

NONE OF MY BUSINESS

WHY CORPORATIONS SHOULD ASSUME RESPONSIBILITY FOR STRUCTURAL INJUSTICE AND WHY THEY DO NOT

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Abstract

Human rights violations are a common by-product of complex global economic structures. These violations should be understood as manifestations of structural injustice. Structural injustice occurs when societal processes construct structures that leave groups or individuals vulnerable to domination and deprivation. The traditional understanding of responsibility, which requires a causal link between an action or omission and a harm, is too narrow to assign responsibility for such circumstances. Therefore, a complementary account to assign responsibility for structural injustice is necessary. Iris Marion Young with her social connection model and various other authors try to provide such an account. While assigning responsibility to corporations that go beyond ensuring that they do not violate human rights themselves, these approaches are not demanding enough: they make it too easy for corporations to shed responsibility and facilitate strategies to deny responsibility. These shortcomings can be explained with reference to three reasons: the understanding that corporations' primary role is to maximise private profits (ideology); the human inclination to put priority on closer relationships, on the immediate future, and on harms they directly cause in their normative reasoning (motivation); and indeterminacies about how ideal and just structures would look like, how to get there, and who should do what (collaboration).

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“The triumph of evil requires a lot of good people, doing a bit of it, in a morally disengaged way, with indifference to the human suffering they collectively cause.”

Albert Bandura (2002, p.113)

Introduction

In December 2021, the Dutch newspaper *de Volkskrant* published an article (Modderkolk & Schoorl, 2021), which states that the major Dutch bank ING is involved in financing the 2022 football World Cup in Qatar. The event has been heavily criticised for human rights abuses during the construction of stadiums and other infrastructure. According to *The Guardian*, more than 6.500 migrant workers have died in Qatar since the World Cup was awarded in 2010 and even though “death records are not categorised by occupation or place of work, it is likely many workers who have died were employed on these World Cup infrastructure projects” (The Guardian, 2021). ING’s reaction, as included in the *de Volkskrant* article, states that they have not financed the construction of stadiums that were built for the World Cup and if clients are connected to human rights abuses, they get in touch with them. ING is acting as lead arranger for loans and joint lead manager for the issuing of bonds for the Qatar National Bank (QNB), which is a major sponsor of the World Cup and helps financing various projects and companies in Qatar that are directly or indirectly connected to the event.

Such severe human rights violations connected to business activities are recurring and widespread in various countries and industries, which requires the assignment of responsibility. The ING example raises the question, if only corporation’s¹ direct involvement in human rights violations leads to responsibility or if indirect involvement induces moral responsibilities as well. Due to the complexity of economic activities, composed of extensive supply chains with links in multiple countries, various numbers of (sub-)contractors, complex and sometimes opaque firm structures, as well as intricate financing of these activities, it is not easy to delineate where direct involvement in human rights violations ends and where indirect involvement begins, both conceptually and in practice (see Wettstein, 2015, p.172). This makes it challenging to assign responsibility to clearly identifiable actors. Even more as the most prevalent and enduring human rights issues occur due to structural reasons (Wettstein, 2009, p.21), with some of these structures going back to the colonial area (Pogge, 2005, p.2).

¹ Throughout this thesis, I use the terms corporation and company interchangeably. The term corporation is not implying anything about the size, or the national/international reach of an entity.

Therefore, limiting corporations' responsibility to cases where they are directly involved in human rights violations, which is relatively undisputed², is too narrow.

I will argue that human rights violations can be understood as the consequence of structural injustice, a framework suggested by Iris Marion Young. From this understanding derives responsibility, independent of individual actors' direct involvement in human rights violations, to help changing the structures, or institutions, in such a way that the risk for people of being left in positions of vulnerability to human rights violations decreases or gets eliminated. Responsibility is assigned to those actors, including corporations, who are involved in the formation and perpetuation of these structures and/or profit from the occurrence of structural injustice. However, attempts to explicate the degree of corporations' responsibility are not demanding enough: they make it too easy for corporations to shed responsibility as they facilitate strategies of avoiding responsibility. This lack of demandingness can be explained by issues around ideology, motivation, and coordination.

In the first part, I will discuss the notion of structural injustice and the social connection model as suggested by Young, which provides the basis for assigning responsibility for structural injustice to corporations. I will discuss several criticisms of her model that help refine its understanding. I will complete this part by demonstrating that human rights violations connected to business activities can be understood as the consequences of structural injustice. In the second part, I will examine how Young and other authors derive the degree of corporations' responsibility for issues of structural injustice and discuss the shortcomings of these approaches. In the last part, I will present two main reasons why the approaches examined in part two are not demanding enough and offer three interdependent reasons that explain why this is the case.

² Donaldson (1996) indicates that respecting human rights should be considered as "moral compass for business practices." This is therefore not a "charitable act, but owed to the rights-holders (Wettstein, 2022, p.5)", i.e. all humans. Even though these are only two example, the broader idea is widely shared and reflected in the UN General Principles on Business and Human Rights, a global standard, addressing corporations' responsibilities regarding human rights. According to these principles, corporations must "avoid causing or contributing to adverse human rights impacts through their own activities (...)" (UNGA, 2011, p.14)."

1 Human rights violations as structural injustice

In the last decades, globalisation has brought people closer together, mainly through flows of trade. It became normal that I am writing my thesis on a computer that was designed in the USA, and assembled in China, while snacking chocolate produced with cocoa from Côté d'Ivoire or Ghana, drinking Ethiopian coffee, and wearing a shirt produced in South-East Asia. Every day, I rely on global structures of trade, which connect me not only to the companies selling the products, but also to the workers who assembled my laptop or to the farmers who picked the cacao and coffee beans. These people work in industries and jobs that are connected to human rights violations, and they live in less privileged circumstances.

These circumstances should be viewed through the lens of structural social injustice. Since people are connected globally via structural social processes, claims of justice might extend across the world, independent of political boundaries (Young, 2006, p.102). The tools to assign responsibility for injustice based on social structural processes are lacking because the traditional understanding of legal and moral responsibility is derived from harm-inducing actions that are directly attributable to identifiable individuals or groups (Young, 2006, p.115; 2011, p.26). This requires clear rules for proving a causal connection between the agent and the occurred injustice as well as for evaluating intentions, motives, and consequences of actions (Young, 2006, p.118). For many prevailing global problems, causal chains are opaque and can be used to shed rather than assume responsibility (Wettstein, 2012, p.168). Therefore, Iris Marion Young introduces a conception of responsibility based on the fact that people participate together in social processes. This account tries to avoid blame-shifting, which can lead to resentment, and refusal to assume responsibility (Young, 2006, p.124; 2011, p.11).

Young's account is based on a critique of luck egalitarianism, which ignores or rejects the relevance of social structures as it fails to appreciate that people's ability to develop their talents significantly depends on the social conditions they live in (Young, 2011, p.30-1). The social connection model Young provides, emphasises these structures and individual responsibility for upholding them. It does not replace the traditional understanding of responsibility but acknowledges that such an understanding is not appropriate for all contexts (Young, 2011, p.100).

In this section, I examine Young's account of structural injustice and the social connection model and discuss several critiques of it, specifically that the account lacks a moral standard, that a strict separation of forward- and backward-looking responsibility is not possible, that it is unclear who bears the responsibility for remedying structural injustice, and that shared responsibility can lead to collective action problems. While the first criticism is not

valid, the other ones are helpful for refining Young's account. Then, I will suggest that human rights violations connected to business activities can be understood as manifestations of structural injustice, which indicates a responsibility for various actors to work on changing institutions in such a way that occurrences of structural injustice can be reduced or eliminated. Finally, I will show that corporations should assume responsibility for these changes.

1.1 Structural injustice and the social connection model

Structural injustice

Young (2011, p.52) defines structural injustice as the result of social processes that leave many people exposed to a systemic threat of domination and deprivation, which significantly constraints their opportunities. These social processes are built and perpetuated by the combination of single actions of individuals and institutions that, if considered separately, are respecting accepted rules and norms (Young 2006, p.114; 2011, p.52). Structural injustice is about social-structural processes, the involvement of many agents, power relations between the different individuals and institutions, and, most importantly, about how the interdependence of these characteristics and the constraints they impose on different actors lead to unjust outcomes.

Social-structural processes introduce constraints, which appear as objective and given, as they result from the accumulated effects of past actions that induce institutional and social norms. This might lead to unconscious actions based on routine or habits, possibly with unintended consequences (Young, 2011, p.53,55,61,63). This implies that changing structures is out of one's control. Such an assumption is wrong, as institutional arrangements and social rules and consequently social structures are constructed and can be changed, albeit not necessarily in the short term or equally easily by any actor. Due to their unconsciousness, it is difficult for agents within these structures to understand if and how their actions contribute to unwanted outcomes. Understanding power relations is central to understanding such social-structural processes (Young, 2011, p.61). On the one hand, an agent's position of power defines their possibilities and constraints as well as their ability to change the underlying social structures. On the other hand, there is the danger that power relations are reinforced by these structures, which makes it challenging to get out of a less powerful into a more powerful position.

Individuals suffer injustice due to the position of vulnerability they are in, for which they are often, at most, partially responsible (Young, 2011, p.45). Whether the vulnerability materialises depends on individuals' own actions, on luck, and on actions of others (Young, 2011, p.45). Various, often interconnected, factors lead to structural injustice, which makes it

difficult to understand its occurrence. Since intricate, societal problems often occur due to complex, structural reasons that have been constructed and reconstructed over a long amount of time and by a large number of actors in various positions, there will be no simple solutions to diminish these injustices.

