Who answers the call?
Institutional moral agency and global justice

- MICHAEL KLAPDOR -
Master’s Thesis in Applied Ethics
Centre for Applied Ethics
Linköpings universitet
Presented June 2010

Supervisor: Prof. Göran Collste, Linköpings universitet
CONTENTS

INTRODUCTION ........................................................................................................... 3

1. INDIVIDUAL AND INSTITUTIONAL MORAL AGENCY ........................................... 5
   1.1 Moral persons ..................................................................................................... 5
   1.2 Peter French’s corporate persons ....................................................................... 7
   1.3 Toni Erskine’s theory of institutional agency .................................................. 9
   1.4 Onora O’Neill on the powers of agents ............................................................ 11
   1.5 Summary ............................................................................................................ 13

2. MORAL AGENCY AND RESPONSIBILITY ............................................................... 15
   2.1 Decision making in large organisations: how ‘human’ or ‘rational’ is it? ........ 15
   2.2 Intentionality and responsibility ..................................................................... 20
   2.3 A responsibility to: duty bearing and agency ................................................ 22

3. WHO ANSWERS THE CALL? .............................................................................. 28
   3.1 Who is capable: accounting for agency ............................................................. 28
   3.2 Delineating moral agency from moral responsibility ........................................ 32
   3.3 Assigning responsibility and duty .................................................................... 33
   3.4 Justice and institutional agents ....................................................................... 35

CONCLUSION ............................................................................................................... 37

REFERENCES ............................................................................................................. 40
Introduction
Global poverty, human rights abuses, famine, disease and social injustice are problems seen not only as pressing issues but as calls to action: issues whose moral dimensions demand a response. Those suffering, activists, politicians, community leaders, academics and those working to confront these problems all call for more action to be taken, for more efforts to be made to improve the lives of those living in fear, degradation and gross inequality. The call to action is often met with a response in the form of questions: who is responsible for these problems, who has a duty to respond and who is able to make a difference? The very scale of the problems we are faced with encourages us, in answering these questions, to turn to those whose actions are of a magnitude to create change: institutions such as states, intergovernmental organisations, corporations and non-governmental organisations. Calling on these institutions to act in the face of moral problems implies that these groups are moral agents—that their actions can be described as having a moral nature or consequence and we may be able to hold such institutions morally responsible.

Why would we want to think of certain institutions as moral agents rather than simply as a means for individual agents to achieve justice? A key reason is that the arguments made in support of the call to action are ethical arguments; that is, we are not only able to confront these global problems but that we must do it, that it is right to do so or that it is wrong to let such problems persist in the world we inhabit. Such ethical arguments require an audience able to engage. Yet most individuals feel incapable of acting effectively in response to the call to action. If particular institutions are capable of answering the call to action, perhaps we should direct our ethical arguments at them, and treat them as agents able to respond to moral crises and make claims as to their moral obligations.

This thesis concerns how we might conceive of institutions as moral agents, what criteria might determine agency and whether it is reasonable or even useful to think of institutions as morally responsible. A coherent account of institutional agency will allow us to answer the question as to who answers the call and whom we should direct the call to. I begin by presenting three distinct but related accounts of institutional agency. The first, from Peter French, is concerned only with the moral agency of corporations and the features they can be said to share with individual agents. French’s work is important, however, because, the second account, from Toni
Erskine, expands on French’s work to determine how we might think of other kinds of institutions as moral agents. The third account I will examine is that of Onora O’Neill, who determines agency according to certain capabilities and argues for the inclusion of institutional agents in ethical debate.

All three accounts base their criteria for establishing institutional agency on salient characteristics of human individual agents and all three have as their focus the idea that establishing moral agency allows us to ascribe moral responsibility. The second chapter presents a critique of French, Erskine and O’Neill’s work around these two points. This chapter asks whether most institutions actually function in the way these three accounts hold is necessary for moral agency to be attributed to them. Essentially, I question whether the decision-making structures of institutions can really be held to establish the intentionality these accounts emphasise is necessary for moral responsibility ascriptions.

In the final chapter, I propose an account of moral agency focused on the capabilities of agents for certain kinds of action rather than on their capacity to be held morally responsible. I then discuss whom we might ascribe moral responsibility to, in the senses of blame and duty, before presenting an answer to the question of who answers the call to action that the problems of global injustice present. The account I present in this chapter strives to offer a coherent account of the role individual and collective actions have in bringing about global justice and to whom ethical arguments should be addressed when we seek an understanding of the moral responsibilities these problems give rise to. I conclude with a brief acknowledgement of possible problems within the account I present and with an outline of the direction the debate over issues of global justice could take based on my account of institutional agency.
1. Individual and institutional moral agency
Who is the call to action directed at? The obvious answer is those able to take action. Entities that can perform actions are typically described as ‘agents’ or ‘actors’. The call to action is normative: it is made with ethical arguments about why an action should be made, or why it is right or just. In moral philosophy and ethics, it is agents who are of primary concern in discussing who is able to act or to fail to act and thus the focus here will be on how we account for agency. I will use the term ‘actor’ loosely in regards to entities who are viewed as playing a causal role in some activity. ‘Agent’ will be used as a more precise term. This chapter is aimed at exploring some of the systematic accounts of agency, particularly the concept of ‘moral agency’. The concept of moral agency is, essentially, a concept of who or what can perform actions of a moral nature: actions that can be evaluated according to a theory of morality to be right or wrong. The actions that create, perpetuate, resolve (or fail to resolve) the kinds of moral problems linked to global justice are actions of a moral nature. This chapter will examine different theories about who should be considered moral agents in regard to global justice.

