* becomes connected to the victim, *y*. We would judge that the beneficiary has sufficient reason to return the stolen money to the victim since he has been unjustly enriched even if he himself has not behaved unjustly. This idea is illustrated by Thomson in her argument for preferential hiring of black males and women over white males in the United States, given the country's discriminatory past. Referring to white males, she writes:

No doubt few, if any, have themselves, individually, done any wrongs to blacks and women. But they have profited from the wrongs the [white] community did. Many may actually have been direct beneficiaries of policies which excluded or downgraded blacks and women—perhaps in school admissions, perhaps in access to financial aid, perhaps elsewhere.<sup>26</sup>

Thomson makes the point that the absence of direct acts of injustice does not preclude culpability for such injustices if an actor has benefitted from the injustice. The strength of one's ethical reason to alleviate some hardship or unfair social rules depends on the extent to which one has benefitted from its injustice, even if, by being enriched, you have not behaved unjustly.<sup>27</sup>

This issue of participation is fairly straightforward when corporations commit direct harmful acts such as endangering the lives or livelihoods of employees, customers or communities through negligent, risky or malicious practices, such as poor factory maintenance, taking on excessive debt, or discharging poisonous effluent from a factory into a water source. But sometimes the nature of a corporation's operations or the nature of the injustice is such that it is not possible to identify a single harmful act or a wrongdoer such as in cases of *structural injustices*. These injustices are propagated through social process and structures through time by agents' every day actions, which are products of previous actions that are coordinated and uncoordinated but mutually influencing actions.<sup>28</sup> According to Young, "people act on the basis of their knowledge of pre-existing structures and in so acting reproduce those structures."<sup>29</sup> These social norms are often informal, undocumented behaviours, and processes that are built into the normal operations of society and are embedded in social institutions, and thus do not arise from intentional harmful acts. They arise when a social order is characterized by weak or unfair rules, such that deprivations can exist without being easily traceable to the actions of particular individuals or groups.<sup>30</sup> Similarly, Pogge argues, that in the global context, by shaping and enforcing the social conditions that avoidably cause devastating poverty, the affluent- through trade and corporate activity- are actively harming the poor, and gaining their wealth at the expense of the poor.<sup>31</sup> According to this idea, it is the social processes that propagate injustices, and since corporations participate by their actions in the ongoing schemes of cooperation that constitute these processes, they ought to share in the responsibility of the outcomes of these processes. Corporate participation is to be found in shared social arrangements through trade, employment, the banking system and the capital markets, all avenues through which injustices are also metered out on the vulnerable.

A typical objection to the participation-based identification account is that expressed by Pattison, who points to the difficulty in disentangling the role played by a potential responsibility-bearer from that of other agents. Moreover, the agent responsible for the injustice would be ineffective because the victims will resist its involvement in remedy owing perhaps to their distrust of the agent.<sup>32</sup> I agree with Miller's response to Pattison, that the claimed indeterminacy of an agent who participated in an injustice is no more indeterminate than the issue of future effectiveness, which the capacity account advocates. Miller writes:

The past may need interpretation, but at least the record is open to inspection, whereas when we are trying to judge who will be most effective in bringing the human rights violations to an end, we are at best in the realm of informed conjecture.<sup>33</sup>

The most severe difficulty that the participation-based account faces is the claim that it is self-defeating in cases where an agent may have participated in the injustice but does not possess the capacity to remedy the injustice. The claim is that we are no better off since we would have a responsibility-bearer who cannot act—although there are agents who possess the capacity to act to remedy the injustice, but who have not been picked out by the participation principle. However, as indicated above, the idea of an agent lacking capacity seems mistaken.

Is participation necessary and sufficient? There is greater moral force to assigning remedial responsibility to an agent who participated in someone's suffering but lacks the capacity to remedy the injustice itself, than merely an agent who possesses the capacity to remedy. The idea that an agent needs the capacity to act depends importantly on what the act requires but also what we mean by capacity. The capacity principle rejects the idea that an agent who lacks capacity can be effective in remedying the injustice. This might sound like common sense but it does depend on our definition of capacity. For example, we could identify the agent who bears the capacity to extinguish a burning building as the agent who possesses the skill and equipment to fight a fire. But what about an agent who possesses neither but has the ability to contact the fire station in an emergency which others lack, or possesses the ability to convince a fire chief that this fire is more important than the training his team is about to embark on. The woman in the wheelchair may not be able to enter the burning building but this does not mean she is off the hook. There are actions that she can take that would contribute to the rescue of those trapped inside. These actions may include calling an emergency telephone number, trying to coordinate the rescuers or offering material help, such as water and energy bars to those entering the building to sustain them.