This indicates the relevance of background conditions, and of understanding how power relations influence these background conditions, as many different actors are involved in (re)producing these background conditions and are influenced by them. Some benefit from them, some suffer, and most benefit and suffer at the same time, which makes a clear distinction between perpetrators and victims difficult. This is exacerbated by the fact that the structures are maintained by habitual and routine actions that by themselves do not seem wrong, yet the structures resulting from the accumulation of these actions lead to unjust outcomes. It is crucial to understand these background conditions, how they lead to injustice and what the contributions and influence of different actors are. This requires a significant capacity of abstraction, a “wider and longer-run reflective point of view” (Young, 2011, p.107-8), and “quite a bit of critical capacity” (Wettstein, 2010a, p.35).

Social connection model

Based on this conception of structural injustice, Young develops the social connection model, which provides a conceptual framework for thinking about responsibility for manifestations of structural injustice. According to this model, individuals’ responsibility arises from their contributions to and participation in (institutional) processes that cause injustice (Young, 2006, p.119).

The conception of responsibility exhibits five main features (Young, 2006, pp.119-124; 2011, pp.104-113). First, this type of responsibility is *not isolating*. The structural causes of injustice make it difficult to clearly identify the people liable for the injustice and singling out some actors as specifically responsible does not absolve others from bearing responsibility, as their actions might, even if to a lesser degree, contribute to the unjust outcomes. This aspect shows that non-causal contributions can be morally relevant, and that responsibility can be assigned in situations where determining individual contributions is difficult or impossible (Wood, 2012, p.74). Second, it is *judging background conditions* as morally not acceptable, even though they are the result of actions based on accepted rules and norms. This leads to the awareness that most actors contribute, at least to some degree, to structural injustice. Third, the responsibility is not backward- but *forward-looking*. The focus is on who bears responsibility for changing the structures and not on who is to blame for the current structures. Neuhäuser (2014, p.247) rightly considers the forward-looking perspective as one of the strongest points

of Young's account, as it prioritises action to eliminate injustice instead of defining through long drawn processes, who is responsible and to what degree. As I will discuss in the next section, this prioritisation does not indicate that the backward-looking perspective is irrelevant. Fourth, it is a *shared responsibility*. By being part of societal structures and thereby contributing to their maintenance, and since no actor alone produces a specific structural outcome, each actor bears responsibility. This leads to the final aspect, namely that the responsibility can *only be discharged by collective action*. Since structures cannot be altered by single agents, many different agents need to work together to change them. Even if single agents can sometimes induce change by themselves, defining the responsibility as shared leads to a higher degree of legitimacy of the changes.

Young defines this responsibility as a political responsibility, which means taking a stand and not being indifferent about structural injustice, and not only doing something oneself but to encourage others to join (Young, 2011, p.92-3). The responsibility's political nature entails a public accountability requirement for all responsible actors towards those who equally share the responsibility, and to explain how their actions help reduce structural injustice (Wettstein, 2022, p.5; Young, 2006, p.126). This requirement includes the danger that those actors with superior rhetoric capacities can get away with a less significant contribution than actors who might not be as successful in demonstrating their contributions. Nonetheless, structural injustices call for political action to be corrected, hence requiring the responsibility to be political. While this conception of responsibility is very demanding, it is unavoidable if formal and informal institutional settings are to be changed for the better.

1.2 Critiques of the social connection model

After having introduced the concept of structural injustice and the social connection model, in this section I will discuss several critiques of the model. Namely, that the account lacks a moral standard, that a strict focus on forward-looking responsibility is implausible, that it is not clear who bears the responsibility for correcting occurrences of structural injustice, and that shared responsibility leads to collective action problems.

Does the social connection model lack a normative standard?

Christian Neuhäuser holds that Young does not provide a clear account of what normative standard she refers to, but “only gestures at domination and unfair development of capabilities, without further clarifying these concepts” (2014, p.238). Intuitively, a normative standard that holds domination and unfair development as unjust does not seem that far-fetched or disputed.

Even though Young may not explicitly mention what normative standard her account is based upon, this critique is unfounded, as her account can be embedded in non-domination theory.

For example, Young specifically refers to Elizabeth Anderson's "What is the Point of Equality?", where she criticises luck egalitarian accounts of distributive justice (Anderson, 1999). In this essay, Anderson proposes the concept of democratic equality, which aims at abolishing oppression based on socially constructed hierarchies. Correcting injustice requires changes in social norms and structures and not simply the redistribution of resources (Anderson, 1999, p.336).

Other proponents of non-domination theory emphasise that domination is a relation of power leaving the dominated agent exposed to the arbitrary power of the dominating agent, which restricts the options of the dominated agent, even if the power might not be deliberately exercised (Nadeau, 2003, p.128,132; Pettit, 2012, p.294-5) and independent of whether the people in position of power gladly receive or resent the privileges attached to it (Gädeke, 2020, p.207). Further, this structurally constituted form of power depends on social norms and practices (Gädeke, 2020, p.207) that are perpetuated by a large enough group in society (Sandven, 2020, p.390). Therefore, domination should not be treated as an anomaly based on certain individual's misbehaviour, which would require sanctioning them, but the focus must be on why and how norms and practices leading to domination are upheld (Gädeke, 2020, p.218). Non-domination must be achieved through political institutions, who facilitate an environment in which the liberty of individuals is protected from domination (Nadeau, 2003, p.129,133; Pettit, 2012, p.299-303). Hence, changing institutions is necessary to minimise negative outcomes of these structures. These elaborations are equivalent to Young's reasoning, which shows that there is no lack of normative standard in her approach.

Focus on forward-looking responsibility

Another main criticism is Young's emphasis on forward-looking responsibility, which comes in two forms. First, by arguing that a clear distinction between the responsibility for directly caused harms and responsibility for harms caused by social structures is not possible, and second, by highlighting problems that occur when focusing solely on forward-looking responsibility.

Valentin Beck criticises that none of the five criteria Young mentions in the social connection model (non-isolating, judging background conditions, forward-looking, shared responsibility, discharged only by collective action) is capable of drawing a clear line between responsibility for structural injustice and the traditional understanding of responsibility based on harm-inducing actions. Attributions of responsibility for direct harms should reflect

background conditions, and liability for direct harms can be shared (Beck, 2020, p.11). While this point is valid, Young does not say that the criteria are only applicable to the social connection model and irrelevant for the traditional understanding of responsibility. Therefore, Beck's main contribution is to specify that what he calls structural responsibility (i.e. responsibility directed at structures within which people act) and interactional responsibility (i.e. responsibility of subjects in direct interaction with other agents) are complementary forms of responsibility (Beck, 2020, p.12-4).

While Young focuses on forward-looking responsibility, Beck indicates that structural responsibility involves both backward- and forward-looking aspects, as agents' contributions to structural injustice, albeit indirect, should be considered as normatively relevant when assigning responsibility for remedying injustice (Beck, 2020, p.14). Another aspect where Beck is more concrete than Young is regarding the implications of assuming structural responsibility, which are to help make social structures more just or political decision-making processes more democratic (Beck, 2020, p.13-4). Corporations, for example, should not oppose socially and environmentally progressive laws and policies (Beck, 2020, p.16). Beck is not opposing Young's approach as such, but rightly emphasises that moral agents have both responsibilities based on direct harms they cause and on their contribution to constructing and sustaining structures that lead to unjust outcomes.

Robert Goodin & Christian Barry also criticise the criterion of focusing on forward-looking responsibility. However, their point is slightly different: they fear that focusing on forward-looking responsibility removes an important incentive for people to act because they would, in the future, not be condemned for failing to act against structural injustice now (Goodin & Barry, 2021, p.341-2). They agree with Beck that the degree of responsibility for the maintenance of structures leading to injustice should be taken into consideration to define the forward-looking responsibility. Robin Zheng (2019, p. 119) interprets the social connection model in a way that the distribution of forward-looking responsibility is based on the degree to which different actors have contributed to producing and sustaining unjust structures. I think that Young would, at least partially, agree with this interpretation, as she provides four criteria for thinking about how to concretely assign responsibility (power, privilege, interest, collective ability; see next chapter), that are all connected to the actors' position, and therefore refer to either their contribution to the unjust structures or to their omission of using their power to change the structures for the better. Another aspect why Goodin & Barry suggest a more direct inclusion of liability-based criteria is that they fear that actors might have difficulties to understand what is required from them to change the unjust structures if it is not determined

how they helped creating them (Goodin & Barry, 2021, p.343). This aspect, which I call the coordination problem, will be discussed more in-depth in the third chapter, however with a slightly different focus, as I will argue that the main problem is to agree on how the just structures should look like and what actions need to be taken to achieve such an outcome.

Indeterminate regarding responsibility-bearers

A third line of criticism is that Young is indeterminate when it comes to defining the responsible actors. Neuhäuser (2014, p.234) mentions that it is not clear if her approach includes corporations as responsible agents. Beck (2020, p.15) voices a similar concern, as he thinks that the social connection model not only needs an account of joint action, but must involve an account of group agency. Powell & Zwolinski (2012, p.468) even argue that a social connection cannot provide the basis for assigning any special responsibility to corporations to alleviate social injustice.

Even though Young never specifies this point and mainly talks about individual responsibility for structural injustice, providing the example of sweatshops to illustrate structural injustice (Young, 2011, p.125-134) at least hints at including corporations as moral agents. While Neuhäuser appreciates this fact, he would have expected Young to be more specific on whether she considers corporate agents to only be part of the background structures, or if she also considers them as responsible agents (Neuhäuser, 2014, p.241). This is a valid criticism of Young's account. Later in this chapter, I will argue that corporations, as actors who are deeply embedded in society, should be included into the social connection model.

Collective action problems, content & distribution of responsibility

There are additional aspects worth mentioning for which Young can be criticised. First, she only specifies that shared responsibility implies collective action. However, she does not indicate how these actions should be organised and how collective action problems, such as free riding, can be avoided (Neuhäuser, 2014, p.249). Furthermore, Young does not define the content and distribution of the specific responsibilities. These aspects will be discussed in the next chapter.

While the claim that Young does not specify the moral standard on which her account is based can be rejected. The two other critiques mentioned here help improving the understanding of the social connection model. Especially relevant is the point specifying that structural and interactional responsibility are complementary and interdependent. Even though Young herself indicated that she does not intend to replace the traditional, interactional understanding of responsibility, Beck determines this aspect more clearly.

1.3 Corporate human rights violations as structural injustice

In this section, I will discuss why structural injustice and the social connection model are good frameworks to examine human rights violations connected to business activities. First, human rights align well with the normative grounding of the social connection model in non-domination theory. Second, following Wettstein's argument, political responsibility, a notion Young uses too, is, most basically, human rights responsibility. Then, I will explain why human rights violations connected to business activities can be understood as a manifestation of structural injustice.

Human rights, non-domination & political responsibility

Since occurrences of structural injustice are based on some form of domination, the goal of the social connection model is to end up in a situation with minimal or even without domination. Such a state of non-domination is closely connected to the idea behind human rights, which is to protect individuals from the arbitrary and abusive power of the state and to avoid negative effects of these power differences. Traditionally, human rights address governments and being put into practice in international law, human rights obligations are ultimately public responsibilities (Muchlinski, 2001, p.31; Wettstein, et al., 2019, p.57). Human rights are an important tool to achieve a state of non-domination and if human rights were fully materialised, it would be much less likely for dominating relationships to occur.

Wettstein (2012) defines political responsibility as human rights responsibility. His idea that corporate responsibility entails a moral imperative for collaboration is very similar to the idea of forward-looking, political responsibility in the social connection model. However, Wettstein goes a step further and argues that to fulfil such a responsibility, consensus that the current state of affairs is unsatisfactory and on what an improvement would entail, or in other words, what society should strive for, is necessary. Human rights are a good starting point for this as their realisation is necessary for humans to "live a life worth of human beings", which is a life in "freedom and basic human dignity" (Wettstein, 2012, p.176). Human rights provide a strong and universal standard that should be used as a reference point for (corporate) conduct, thereby leaving less room for interpretation and judgment (Giuliani, et al. 2016, p.633; Nieri & Giuliani, 2018, p.46; Wettstein, et al. 2019, p.58; Wettstein, 2022, p.5). More fundamentally, human rights represent a relevant normative basis as they require all moral agents to recognise the importance of all human beings having moral rights and to consider this when acting (Karp, 2014, p.70). Critics of such a view argue that human rights are too indeterminate to serve as a guide for action of moral agents or that human rights are based on values that differ from culture to culture (e.g. Brenkert, 2016, p.284; Nickel, 2021). The discussion around the nature of human

rights, their extent and possible universality goes beyond the scope of this thesis. Yet, I consider the idea of human rights as moral rights that put human dignity at the centre, and for them to be a guiding standard for actions, to be a valid position.

Should human rights abuses be understood as the results of structural injustice?

As explained above, structural injustice is based on power relations that influence many actors, with some of them profiting from the given structures and others being left vulnerable to systematic domination and deprivation. These structures are, to a large extent, upheld by actions that are, if considered in isolation, seen as normatively acceptable. Since many different actors are involved in constructing and perpetuating these structures, often indirectly and in complex ways, it is difficult to single out individual perpetrators and clearly attribute responsibility for the structures and their outcomes. I will examine these aspects to show that structural injustice enhances the danger of human rights abuses connected to business activities.

Many people are affected by global economic structures, which are based on acceptable norms and rules. Nowadays, many industries are built around very complex supply chains, starting with the extraction or harvesting of resources and raw materials, the production of the end product which can include several stages and different companies contributing to it, often in different countries. Before the product can be bought by the end-consumer, it must be shipped around the world. Moreover, this whole supply chain needs to be financed and insured. Depending on the product, several hundred different companies, including their employees, are involved and even more individuals being affected. Such complex supply chains can only be maintained through legal and regulatory structures that facilitate international trade. Yet, playing by the given rules, mainly national laws and international conventions, can lead to human rights abuses happening and going unpunished in countries with weak governance structures. The reference to national laws can be and has been used as an excuse for low labour and environmental standards in corporations' operations (Wettstein, 2022, p.5). Moreover, these structures are sustained by the consumers who take it for granted to eat chocolate, drink coffee, have the most recent phone and wear fashionable clothes. Business activities in sectors that are often connected to human rights abuses depend on very complex structures that are maintained by many different actors. This complexity leads to vulnerability to human rights abuses, as it is very demanding to oversee and control long and complex supply chains, which is necessary if human rights violations should be avoided (Wettstein, 2022, p.68).

The involved actors, especially corporations, have been participating in building and maintaining the structures. As I will discuss more in-depth in the next section, corporations have political power and thereby participate in shaping the regulatory environment, which

includes legislation and regulation regarding human rights (Wettstein, 2010a, p.42). While the institutional conditions need to allow for the supply chains to become complex, many different corporations help establish and maintain them. Due to the global integration of economies that corporations helped build (Muchlinski, 2001, p.31), they depend on the seamless functioning of these complex supply chains, to keep their business running and therefore they have an interest in these structures to remain the same.

As a consequence, the structures can be exploited and those in more powerful positions benefit. According to Kobrin (2009, p.352), most of the human rights violations occur in developing and transitional countries. These countries often lack strong government structures and consequently have difficulties to either implement or enforce the formal structures necessary to pursue human right abuses connected to business activities, or they are even directly involved in them. Furthermore, resources for goods, whose availability is taken as given, are mainly coming from more vulnerable countries. Corporations have close connections to inequalities as they might exploit them by moving factories and operations in their supply chain to countries with weaker governance structures to cut cost or avoid strict regulation (Deva, et al. 2019, p.204). It is a structural issue that existing institutions “facilitate the abuse of human rights by business actors (...) and enable them to evade liability” (Deva, et al. 2019, p.204). The structures make it beneficial to make business in countries where there is domination and the danger of human rights abuses. Karp even argues that, independent of whether human rights abuses occur, it is already a violation of corporations’ human rights responsibilities if the processes to avoid or punish behaviour that might lead to human rights violations are not in place or if changes in corporations’ practises are diluting the effective implementation of processes that help avoid human rights violations (Karp, 2014, p.86).

Independent of whether an actor benefits from these structures, most of the involved actors consider the structures as constraints. When describing the structural issues in the fashion industry, Young mentions that all participants believe to operate at very thin margins and in a highly competitive environment in which the legal responsibility for specific human rights violations mainly rests with the entity committing them and entities higher up the supply chain can avoid their legal responsibilities (Young, 2011, p.129). For low-wage workers, these jobs are often the only possibility to earn a living due to the lack of training or alternatives, which makes them accept very bad working conditions. Furthermore, the states in which these violations take place see themselves as being constrained by the economic structures that make it difficult for them to implement stricter human rights requirements as they fear not to achieve the economic development needed to avoid trade deficits or they cannot enforce human rights

policies because public spending needs to be reduced due to requirements from international financial institutions (Young, 2011, p.132). While many actors along the supply chains can provide valid reasons to be constrained in their actions, some profit more from the structures, while others suffer more. Those suffering more are in positions of vulnerability because of these structures and therefore subject to structural injustice. If these structures are accepted by actors suffering from them, this does often not imply their consent but rather that they are in desperate need of earnings and the lack of complaint represents the coercive pressures they encounter (Young, 2006, p.109; 2011, p.128).

These elaborations show that the structures within which business corporations operate facilitate and enhance the vulnerability of many involved actors to human rights abuses. These abuses should be considered as the result of structural injustice and moral agents should assume a political responsibility to help altering the structures thereby contributing to reducing the probability of human rights violations.

1.4 Corporations as agents of justice

Are corporations appropriate agents to be held responsible for such structural injustices? I will not go into theoretical discussions about moral agency of collective agents but suggest a more pragmatic approach, focusing on explanations of corporations' position in society and how they influence societal structures, which will be the basis for considering them as agents that can bear responsibility.