Surely an ability to facilitate the delivery of the remedy contributes to the remedy even if this agent is not part of the actual delivery. This broadens our definition of capacity. In essence, an agent bears capacity if it can contribute, in some way, to the remedy, whether acting directly upon the injustice, marshalling others to act, or making another type of remedial contribution. If we accept that every agent bears this minimum capacity, then our grounds for attributing responsibility can be participation alone. On the grounds of its participation, we hold an agent responsible for ensuring that

the injustice is remedied. This can be achieved through its own action or facilitating the action of others.

### **A Logic for Ranking Responsibility-Bearers**

Theorists often deal with the concept of responsibility-bearer in a binary fashion, that is, an agent either bears responsibility or it does not. The reality is that agents bear degrees of responsibility. In a globally-connected world, virtually every agent is connected to every other however minute or diffuse that connection might be. A person buying a T-shirt in a London department store is distantly connected to the person manufacturing the T-shirt in a sweatshop in Asia. But we would certainly hold the owner of the sweatshop more responsible for the injustice in the sweatshop than the person in London.

Caney distinguishes between different types of duties that agents of justice can bear.<sup>34</sup> A first-order duty-bearer is a duty-bearer who should in the first instance perform the duty. As we have discussed, he, too, acknowledges that first-order duty-bearers sometimes do not do what they are supposed to do. Where there has been a failure to act by a first-order duty-bearer, there needs to be a back-up to step into their place to ensure that the injustice is remedied. This back-up needs to fulfil the role that the original duty-bearer should have performed. This process can then be iterated if the second-order duty-bearer fails to do their job, and so on.

The discussion on the grounds of assigning responsibility offers us the following guidance in terms of factors that we should apply to agents to determine the order in which they should intervene to remedy injustice:

Factor 1: Agent(s) who have been assigned the role by society.

Factor 2: Agent(s) who have participated in the injustice.

Factor 2a: This set of agents is then ranked by levels of participation.

Factor 3: Agent(s) who have not participated in the injustice.

Factor 3a: This set of agents is ranked by effective capacity.

Factors 1, 2, and 3 give us a macro-ranking of the sets of agents, with Factors 2a and 3a ranking the agents within these sets.

The factors are applied as follows: faced with an injustice that requires remedy, we first apply Factor 1 to the set of all poten-

tial agents and prioritize for intervention those agents to whom society has assigned the role to address the injustice at hand. If this agent fails, neglects its duty, or its efforts are insufficient to remedy the injustice, we will look to the remainder of agents to pick out those who ought to intervene. We start by applying Factor 2 to the remaining agents, picking out those who have participated in the injustice whether directly or through institutional arrangements, or whether as perpetrator, collaborator, bystander, or beneficiary. If these agents are ineffective in remedying the injustice we then look to the remaining agents who we rank by their capacity to contribute to the remedial action. This sequential process offers us a guideline for the order in which agents should act. It is not without difficulties as we would expect. The challenge of ranking effective capacity among agents remains, and so does the challenge of ranking levels of participation, especially when agents have participated in different ways. These challenges will need further work to address.

*Restatement of the Justice Intervention Framework*

The three steps and three factors combine into our framework. The factors are employed to guide decisions for each of the steps.

Steps:

Step 1: Establish that the target agent bears responsibility to act to remedy the injustice.

Step 2: Identify the set of other responsibility-bearers.

Step 3: Rank the set of responsibility-bearers to reveal when the target agent should act.

Factors:

Factor 1: Agent(s) who have been assigned the role by society.

Factor 2: Agent(s) who have participated in the injustice.

Factor 2a: This set of agents is then ranked by levels of participation.

Factor 3: Agent(s) who have not participated in the injustice.

Factor 3a: This set of agents is ranked by effective capacity.

We are now in a position to assess when the corporation should intervene to remedy injustice.

**Applying the Justice Intervention Framework: The Case of the Corporation**

While our principles of justice and grounds for identifying respon-

sibility do not change as we consider different unjust situations, the actor who is picked out as responsibility-bearer will change depending on the situation of the injustice. We identified the fireman because there was a fire; in a different situation, say a medical emergency, we would look to paramedics or doctors as bearing responsibility on the grounds of their role. In considering when the corporation bears responsibility to act, I propose that we consider three different situations with distinctly different injustices and different remedies. I will consider situations of a humanitarian crisis, such as armed genocide, requiring military intervention, a humanitarian crisis that does not require military intervention, such as mass starvation due to poor governance, and worker exploitation. I hope to show that corporations hold different positions of priority to act in different unjust situations.

In considering the corporation as a bearer of justice-responsibility, I will not seek to present a full defence against objections to the corporation bearing any such responsibility. The most common of these is that the corporation only bears responsibility to its shareholders, and that any other application of its resources would be neglect of this responsibility. Relying on the arguments that others have made, I am here taking as given that the corporation is an agent fit to be assigned moral responsibility, especially in the face of unjust situations and when it has participated in the creation of the injustice.

I will now follow the three steps of the justice intervention framework with the corporation as our target agent, applying the three factors of the framework to each step. For each of the unjust situations we will imagine a country in which the injustice occurs, and then consider who the responsibility-bearers may be. Note that we are not considering a specific corporation in this analysis, but the typical corporation as we experience it in the real world today.

*Step 1: Establish that the target agent bears responsibility to act to remedy the injustice.*

In none of our three unjust situations would we assign responsibility to the corporation on the grounds that it is its role to restore justice (Factor 1). The corporation's purpose is not to discharge military duties, remedies of mass starvation, or to fight against worker exploitation.

Can a corporation be judged to have participated in these injustices?

*Genocide:* A humanitarian crisis requiring military intervention could arise, say, in a case of genocide where mass killings

are committed by one section of a population against another. In such a case, the state could either support the killings or lack the power to prevent it. Given the levels of violence and death, it may be justifiable that external military intervention is required to begin the process of restoring justice. It is not inconceivable that some rogue corporation could support the genocide, but this would be unlikely in the normal course of business operations. While some businesses might benefit from a surge in demand for certain products, perhaps medical supplies, we would not consider this unjustified benefit, and therefore would not assign responsibility to the corporation by the participation principle.

*Mass starvation:* We would assign low responsibility to the corporation, unless it was involved in the structural processes that caused food not to get to people, or prevented a group from being able to access food through hoarding or overpricing products. But in most cases starvation occurs through a combination of environmental, economic and governance issues, the latter being arguably the most significant. Corporations may possess financial resources to procure food and transport it to the area of need. This would be considered relief aid, the remedy required to change the structural injustice of mass starvation requires institutional change which the corporation can support but needs to be enacted by a body with such authority.

*Worker exploitation:* Corporations can be involved in exploiting employees particularly when they are vulnerable owing to past discrimination or current forms of oppression. Such situations leave people vulnerable to exploitation, a situation where one party uses its superior bargaining position to win favourable terms for it from another party in an agreement between them. The agreement is morally problematic when the powerful party breaches certain fairness expectations to gain unfair terms for itself, at the expense of the weaker party, who has little reason to hope for a better deal.<sup>35</sup> Corporations operating in societies with histories of discrimination are most likely to be in situations, wittingly or unwittingly, to exploit workers. Where exploitation occurs anywhere in a corporation's supply chain, the participation principle picks them out to bear some responsibility for remedy.

*Step 2: Identify the set of other responsibility-bearers.*

Given the scale of the injustices that I want to consider, I will set aside identifying individuals as agents and focus on institutional agents. Institutions fall into three broad categories according to the three sectors in society, namely: public, private, and third

sector. Public sector institutions would include the state and different levels of government whether national, provincial, or local, state agencies such as environment protection agencies, and state-owned enterprises. Private sector institutions are mainly commercial, for-profit corporations, while third sector includes organizations with a social mission, namely non-profit organizations, charities, foundations, and the like. Institutions in all three categories could also be domestic (operating only in the country where the injustice occurs), multinational (operating in multiple countries including the country where the injustice occurs), and foreign (operating only in one country but not where the injustice occurs). Even with these broadly-defined categories we gain a sense of the breadth of possible agents.

*Genocide:* The role-based account would assign first-order responsibility to multilateral organizations such as the UN, particularly the Security Council, and perhaps other regional institutions such as the African Union if the genocide was occurring in Africa. It is conceivable that the participation principle picks out foreign nations as responsibility-bearers. This would be the case where it could be argued that a foreign nation stirred up racial or sectarian hatred that led to the genocide or supplied military equipment to the perpetrators knowing their plans.