Two main aspects lead to concluding that corporations should bear moral responsibility. First, various authors describe corporations as actors with significant political power (e.g. Scherrer et al., 2006; Brenkert, 2016; Ruggie, 2018), as “powerful autonomous actors in international politics” (Kobrin, 2009, p.354), as “indispensable participants in (...) public policy networks” (Wettstein, 2010a, p.39), or as “quasi-governmental institutions” (Wettstein, 2009). A recent example that illustrates this claim are the COP26 negotiations in Glasgow in 2021, where the fossil fuel industry represented the largest delegation of participants (McGrath, 2021), indicating how deeply involved corporations are in the public policy process regarding a global, structural issue. From this general observation, Kobrin infers that “political authority should imply public responsibility” (Kobrin, 2009, p.350). Wettstein (2009; 2012) and Brenkert (2016) argue similarly, with the latter claiming that in absence of disqualifying characteristics, such as a lack of decision-making ability, the influential agents are deemed as bearers of responsibility (Brenkert, 2016, p.288). Overall, there is a broad consensus that corporations have political power and that this implies at least some degree of responsibility.

Second, Green (2005, p.124) suggests that corporations are better equipped than individuals or sometimes even governments to take responsibility for complex issues. He argues that institutional agents, such as corporations, are better at collecting and understanding information regarding direct and indirect consequences of their actions. Further, they can influence and possibly change behaviour of many people, and they can better spread the cost of their actions than for example individuals. Cragg (2012, p.22) similarly argues that corporations can institutionalise respect for human rights by implementing human rights considerations throughout their operations. The combination of power and better capabilities clearly points towards responsibility for corporations.

There are various objections that can be raised. First, asking corporations to take responsibility for issues of structural injustice might duplicate responsibility or replace governments (Wettstein, 2022, p.123). Yet, it is not a question of either government or corporate responsibility but whether corporations bear a responsibility independent of responsibilities assigned to governments. Corporations do not replace governments (Scherrer, et al., 2006, p.507) but they are necessary contributors to a more just society, especially in contexts where governments have limited capacities (O'Neill, 2001, p.201). It is not merely governments' limited capacities that ask for a wide variety of agents to assume responsibility but also the fact that challenges connected to structural injustice are so tremendous issues that even capable governments alone cannot solve it. With structural issues this is typically the case. A second argument refers to corporations' lack of political legitimacy. In my opinion, the problem is not a lack of legitimacy as such but insufficient formal and informal mechanisms that can hold corporations accountable, regarding their business activities and those activities in the political and societal sphere. If such mechanisms existed not only formally but worked well, corporations' actions, even in the political sphere, would be more legitimate.

The argument presented here means that it is necessary for corporations to have power and the relevant capabilities to solve structural problems to attribute responsibility to them. One could derive that corporations do not have to assume responsibility in instances where they cannot be considered as very powerful, e.g. when the government is very strong, such as in China, when the corporations are very small, or where the relevant capacities are missing. If the main issue is a lack of capacity, corporations could simply be required to take steps to acquire these capabilities. The solution to the other constraints is less obvious. Making responsibility depending on power contains the danger that discussions around responsibility will focus on defining who has exactly what amount of power rather than on what should be done to improve structures that lead to injustice. I consider it as sufficient to realise that

corporations are deeply embedded in society, independent of their size or active involvement in policymaking. Being part of society includes that they cannot ignore what happens in society, including how societal structures affect different individuals and groups, both in positive and negative ways. Corporations are societal actors, which is enough for them to assume responsibility. Karp (2014, p.116-7) supports this view and suggests that corporations have a public role, which requires them to assume human rights responsibilities. This includes the fact that corporations are social constructs that have received certain privileges from society, such as their incorporation leading to judicial personhood or limited liability (Ciepley, 2013; 2019, p.1004; Karp, 2014, p.117). Furthermore, if no responsibility can be assigned to corporations, there would be no ground for holding them accountable for their actions and their contributions to solving issues of structural injustice would depend on corporations' goodwill and benevolence (Wettstein, 2015, p.173; 2022, p.124). This is certainly less desirable than assigning responsibilities to them that go beyond the mere compliance with existing laws and regulation.

As agents of justice, corporations are increasingly expected to contribute to solving prevalent societal issues (Wettstein, 2010b, p.275). This can be explained by the apparent inability of governments to tackle these problems or by the enormity of these challenges that require contributions from everybody. This means that not corporations alone, but them as well, need to work to solve these challenges. As societal actors, corporations' responsibility for structural issues that continuously lead to severe and pervasive human rights violations is not voluntary but "a matter of moral obligation" (Wettstein, 2012, p.166). What the degree of this responsibility might be is the subject of the next part.

2 Corporations' responsibility for structural injustice

In the previous part, I showed that human rights abuses connected to business activities can be understood as manifestations of structural injustice and that corporations should assume responsibility for structural injustice. In this part, I will examine the extent and the content of this responsibility. First, I will consider how Young addresses these questions and discuss two main problems with her suggestions. Second, I will look at approaches that examine corporations' responsibility for human rights violations stemming from structural injustice, namely the fair share, the capabilities, and the leverage-based approach and the suggestion that corporations should support the construction of well-ordered institutions.

2.1 Responsibility in the social connection model

As elaborated in the first chapter, Young suggests that moral agents have a responsibility for alleviating structural injustice if they contribute to or benefit from these structures. Due to various constraints regarding their resources and capacities, corporations must choose where their contributions are most useful or urgent. To make this choice, Young suggests considering four criteria: power, privilege, interest, and collective ability (Young, 2006, p.126-7). According to these criteria, moral agents should focus their efforts on issues where they have the greatest power to influence structural processes (power). Certain corporations' privileged situation of not suffering serious deprivations when adapting to changed circumstances (privilege), their interest in maintaining the current structures (interest), and their ability to organise collective action (collective ability) increase their moral responsibilities (Young, 2006, p.127-30; 2011, p.142-151). These criteria face two main problems, namely indeterminacies and arbitrariness.

Indeterminacies

The problem with Young's account being indeterminate has different aspects. First, the different criteria are contradictory. The agents with the greatest power to change structures often benefit most of them and consequently their interest of changing the structures might not be very high. Interestingly, Young mentions this issue (Young, 2006, p.127-8; 2011, p.148), but she does not propose how to deal with conflicts between the parameters (Beck, 2020, p.5) and how the self-interest of privileged actors could be outdone by their moral sense of responsibility (Hahn, 2009, p.49). Second, Young does not explicate why she chooses these four criteria but only indicates that they all refer to agents' positions within social structures (Young, 2011, p.144). Hahn, for example, agrees that power, privilege, and interest are relevant, yet in his opinion, the seriousness of the injustice, a factor Young does not include, should be the decisive

factor (Hahn, 2009, p.51). Therefore, he suggests adding a basic-rights criterion, according to which the participation in a “basic-rights-violating structure” leads to “superordinated responsibilities for justice” (Hahn, 2009, p.53). In my opinion, this is a relevant addition, as it avoids situations where actions around less bad situations are preferred if they are the easiest to change.

Third, Young’s account remains indeterminate when defining the exact content of responsibility and who must do what to remedy structural injustice (Beck, 2020, p.4-5; Neuhäuser, 2014, p.242). She even suggests that the victims of injustice bear some responsibility for contesting the structures that leave them in a position of vulnerability, as they are most knowledgeable about the harms and should point out these injustices (Young, 2011, p.146). This suggestion includes the possibility of victim-blaming when nothing changes and it discounts that victims might adapt their expectations to the situation they are in, or that they simply have other priorities, such as making sure that they earn enough money to buy food or cover other basic needs (see Korolev, 2015, p.29).

In my opinion, the criticism that Young does not propose what the exact content of responsibility is and who should do what is valid. Coming up with an undisputed set of abstract criteria that clearly define what the responsibility includes and who should do what is a daunting task. Neuhäuser concedes to this limitation and proposes that at least the relevant processes and institutions should be introduced to help determining the criteria for defining a “reasonable and just distribution” of responsibility (Neuhäuser, 2014, p.248). This is not very helpful for solving the problem at hand, as it does not indicate which actors are responsible for setting up these processes and institutions, which is a structural change. Hence, while the issue changes, the problems remain the same. Moreover, the issue of defining the content of responsibility and the accountable actors is connected to the criticism that Young omits the fact that taking responsibility comes with possibly significant cost (Neuhäuser, 2014, p.243). While the question of the content of the responsibility remains vague with the approaches I am discussing later in this chapter, they include a cost criterion. Therefore, I will examine later, why this is problematic. As the next section shows, Young suggests a way of dealing with the problem of defining the content and distribution of responsibility, yet in an unsatisfactory way.

Arbitrariness

The social connection model indicates that the four criteria mentioned above can be used by agents to reason about their contributions to remedying structural injustice (Young, 2011, p.144). This emphasises agents’ discretion when deciding if they assume responsibility and what it entails. Young specifically mentions that those with a responsibility to act should decide

by themselves what is reasonable for them to do, considering their abilities and circumstances (Young, 2011, p.143). While she indicates that agents should be criticized for taking no, not enough, ineffective, or counterproductive action (Young, 2011, p.144), it is surprising that she grants such discretionary power. Especially as she mentions that “intuitions and inclinations about [one’s] obligations are likely to be self-serving and underdemanding” (Young, 2011, p.138). This leaves the risk that corporations are misusing their discretionary power to propose solutions that serve their own interest and/or distract from their responsibility (Assländer, 2020, p.723).

This can be depicted with the privilege criterion, according to which agents are in a privileged situation if they can easily adapt to changed circumstances, leading to higher responsibility. How easy it is to adapt to changed circumstances depends largely on the agents’ perception. If the changes leave them in a worse position in absolute terms, this might be enough to discourage them from assuming responsibility, even if the agents remain in a privileged position, relatively speaking. Consequently, whether any action is taken depends on individual agents’ motivation and preferences (Assländer, 2020, p.722; Neuhäuser, 2014, p.246). If the actors reason about their responsibilities at all also depends on their motivation and preferences, and Young does not provide any reason why any agent would feel compelled to think about this issue (Hahn, 2009, p.52). Moreover, arbitrariness allows for free-riding. Unsurprisingly, Young is criticised for not discussing what the consequences are if some agents fail to assume their responsibility (Neuhäuser, 2014, p.243), leading to situations where assuming responsibility depends not on moral reasoning but on available and effective enforcement mechanisms (Hahn, 2009, p.52).

When it comes to assigning specific responsibilities, Young’s account has significant weaknesses. It is not only indeterminate and contradictory, but depends too much on the motivation of the actors who are in the position to change the structures, which makes it much less likely for corporations to assume responsibility.

2.2 Corporations’ responsibility for human rights

In this section, I will discuss three different approaches that try to answer the question of how to assign responsibility for human rights violations based on structural injustice. Then, I will look at an additional approach that suggests what this responsibility would specifically include. All approaches have three aspects in common. First, their starting point is that structural reasons can lead to human rights violations and that corporations should have some responsibility independent of their direct involvement in human rights violations. Second, responsibility is

understood as a matter of degree. Third, they all agree that responsibility can be discharged more effectively when acting collectively.

Fair share theory

Based on the premise that corporations have a duty to operate in a way that serves society, since they only exist due to privileges granted by society (personhood, limited liability, etc.), the fair share theory examines what can fairly and justly be expected from corporations for mitigating human rights violations in which they are not directly involved (Santoro, 2009, p.15; 2010, p.291). Michael Santoro (2009, p.16; 2010, p.292) offers three factors that should be considered when distributing this responsibility. First, the closer the relationship to the victims, the stronger the responsibility, which he bases on the principle of benevolence. Second, and based on the principle of 'ought implies can', the higher the potential effectiveness, the stronger the responsibility. Third, the greater the ability to absorb economic retaliation, the stronger the responsibility. This last factor is based on what Santoro (2010, p.292) calls "the general moral principle that those in a position of wealth and power have a duty to help those in need." He further explicates that no mathematical formula exists to balance the different criteria and that the duties of individual agents cannot be considered in isolation but depend on the responsibilities, strengths and weaknesses of all involved actors (Santoro, 2009, p.17; 2010, p.292).

Several aspects are problematic about the fair share theory. First, Santoro does not specify why he chose the respective moral principles as basis for his theory. While he mentions that it is important for the different criteria to be based on moral principles (Santoro, 2010, p.292), it seems that they are used as justification for the different factors rather than as the basis for defining the factors. Second, the criteria might lead to counterintuitive or undetermined situations. If corporations who do business in countries and sectors that are closely connected to human rights violations operate at very low margins, the relationship might be close but the capacity to absorb the cost of action is limited. Does this corporation have a higher or lower responsibility than a corporation that has no close relationship to the victims but a very high capacity to absorb the cost of action? In addition, it is unclear how the effectiveness criterion is connected to the other two criteria. The proximity to the victims, or the perpetrators will probably increase the effectiveness. At the same time, the ability to absorb possible retaliations can increase the effectiveness of an actor as the demands towards the violators can be more far-reaching. In such a situation, the effectiveness criterion could not be used as a decisive criterion. To avoid situations where the different criteria even each other out, a hierarchy amongst the three factors is necessary. Intuitively, I consider the proximity to weigh

more than the ability to absorb the cost, derived from idea that special relationships lead to special duties and a closer relationship is more special than a less close one. Third, the fair share theory does not take the severity of the human rights abuses into consideration and does not offer any other way of defining what actions to prioritise.

While the fair share theory specifically applies to corporate responsibility for human rights violations which they did not commit, the concrete definition of responsibilities is not more determinate than in Young's approach. Furthermore, Santoro cautions that the actual power and effectiveness of corporations can easily be overestimated (Santoro, 2009, p.16-7). He mentions that corporations' power and influence sometimes are limited in contexts of severe human rights violations, such as in China (Santoro, 2010, p.291). A recent example illustrating this point is the backlash the Swedish clothing company H&M faced in China after they spoke out against allegations of Uighurs, a suppressed Muslim minority, being subject to forced labour in cotton production. This led to calls on social media to boycott H&M, amongst others by the Communist Youth League, and H&M has been excluded from online sales platforms. As a consequence, sales dropped by 23% in the second quarter of 2021, which is significant considering that China is a relevant market for H&M, making up 5% of total sales in 2020 and important suppliers for H&M are located in China (BBC, 2021a; 2021b). This is a valid example, yet according to Santoro's approach, corporations have less responsibility in such contexts, which seems counterintuitive, and the overall idea that not too much should be expected from corporations contradicts the initial premise that corporations should act in ways that benefit society.

Leverage-based responsibility

Unlike the approaches of Young and Santoro, Stepan Wood's (2012) leverage-based responsibility takes the severity of the human rights violations into consideration. According to this account, leverage should be considered as a source for responsibility, if there is a morally significant connection between the company and the victims and/or perpetrators of the violation, if the company can contribute to the improvement of the situation, if the cost are modest, and if the threat to human rights is substantial. Leverage should be understood as the power to influence the decisions or actions of other actors based on the relationship with them (Wood, 2012, p.63-4). The focus should be on corporations to make a reasonable effort, something they can control, rather than them solely focussing on the outcome of their effort, which they might control only to a very limited degree (Wood, 2012, p.75). Further, he argues that the responsibility is gradual and context-specific, and it is a positive and negative responsibility, it is practicable, i.e. can be embedded, operationalised and enforced in an specific

institutional framework, and it takes the social role of corporations, namely to primarily pursue private interests and generating wealth, into account (Wood, 2012, p. 87-92).

As with all approaches discussed so far, the criteria brought forward leave a lot of room for interpretation. Wood does not specify what he considers as morally relevant connections, he only indicates that the closer the connection and the higher the interest at stake, the higher the responsibility (Wood, 2012, p.83). Interestingly, Wood is very accommodating towards corporations, as he mentions that the cost of this responsibility is meant to be modest and that “leverage-based responsibility may not force a company out of business” (Wood, 2012, p.92). The two last characteristics, the practicability criterion and compatibility with corporations’ social role, clearly privilege corporations and existing structures. However, to overcome structural injustice, it is necessary to scrutinise existing structures and social norms. Wood’s account does not allow for this and prioritises business interest compared to human rights interests, thereby allowing for corporate complacency when it comes to structural injustice.

Capability approach

Wettstein (2009, p.19) emphasises the importance of considering the capabilities of corporations for alleviating existing structural injustices. Wenar (2007, p.258) argues similarly, indicating that the responsibility of averting harm should be located with the actors that can most easily do so. According to Wettstein (2009, p.305), capabilities depend on the proximity to potential perpetrators and the ability to influence them, which means that they increase with the actor’s degree of authority over the perpetrator. Hence, the idea is very similar to the leverage-based approach. As this is a rather general statement, Wettstein’s examination of silent complicity helps to understand what he specifically has in mind.

Silent complicity describes moral support, encouragement or at least toleration of human rights violations, which leads to structural and systematic toleration of human rights abuses and allows for their institutionalisation based on structural relations within society. The silently complicit agent would have the capacity to speak up and influence the perpetrator, due to its status in the respective environment, e.g. in the form of political authority or economic importance (Wettstein, 2010a, p.37). This position of power leads to the responsibility to speak up against structural human rights abuses, described as corporate human rights advocacy. This advocacy should be effective and legitimate for which it must satisfy the criteria of responsiveness, collaboration, and transparency (Wettstein, 2010a, p.43-4). While the latter two are rather obvious criteria, namely that action should be taken together with other actors and in public, the responsiveness criterion requests some examination. According to this criterion, action should be taken in response to “sufficient public condemnation” (Wettstein, 2010a, p.43).

It is a reaction to public opinion and outcry and requires public knowledge about the violations. Thereby, the responsibility shifts from corporations who, by being silently complicit, behave in a morally questionable way, to the public or even to the victims themselves who need to make themselves heard. It remains unclear when the public condemnation is sufficient, and what corporations should do if they know about human rights violations but if there is no public outcry. Taken to the extreme, the responsiveness criterion suggests that assuming responsibility for structural injustice becomes a PR-activity rather than a form of normative behaviour. According to this account, corporations would fulfil their responsibility by speaking up publicly, independent of the effects of their efforts. It remains unclear what corporations should do if they cannot change another actors' behaviour. It is surprising that this account allows for such an interpretation, since Wettstein mentions in a later contribution that "reducing moral conduct to mere compliance with whatever the public's expectations are (...) empt[ies] morality (...) of its critical potential (Wettstein, 2013, p.264)." Furthermore, this account puts priority to those human rights violations that are 'promoted' in the best way rather than to the most severe ones. Corporations might be incentivised to influence public opinion in such a way that those human rights violations are emphasised that can be solved with the least effort. This does not lead to an improvement of structures to reduce vulnerabilities but rather to corporations doing as little as possible to change the circumstances for the better.