*Mass starvation:* Other than the domestic state there are no public or private sector bodies constituted to provide for a nation's basic nutritional needs or to deal with situations of large-scale shortages which could result in mass starvation. A global Inter-Governmental Organization such as the World Food Programme does bear role responsibility for dealing with such crises and is equipped to deal with them. If the state has failed to secure the basics of food for its citizens, responsibility to protect obligations might pick out foreign states to intervene, as it would in the case of genocide. The participation principle would identify any agencies that have intentionally deprived groups of citizens of food or neglected to provide for them. These would most likely be domestic agencies.

*Worker exploitation:* International political theory tends to focus mainly on the question of intervention in relation to humanitarian crises overlooking the injustices that are not considered life-or-death crises but that heap misery upon significant portions of the world's population. The exploitation of people is one such example which comes in many forms, whether inhumane working conditions, slavery, or simply taking advantage of their vulnerability. The participation principle would most clearly pick out corporations as responsibility-bearers for worker exploitation as well as public agencies and industry bodies that either do not

prevent such exploitation when they are able to do so, or actively lobby for such behaviour.

*Step 3: Rank the set of responsibility-bearers to reveal when the target agent should act.*

A thorough ranking of agents for each of these injustices would be an empirical exercise. What I hope to do here is show that the Justice Intervention Framework provides the normative basis for setting out principles for such a ranking. It allows us to offer an answer to our core question: When should the corporation intervene?

*Genocide:* The corporation would not be a first-order responsibility-bearer in this situation and even with failures of first-order responsibility-bearers to act, it is implausible that we would see a private organization, such as a commercial corporation, bear responsibility to perform a military intervention either at home or elsewhere. While this might be a fairly obvious conclusion, it is important for clarity that when we talk of corporations bearing responsibility to secure justice, there are limits on the nature of the injustices and the type of interventions that corporations can be seen to be making. This case has made this point clear. Corporations can justifiably stand back to allow agents sanctioned by international law to act.

*Mass starvation:* The corporation would be closer to the front of the line, so to speak, to act in this case than with genocide but well behind several other responsibility-bearers. This might appear to some as an absurd conclusion, especially those who support a capacity-based view of responsibility. This conclusion seems to suggest that even though a corporation might possess vast financial resources that could contribute meaningfully to saving possibly millions of lives, it does not bear the responsibility to rush to the front of the line to do this. How could we justify such a position? The response calls upon our earlier discussion on the weaknesses of the capacity principle. We can only justifiably require an agent to act to remedy an injustice when it has not participated in its creation, and when doing so will not create a new harm.<sup>36</sup> The corporation has numerous claims on its resources in addition to its shareholders, namely employees, customers, suppliers, and other financiers. Abandoning these responsibilities in favour of a crisis, as unpalatable as it might seem, could constitute a harm to these stakeholders. Of course, this does not preclude the corporation from making charitable contributions to the crisis.

*Worker exploitation:* The framework identifies the corporation as a leading responsibility-bearer when it comes to remedying

the injustice of worker exploitation. After the state, the corporation would be among the next in line to act given its strong participation in the injustice. We would expect the corporation to not only contribute to remedy but also contribute to the promotion of institutions that would prevent this type of employment in the future, as well as changing its operational practices in the interim to avoid continued complicity in the unjust practice.

The thrust of the participation principle is felt most in the worker exploitation case because we can observe how the corporation is entangled in its creation and perpetuation. Even when corporations do not perpetrate these injustices by virtue of participation in the social arrangements of trade, they benefit from it. The strength of the participation principle over capacity or effectiveness is that it not only identifies the responsibility-bearer based on actual evidence of past and current participation, but also appeals to a strong moral principle, that of avoiding doing harm.

## Conclusion

In theorizing the responsibility of agents to act to remedy injustice, we face a tension between the effectiveness of the remedy and fairness to the agents. This is especially the case when an agent, such as a corporation, bears responsibilities to its stakeholders. By building the action-guidance framework on the participation principle, we avoid this tension since it eliminates the unfairness of the capacity principle without compromising effectiveness. The resulting framework shows that the corporation can justifiably refrain from action in unjust situations, where it bears no role-responsibility, and where it has not participated in the injustice. However, it is required to be among the first responsibility-bearers to act when it can be judged to have participated.

## Notes

1 Onora O'Neill, "Agents of Justice," *Metaphilosophy* 32, no. 1/2 (2001): 180-195. Simon Caney, "Agents of Global Justice," in *Reading Onora O'Neill*, ed. David Archard, Monique Deveaux, Neil Manson, and Daniel Weinstock (London: Taylor and Francis, 2013), 133-156. Nien-he Hsieh, "Does Global Business Have a Responsibility to Promote Just Institutions?" *Business Ethics Quarterly* 19, no. 2 (2009): 251-273. David Karp, *Responsibility for Human Rights: Transnational Corporations in Imperfect States* (Cambridge: Cambridge University Press, 2014). Florian Wettstein, *Multinational Corporations and Global Justice* (Stanford: Stanford University Press, 2009).