Promotion of well-ordered institutions

While Wettstein argues for a responsive and thereby rather limited responsibility, Nien-hê Hsieh envisions a more pro-active responsibility for corporations to "promote well-ordered social and political institutions" (Hsieh, 2009, p.251), as it is wrong to participate in a system that leads to human right abuses (Hsieh, 2009, p.259). Hence, Hsieh sees participating in a system as reason enough to assign responsibility, which is much less restrictive than the other accounts discussed so far. Therefore, it is not surprising that Hsieh focuses on the ways in which corporations should promote such institutions instead of corporations' characteristics to derive their responsibility. Unfortunately, Hsieh does not explicate what well-ordered institutions are or who defines this. He only indicates that his idea is based on Rawls' conception of well-ordered societies. Therefore, his account lacks clarity regarding the specific aim of corporations' responsibility.

The activities to promote well-ordered institutions should mainly be connected to normal business activities by applying code of conducts or by influencing corporate culture in such a way that ideals and practises connected to well-ordered institutions are promoted amongst the employees, and that they are supported in their exercising of rights (Hsieh, 2009,

p.260-3). This priority is supported by Assländer (2020, p.726) who argues that corporations' moral responsibilities should be related to their business activities or special competences. According to Macdonald (2011, p.560), most corporate efforts have focused on changing the structures within companies themselves or in business networks. Translating these internal processes to institutional changes on a broader scale is difficult. While the employees of specific companies might profit from efforts related to the business activities, the broader societal structures do not necessarily profit and therefore individuals remain in vulnerable positions.

Two further activities Hsieh mentions are contributing to economic development and direct engagement with political and legal institutions. To make the former a valid activity, it must be proved that there is a causal connection between economic development and well-ordered institutions. If economic development contributes to institutions that help diminish human rights violations is questionable, as countries with prolonged periods of economic growth, such as China, have demonstrated the opposite. Examining this relationship in-depth is beyond the scope of this thesis. Nonetheless, it is a unsatisfactory criterion that mainly caters the traditional idea of corporations as wealth-generators. Furthermore, supporting structures that are leaving less people in positions of vulnerability to human rights violations should be a worthwhile objective, independent of the economic development connected to it. Ideally, both objectives can be achieved simultaneously.

In Hsieh's opinion, corporations should directly engage with political and legal institutions only in a restricted way due to its possible controversial nature and ideally through other actors, such as local NGOs (Hsieh, 2009, p.263). Why being controversial is a limiting factor is not substantiated and it implies that companies interact in a controversial way with said authorities. However, if they are willing, corporations can engage with political and legal institutions in an uncontroversial way that would not render these interactions illegitimate, and they could be significantly extended.

Overall, Hsieh's approach does not examine a myriad of different characteristics that can be (mis)used to restrict corporations' responsibilities, which makes it more demanding as such. By emphasising the build-up of local capacity and the relevance for corporations to understand the institutional environment in which they operate and why it puts people in positions of vulnerability (Hsieh, 2009, p.262), this approach is more practicable than the other ones discussed above. On the downside, untransparent behaviour gets promoted, as the overall structures should be primarily changed by empowering employees and supporting them in their struggle. Next to opacity making this strategy less credible, it is questionable if such an indirect

strategy has a broader effect. This does not render it redundant, but it shows that political action remains necessary.

Further, Hsieh discusses three limitations to his approach, namely that defining the amount of resources that corporations should be expected to devote to promoting well-ordered societies is an issue for further research, that corporations should consider the effectiveness of their actions, and that they should consider leaving the country if it is unlikely for them to have a positive influence on the institutional setting (Hsieh, 2009, p.264). In relation to this last point, Hsieh is criticised for providing no reason why promoting well-ordered institutions should be favoured to leaving the country (Wettstein, 2010b, p.260). Hsieh does not indicate for how long corporations should try to help build well-ordered institutions before they can conclude that change is unlikely. In addition, the responsibility to promote well-ordered institutions is only plausible if there is a necessity for the corporation to be in said country in the first place (Wettstein, 2010b, p.277). While this point might be valid for the internal consistency of Hsieh's argument, when applying the approach to structural injustice it becomes less relevant, as responsibility derived from structural injustice applies independent from a moral agent's location, as long as they help maintain or benefit from the structures, and the responsibility asks for a continuous effort, independent of the probability for success.

So far, I have shown that structural injustice is a helpful framework to analyse human rights violations in the business context. Even though the approaches discussed here all have the intention to assign more responsibilities to corporations than just making sure that they do not directly violate human rights, the derived responsibilities are not satisfying. In the next part, I will, based on this impression, discuss two main weaknesses all approaches have in common and attempt to explain why these weaknesses occur.

3 Limited responsibility

While the approaches discussed in the previous part all slightly differ in their emphasis, there are commonalities regarding the factors deemed relevant for assigning corporations with responsibilities for remedying structural injustice. All highlight the relevance of the proximity of the relationship to the victims or perpetrators of the human rights violations, corporations' ability to contribute to changing the structures, that the efforts must be bearable, and that violations must be substantial. In this section, I argue that these approaches are not demanding enough as they are too business-friendly and cater strategies used for shedding responsibility. This leads to an implicit prioritisation of corporate interest over human rights considerations. To contribute to the reduction of structural injustice, business activities should prioritise human rights considerations over profit, i.e. it is crucial *how* corporations make profits, not just *that* they are profitable. Then, I offer three reasons to explain these shortcomings, namely ideology, motivation, and collaboration.

3.1 Business-friendly

Three aspects of the approaches examined above make them very business-friendly. Namely, the focus on the efforts being bearable, the emphasis of corporations' ability to change the structures, and, more general, the focus on the responsibility-bearer instead of the victims.

The idea that the efforts regarding corporations' human rights responsibility should be bearable is based on the idea that moral responsibilities should not lead to self-destruction (Brenkert, 2009, p.470). Yet, the consequences of living up to one's responsibilities regarding structural injustice might be "dramatic" (Brenkert, 2016, p.304). With this requirement, the survival of a corporation is prioritised over making sure that the structures, which they help maintain and from which they profit, get altered in a way that less people are left vulnerable to human rights violations. While avoiding self-destruction might be a legitimate motivation for individuals, this requirement does not simply translate to socially constructed actors, such as corporations. If they can only survive by acting in a morally questionable way or through the benefits from structures that lead to injustice, the legitimacy of their existence is highly doubtful. Since they are socially constructed, they can be deconstructed if they do not live up to the moral standards and respective responsibilities assigned to them. Doing something to initiate structural changes is costly, and, *prima facie*, unattractive if those who do nothing are left better off. The structures need not only to be changed in ways that the risk for individuals of ending up in a vulnerable position decreases but also that normatively sound behaviour is more attractive than complacency.

Emphasising cost as a factor includes the danger of morality becoming a simple cost-benefit analysis, where the cost likely gets overestimated, and the benefits underestimated. Those actors who bear responsibility are unlikely to profit as much from changed structures as they do from the existing structures, which leads to a preference for inaction. The tendency of overestimating the cost gets reinforced by the argument that efforts should be bearable and only come at modest cost, as for example Wood argues. Using the term cost in connection with human rights leads to a situation where normative factors are understood as constraints to business activities, which is a negative connotation. However, moral actions should not only be taken if they eventually benefit the actors, but because they are by themselves worth pursuing (see Goodin & Barry, 2021, p.346).

Next, integrating the ability of corporations to initiate change limits the scope of possible activities to those related to corporations' normal business conduct, as this is where their abilities are the greatest. As discussed before, this will likely only have a very limited impact and not lead to the necessary structural changes. This criterion could easily be made more demanding by requiring corporations to acquire the necessary abilities, beyond their core business activities.

Further, all approaches focus on the characteristics of the moral agent and not of the victims, which implicitly prioritises the agents over the victims. The exception is the criterion about the severity of the human rights violations, which is however not shared by all accounts. The authors focus on the responsibility bearers because they, with the exception of Hsieh, consider the responsibility to be a positive one rather than a negative one, i.e. requiring action instead of omission. Since positive responsibilities are generally considered as less strong than negative ones, and requiring a higher threshold to become relevant, the discussed criteria are framed in a way which makes it easy to restrict these responsibilities. By either not defining who decides about the assignment of responsibility or, as Young suggests, by letting the agents decide themselves, the possibility of very limited responsibilities becomes even more likely.

Finally, as stated explicitly in the account on leverage-based responsibility, the role of business in society needs to be considered. Wood alludes to the idea that corporations are mainly following private interests in the form of increasing wealth. If a responsibility would counter this allegedly primary mandate of corporations, this would be reason enough not to assume the responsibility. How corporations and their primary purpose are envisioned is a social norm and has not always been the same. Santoro, as indicated above, bases his approach on the idea that corporate activities should benefit society and Wettstein (2012, p.172) indicates that the original purpose of corporations was to address public needs rather than to generate

private profits. Since social norms can be changed, for example if they are deemed unsatisfactory, referring to an existing social norm is inadequate for the assignment of responsibility.

3.2 Facilitating strategies for denying responsibility

Next to being business-friendly, the different approaches are facilitating strategies for shedding responsibility, due to the vagueness of most proposed criteria for assigning responsibility and, at least in Young's account, the discretionary power of the agents themselves to decide about the responsibility they want to assume. This aspect is relevant, as the approaches discussed mainly focused on moral reasoning, which by itself does not automatically lead to moral conduct. If the approaches do not suggest how to ensure alignment of agents' conduct with relevant moral standards, they end up being not much more than an intellectual exercise. However, this transition from reasoning into practice is a main challenge when it comes to structurally-induced human rights violations. Based on Young's discussion of strategies that are being used to avoid responsibility and Albert Bandura's concept of moral disengagement, I will show that corporations can easily deny their responsibility.

Young discusses four strategies that are used to avoid responsibility, namely reification, denial of connection, demands of immediacy, and claiming that one's role does not require the correction of injustice (Young 2011, pp.154-170). Reification means that social relations and structures are considered as "things or natural forces" and therefore unchangeable (Young, 2011, p.154,157). The criteria of taking the societal role of business into account, suggested in the leverage-based approach, is a good example, as it suggests that corporations' main responsibility is to promote wealth. This aspect can further be used to argue that corporations have no role in correcting structural injustice as this is the duty of the respective governments. As mentioned earlier, the perception of corporations' role is not a natural force and can be changed.

If the corporations themselves are responsible for defining their responsibility, it is likely that they follow these strategies and thereby profit from the vagueness of the different criteria. They could, for example, deny a morally relevant or any relationship to the victims if the connection to them is very indirect. However, the idea of structural injustice is that a relevant connection exists by being part of the same structures, which makes denying the existence of a relevant relationship difficult. Further, due to the lack of clear-cut definitions, it could be claimed that the abilities to help change the structures are lacking, that changing the structures is not possible at modest cost, and that the human rights abuses are not severe or immediate

enough. If, as the discussed approaches do, responsibilities are understood as gradual, the danger exists that corporations try to minimise their obligations by referring to actors that might have better abilities and can initiate change at lower cost. Corporations could refer to more severe and urgent human rights abuses to which they are not connected.

The problem of denying responsibility becomes even more pronounced when examining the strategies for moral disengagement discussed by Albert Bandura in his social cognitive theory. The idea behind his theory is that moral agents adopt moral standards based on cognitive, affective, and social influences when regulating their behaviour and that they try to behave in a way that does not violate these standards. Behaviour that is not in line with these standards is possible due to the “selective activation and disengagement of self-sanctions” (Bandura, 2002, p.102). The mechanisms of moral disengagement are moral justification, euphemistic labelling, advantageous comparison, displacement and diffusion of responsibility, disregard or distortion of consequences, dehumanisation, and attribution of blame to somebody else (Bandura, 2002, pp.103-110). I will not discuss all strategies but focus on three that are easiest to adapt to structural injustice, namely displacement and diffusion of responsibility and disregard or distortion of consequences. The first two of these strategies are often ingrained in organisational or authority structures (Bandura, 2002, p.116) and therefore show the pervasiveness of structures leading to injustice. The example of ING’s business relation to the Qatar National Bank (QNB) and the resulting connection to human rights abuses used in the introduction serves as illustration.

Responsibility is displaced if one’s agentic role is obscured or minimised (Bandura, 2002, p.106). This aspect is conducive to harms stemming from structural injustice, as many actors are involved in building and maintaining social structures and establishing a causal connection between an agent and the harm is difficult. Obscuring or minimising one’s agentic role is simple. Regarding the example of ING financing the QNB, it is impossible to say if the money ING provides will be used for construction projects where human rights of the construction workers are violated, as the QNB is a large bank with myriad activities, and ING just one of many banks refinancing the QNB. Hence, ING argues that they are not responsible for human rights violations on the construction sites in Qatar.

The minimisation of one’s agentic role gets reinforced by diffusing responsibility through the division of labour and because collective action and group decision-making allow for anonymity (Bandura, 2002, p.107). Corporations are collective agents, many decisions are taken in committees, and there is almost always somebody higher up in the hierarchy to whom responsibility can be passed on, or the managers can argue that the employees who are

subordinate to them acted without authorisation. Further, long and complex supply chains lead to a division of labour between many different companies and the companies lower in the supply chain can refer to cost and time pressure from the subsequent companies constraining their freedom of action, and the companies who are located towards the end of the supply chain can argue that they have no influence on the activities of companies at the beginning of the supply chain. Regarding the Qatar example, there are, next to ING, numerous banks refinancing the QNB and within ING there is most probably not one clearly identifiable person who decides about the relationship to QNB. To participate in the refinancing activities, banks need to agree to the same conditions, and they can argue that each individual bank has very little power when it comes to negotiating these conditions. If they do not agree to the conditions, another bank will happily step in and take over. Hence, it becomes less probable for any involved bank to make strict demands on QNB's behaviour.

Finally, it is easier to disregard or distort consequences if the suffering of the victims is not visible or remote, either physically or temporally (Bandura, 2002, p.108). With complex and global supply chains, the probability of physical or temporal remoteness is high. For somebody working at the ING headquarters in the Netherlands, the human rights violations in Qatar are not directly visible and they most probably hear about them through reports in the media or from NGOs. These harms can easily become just another story and the number of people affected just another statistic.

ING can further shed its responsibility referring to the criteria brought forward in the approaches discussed in this chapter. Since ING is only refinancing the QNB, which is most probably not directly committing the human rights violations, there is no direct relationship of ING to the perpetrators or the victims of these violations. ING can further claim not to have the power and ability to influence the QNB, due to the risk of being replaced by another bank and far-reaching demands would make no difference, except for QNB not doing business with ING anymore. This would possibly come at significant cost for ING, depending on the importance of the relationship. Further, the replacing competitor might be more unscrupulous and disregard human rights. Hence, ING should be considered as the less evil option if the issue of human rights is at least brought up in discussions with QNB.

ING can easily provide arguments to shed their responsibility for human rights violations and do little more than talking to QNB and stress the importance of human rights. This example indicates that strategies of moral disengagement are frequently used in discussions around corporate responsibility for human rights abuses. Bandura, et al. (2000) demonstrate that these practises are widely used by corporations referring to four well-known case studies on the

catastrophic industrial accident in Bhopal, the development of Ford's Pinto car, the issues around Nestle's infant formula, and the nuclear incident at the Three Mile Island power plant in the US.

The obvious follow-up question is why the approaches discussed are not more demanding and why corporations consistently try to deny their responsibility. Caution not to overestimate corporations' competences to induce change (Assländer, 2020, p.722-3) and to not unduly burden them (Karp, 2014, p.116) might be part of the reason. Overall, it seems that these approaches are not demanding enough because all the authors recognise the importance for corporations to act on issues of structural injustice. If the responsibilities and expectations are too high, the challenge might seem too daunting for corporations, which makes it less likely for them to act. Such an accommodative stance is problematic because it tries to avoid inaction but at the same time allows for corporations to only take minimal action by denying responsibility. In the next section, I will attempt to explain this cautious attitude by referring to issues around ideology, motivation, and collaboration.

3.3 Ideology, Motivation, and Collaboration

Ideology

The Noble-prize laureate in economics, Milton Friedman, mentioned in a much-cited article in the New York Times Magazine that corporations' only responsibility is to maximise their profits for the shareholders' benefit, within the "basic rules of society", which he considers to be "those embodied in law and those embodied in ethical custom" (Friedman, 1970). This paradigm of prioritising shareholder value has shaped business activities in the last half century and is still a relevant reference point for corporations (Schechter, 2017). This is problematic for two main reasons.

First, competitiveness is considered as a value that has to be balanced against human rights, which can be understood both as legal and ethical constraints. George Brenkert's examination of the case of Google who decided to accept the Chinese government's requirement of censoring certain search results to enter the Chinese market, thereby violating human rights, is an illustrative example. He argues that Google has different responsibilities to consider, one of them is to "develop (...) as a sustainable enterprise (...) within a business/market system" (Brenkert, 2009, p.466), which translates into being profitable. He suggests that under certain conditions, moral compromise should be considered as legitimate, i.e. prioritising profitability in situations, when it might be non-compatible with human rights considerations. Rosemarie Monge argues similarly, when claiming that situations can occur where the

combination of the institutional environment and the managerial responsibilities, i.e. ensuring the profitable course of business, apply “pressures on managers to contribute to another party’s wrongdoing” (Monge, 2015, p.161). This complicity is permissible, if the manager intends to minimise the complicity and communicates to the company’s stakeholders that the interests at stake are recognised and if the commitment to limiting the complicit behaviour is emphasised (Monge, 2015, p.162). Since I doubt that competitiveness is a value, to bring it forward as a legitimate reason to violate human rights or be complicit in human rights violations and thereby putting competitiveness and human rights at the same level of importance undermines the fundamental nature of human rights as a moral right. Compromising human rights would require another relevant value to be more important in a given situation. Due to human rights’ fundamental nature, this would most likely be the case in situation of competing human rights claims.

Second, ideological orientations shape the behaviour of all agents and help define what strategies of moral disengagement are applied (Bandura, 2002, p.116). If the paradigm of shareholder primacy is the dominant ideology, balancing competitiveness against human rights interests is considered as legitimate and can be used as a basis for denying responsibility. This entails that it becomes much less probable for corporations to take steps to remedying structural injustice. However, ideological orientations are not set in stone but can be changed by people, who are the “producers as well as the products” of these ideologies (Bandura, 2002, p.116).