2 O'Neill, "Agents," 192-193.

3 Nien-he Hsieh, "Multinational Corporations, Global Justice and Corporate Responsibility: A Question of Purpose," *Notizie di Politeia* 29, no. 111 (2013): 1.

4 O'Neill, "Agents," 181.

5 Caney, "Agents," 142.

- 6 Domènec Melé, "Corporate Social Responsibility Theories," in *The Oxford Handbook of Corporate Social Responsibility*, ed. Andrew Crane et al. (Online Publication Date: Sep 2009 DOI: [10.1093/oxfordhb/9780199211593.003.0003](https://doi.org/10.1093/oxfordhb/9780199211593.003.0003)).
- 7 O'Neill, "Agents," 185.
- 8 David Miller, "Distributing Responsibilities," *The Journal of Political Philosophy* 9, no. 4 (2001): 469.
- 9 Christian Barry, "Global Justice: Aims, Arrangements, and Responsibilities," in *Can Institutions Have Responsibilities? Collective Moral Agency and International Relations*, ed. Toni Erskine (Basingstoke: Palgrave Macmillan, 2003), 218.
- 10 Wettstein, *Multinational Corporations*, 9.
- 11 Caney, "Agents," 145.
- 12 Robert E. Goodin, "What is So Special about Our Fellow Countrymen?" *Ethics* 98, no. 4 (1988): 680.
- 13 Thomas Nagel, "The Problem of Global Justice," *Philosophy & Public Affairs* 33, no. 2 (2005).
- 14 O'Neill, "Agents," 182.
- 15 James Pattison, *Humanitarian Intervention and the Responsibility to Protect: Who Should Intervene?* (New York: Oxford University Press, 2010).
- 16 Miller, "Distributing," 460. Karp, *Responsibility for Human Rights*, 89.
- 17 Barry, "Global Justice," 230. Caney, "Agents."
- 18 Pattison, *Humanitarian Intervention*, 84.
- 19 O'Neill, "Agents," 189.
- 20 Karp, *Responsibility for Human Rights*, 91.
- 21 Caney, "Agents," 142. Peter Singer, "Famine, Affluence, and Morality," *Philosophy and Public Affairs* 1, no. 3 (1972): 229-243.
- 22 David Miller, "Humanitarian Intervention and the Responsibility to Protect: Who Should Intervene? By James Pattison," *Global Discourse* 2, no.1 (2011): 208.
- 23 David Miller, *National Responsibility and Global Justice* (Oxford: Oxford University Press, 2007). Iris Marion Young, *Responsibility for Justice* (New York: Oxford University Press, 2011). Barry, "Global Justice," 228. Daniela Krosiak, "The Responsibility of Collective External Bystanders in Cases of Genocide," in *Can Institutions Have Responsibilities? Collective Moral Agency and International Relations*, ed. Toni Erskine (Basingstoke: Palgrave Macmillan, 2003), 161.
- 24 Miller, *National Responsibility*, 104.
- 25 Christopher Kutz, "The Philosophical Foundations of Complicity Law," in *The Oxford Handbook of Philosophy of Criminal Law*, ed. John Deigh and David Dolinko, (doi:10.1093/oxfordhb/9780195314854.003.0006, 2011), 148.
- 26 Judith Jarvis Thomson, "Preferential Hiring," *Philosophy & Public Affairs* 2, no. 4 (1973): 383.
- 27 Barry, "Global Justice," 229.
- 28 Young, *Responsibility*, 52.
- 29 Iris Marion Young, "Responsibility and Global Justice: A Social Connection Model," *Social Philosophy and Policy* 23, no. 1 (2006): 113.
- 30 Barry, "Global Justice," 222.
- 31 Thomas Pogge, *World Poverty and Human Rights* (Cambridge: Polity, 2012)
- 32 Pattison, *Humanitarian Intervention*, 193.
- 33 Miller, "Humanitarian Intervention," 208.
- 34 Caney, "Agents," 145.
- 35 Aaron James, *Fairness in Practice: A Social Contract for a Global Economy* (Oxford: Oxford Scholarship Online, 2012), 308-309.
- 36 Singer, "Famine." Caney, "Agents."