This idea of corporations being institutions with a primary responsibility for profit maximisation has significantly influenced the ways corporations are considered in society. As my criticism of the different approaches before showed, this institutionalised norm influences the degree of responsibility for structural injustice corporations are expected to assume. It can be questioned whether corporations can be expected to respect human rights in a system that emphasises shareholder primacy and profit maximisation (Muchlinski, cited after Deva, et al, 2019, p.204), a system that proved to be “remarkably resilient” (Muchlinski, 2001, p.36). Evidence, such as the ING case mentioned before, indicate that the answer to this question has so far been ‘no’. This does not necessarily need to be understood as a general critique of capitalism, as different and stricter (self-)regulation, for example regarding the purpose of corporations or human rights due diligence requirements, might sufficiently influence corporations’ behaviour and underlying social norms. Peter Ulrich, with his approach of integrative economic ethics, suggests that the market economy does not need to be rejected as such but rather to be ‘civilised’ and orient itself toward the *Lebensdienlichkeit* of economic activities and thereby be (re-)embedded into a well-ordered society (Ulrich, 2016, pp.11-19).

Corporations' primary aim should be to benefit society and not to be profitable at any cost. It goes beyond the scope of this section to analyse in detail if a capitalist system could provide the structures that are conducive to a reduction of structural injustice and of the vulnerability of many people to human rights abuses. Yet, it clearly shows that a change in the social norms of how corporations and business activities are perceived in society, is necessary. Since this is a process that does not happen from one day to the other, the reduction of structural injustice still depends on the motivation of individual actors.

Motivation

Next to the perception of corporations' role in society, issues around motivation influence the criteria for assigning responsibility to corporations and explain why it is difficult for corporations to accept responsibility for structural injustice. Julian Savulescu and Ingmar Persson (2012) show that human "commonsense morality" makes it more probable for individuals to feel responsible if they themselves caused harm directly rather than indirectly and as part of a larger group. In corporations, humans are part of a larger group and societal structures are constructed by many different actors. Moreover, regarding structural injustice it is difficult to establish direct causality, and the consequences are often far away. Further, humans tend to be loss-averse and prioritise close relationships as well as the immediate future. The criteria of proximity of corporations' relationship to victims and perpetrators of human rights violations, as well as of severity and immediacy of the human rights violations satisfy this preference. All these natural inclinations make it difficult for humans and corporations to consider themselves responsible for remedying structural injustice.

For corporations to act against structural injustice, these human inclinations need to be overcome. Even though this is a high hurdle and requires, amongst others, the awareness of these limitations, there are examples showing that it is possible. The Dutch company Tony's Chocolonely's mission is to make slave free chocolate-production the norm. In its mission statement, there is a specific reference to the structural issues that lead to bigger companies profiting from keeping chocolate prices low, which leaves the farmers at the beginning of the supply chain in poverty and facilitates child labour and slavery (Tony's Chocolonely, n.d.). A report by the NORC at the University of Chicago on the cocoa harvest season 2018-19 in Côte d'Ivoire and Ghana supports this, by showing that child labour is prevalent in agricultural households in cocoa growing regions, with 38% of children between 5 and 17 in Côte d'Ivoire and 55% in Ghana engaged in child labour and 37% respective 51% engaged in hazardous child labour (Kysia & Sandhu, 2020).

This example shows that Tony's Chokolonely seems to have a broader mission than being profitable, considering itself as responsibility-bearer for initiating structural change that will reduce the vulnerability of cocoa farmers and children to human rights abuses. This shows that the issues of ideology and motivation are connected. One possible conclusion is that a deviation from the paradigm of profit maximisation is necessary for corporations to be motivated to help change the structures that lead to injustice. Another interpretation could be that the motivation is still business-driven, and the company is just exploiting the demand in society for chocolate that is produced without child or slave labour. This interpretation is supported by Kolstad (2007, p.139) who suggests that responsibly acting companies can flourish if they satisfy consumers' and shareholders' expectations, meaning that shareholders accept lower returns on their investment and consumers are willing to pay a higher price.

Often it is difficult to identify if companies are assuming responsibility for structural injustice, as Tony's Chokolonely seems to, due to their convictions or because of the demand in the market. Most probably it is not either or, but a combination. More similar examples can be found in different industries, and the number of them is increasing. With each additional corporation, assuming responsibility for structural injustice, the peer pressure increases and thereby the possibility to overcome the deeply engrained motivational limits and social norms that make such actions less probable.

Coordination

Even when the ideological and motivational issues can be solved, two issues considering coordination remain relevant. First, the idea about how the ideal situation, i.e. the structure we should strive for, should look like, is very vague. If the problem is domination, an ideal structure would facilitate an environment of non-domination where people are not living in positions of vulnerability to human rights violations. However, this is not very concrete, and acting is more difficult if the aim is unclear. Consensus would be necessary on how such a situation should look like, but this includes the question of how to best arrive at such a consensus. Second, and as a consequence of the first one, it is unclear what exactly needs to be done to arrive at this structure, and what the different actors have to do (see Goodin & Barry, 2021, p.344). This would even be the case if there was consensus about the ideal situation. Absent of coordination, there is the danger that the different actors' efforts are inefficient or at worst counterproductive.

This issue refers to the suggestion by all approaches that the responsibility for reducing structural injustice is collective and political. The collective nature indicates the importance of different actors' action reinforcing each other. The political nature indicates the public accountability and the necessity to define the state society should strive for via a political

process. Since many different actors are expected to assume responsibility, achieving consensus, and making sure that the different actors do not undermine each other is very challenging.

4 Conclusion

Severe human rights violations connected to business activities are prevalent and recurring. The examples used in this thesis of the deaths of migrant workers on construction sites for the football World Cup in Qatar, allegation of forced labour in cotton production of the Uighurs in China, or child and slave labour in the supply chain for chocolate are illustrative example of this pressing issue.

Due to the complexity of today's global economic structures, it is challenging to clearly identify the responsible actors for the occurrence of these human rights violations. Employees in low-wage jobs often have no other option than accepting jobs with bad working conditions, employers sometimes cut health and safety measures because otherwise they would go out of business due to the low margins in their industry, and some states do not have the resources or capacities to enforce human rights compliance. This highlights that the underlying societal structures are constraining the involved actors' options for action, and it is consequently not enough to only blame the party directly committing the violation.

The notion of structural injustice is helpful to describe such circumstances. This concept indicates that social processes can construct structures that leave certain groups and individuals in positions of domination and deprivation. From this insight, Iris Marion Young derived her social connection model to help overcome the traditional understanding of responsibility, which requires a causal link between an action or omission and a harm to assign responsibility. Her insight is relevant as it indicates that the traditional understanding of responsibility is too narrow. According to her social connection model, responsibility can be assigned to any actor that contributes to building and perpetuating structures the lead to injustice. From this follows the responsibility to help changing these underlying structures in such a way that less groups and individuals are left in a position of vulnerability to human rights violations.

I argued that human rights violations in the business context can be understood as a manifestation of structural injustice and that corporations, as actors that are deeply embedded in society and whose existence depends on society, should assume responsibility for structural injustice. The responsibility for structural injustice does not replace the traditional understanding of responsibility but should be understood as complementary. Corporations still need to make sure that they do not directly violate human rights and this needs to be a central consideration for their business activities.

Next to Young, other authors acknowledge that corporations must assume responsibility for structural injustice, and have come up with approaches to define the degree of responsibility, such as the fair-share theory, the capabilities and the leverage-based approaches, and the

responsibility for corporations to help build well-ordered institutions. While differing in emphasis when defining the extent of responsibility, all approaches highlight the importance of the proximity of corporations' relationships to perpetrators and victims of human rights violations, corporations' abilities to contribute to changing the underlying structures. They further stress that the efforts must be bearable and that the human rights violations must be substantial. Besides shortcomings within each individual approach, they share two major weaknesses which makes them not demanding enough: they are too business-friendly and facilitate strategies frequently used to deny responsibility. This is unfortunate because the intention of these approaches is to assign responsibility to corporations that goes beyond making sure that they do not themselves violate human rights.

I further argued that these shortcomings can, at least partially, be explained with reference to three reasons: the understanding that corporations' primary role is to maximise private wealth (ideology); the human inclinations to put priority on closer relationships, the immediate future, and harms they directly cause in normative reasoning (motivation); and indeterminacies about how ideal and just structures would look like, how to get there, and who should do what (collaboration). Karp (2014, p.83) rightly mentioned, that satisfactory "account[s] of responsibility for human rights must avoid legitimising a situation where maintenance of the status quo by companies allows them to say that they have met their responsibilities simply by doing nothing." Unfortunately, the accounts presented make it too easy for such situations to occur.

Since human rights violations connected to business activities should be understood as manifestations of structural injustice, it is not enough to simply ensure better alignment of individual corporations' behaviour with human rights considerations. Social norms and, consequently, societal structures need to change to reduce individuals' and groups' vulnerabilities to human rights violations, and corporations need to realise that their legitimacy, at least to some degree, depends on their contributions to solving prevalent societal problems (see Assländer, 2011, p.118; Wettstein, 2012, p.171). While we cannot expect corporations to solve any societal problem, which would assign almost unlimited responsibility to them, they should do more to be part of the solution, i.e. positive change in societal structures, rather than the problem, i.e. perpetuating the structures that leave people in positions of vulnerability. It is encouraging that corporations are increasingly realising this and are acting accordingly, as the example of the chocolate company Tony's Chocolonely exemplified. However, many more corporations need to follow suit to reduce structural injustice.

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