1.1 Moral persons
Human individuals conceiving of moral agency are bound to begin with the kind of moral agency they are most familiar with: their own. As Onora O’Neill writes, “human individuals are taken to be paradigmatic agents, for whom alone ethical deliberation, as well as other sorts of practical deliberation are possible, salient and even required” (O’Neill, 1986, p. 51). This conception of agency is, in part, based on a particular form of ethical reasoning which presumes its audience to be individuals who display integrated capacities for reasoning and acting, as well as some independence from other forces and agents (O’Neill, 1986, p. 51). That is, when giving reasons for actions or for moral decisions, we tend to address those like ourselves. It is also based partly on what Michael Green considers a feature of ‘commonsense morality’, particularly in regards to the issue of responsibility. Green argues that most of us follow a moral code that is restrictive in the sense that it sees individuals to be the primary bearers of responsibility (Green, 2005, p. 118). Even when actions are attributed to collectives we tend to look for the intentions and organisation of the individual members (Green, 2005, p. 118). This individualist conception of agency can also be understood to be based upon certain historical
developments, particularly in regards to legal systems and their central place in society for determining who caused an action, what their intention was, who should be punished and what rectification should take place. The legal tradition has concerned itself primarily with persons, with ‘rational actors’ whose intentions can be understood and proven to a point beyond reasonable doubt. The philosophical conception of the agent as person also depends on a capacity to reason and to act and on a level of independence from other forces and agents.

Basing an understanding of moral agency on this common and well-established conception of individual agency is not necessarily problematic in itself and there are no serious doubts that human beings are moral agents. What is contended, however, is whether individuals are the only moral agents. The individualist conception is limited in two ways. Firstly, in its inability to understand collective actions of a moral nature as anything more than an aggregate of individual agency, that is, that the whole can be greater than the sum of its parts. Most individuals participating in some form of collective activity are unable to see beyond their particular actions and intentions, to have knowledge of every participant’s actions and intentions, how they affect each other and what wide impact they will have as a whole. Green gives the example of climate change, how the contribution each of us makes is so negligible that it does not actually amount to harm (and nor do most of us intend to harm) but together, our actions can produce a disastrous impact (Green, p. 121). The individualist conception struggles to locate the cause and to ascribe responsibility in the face of such a mass of activity contributing to this moral problem. Secondly, the individualist conception is limited in terms of not only ascribing responsibility but in terms of proscribing it. An individual can only do so much in the face of the moral problems listed at the beginning of this chapter and if it is only individuals that possess the kind of agency necessary to respond to these moral problems then only a few very influential individuals will be saddled with moral responsibility.

We form collectives of different kinds in order to achieve goals unattainable by individuals on their own. Such collectives act for individuals and in many ways the collective is identified as the actor. Conceiving of a collective as making decisions and performing actions gets around some of the limitations described above: we can

---

1 Arguments as to whether particular human beings, such as infants or those with severe brain injuries, should be considered as moral agents will not be addressed here. These arguments are, however, based on problems with defining agency as a ‘human’ capacity.
understand how massive harms or benefits are created by explaining the actions in the form of a collective identity and we can conceive of who has the capability to deal with massive harms or to create benefits. Understanding collectives as actors may be useful but it is not the same thing as considering them as moral agents. Conceptually, what is required is a step from metaphorical agency, thinking of collectives as if they were agents because they appear to act in similar ways, to actually identifying the criteria relevant for moral agency, individual or otherwise. Not all collectives would be understood as agents in this way and in reality, it is only certain kinds of collectives that are often described as such. A number of theories have been developed that aim at fitting certain collectives into the common conception of agency, at developing a definition of agency that includes such collectives or at delineating different kinds or levels of agency. The kinds of collectives that are really at issue here are to be defined as ‘institutions’. Institutions are identifiable collectives, groups that can be recognised as acting together and who, in order to do so, require an organisational structure. The most common institutions of this kind, and those most relevant to the issues of global justice are states, intergovernmental organisations, non-governmental organisations and trans-national corporations. The term institution is often used more broadly, to define the rules, traditions or background structure within which agents are bound or which have a limiting effect on their activities. Institutions understood in this way are not generally considered to perform actions and thus should not be considered as part of the discussion to follow, however, relevant such rules and structures are for global justice.

The next sub-sections will present the ideas of some of the key proponents of an institutional concept of moral agency.

1.2 Peter French’s corporate persons

One means of conceiving of certain institutions as moral agents is to examine the essential characteristics of human agents and determine whether these are shared with the collectives in question. As discussed above, the common morality view that is dependent on individualism is, in part, based on a legal notion of agency. The same legal tradition has, in many jurisdictions, come to consider certain kinds of institutions, such as corporations, as legal persons in the same way as human beings. The legal conception of ‘person’ is, however, markedly different from the philosophical tradition’s ideas on moral agency. This is a point taken up by Peter
French in his influential work arguing for a conception of corporate moral agency: “the concept of legal personhood is... virtually useless for moral purposes” (French, 1979, p. 208). French traces the juristic idea of person to Roman law and a definition of any entity that is a subject of a right. He argues that this definition is separate from the idea of agency, where a juristic person disposes of or administers their rights (French, 1979, p. 210). Thus, while this legal understanding of ‘person’ is not tied to a biological or individualistic definition, it fails to capture the “generally regarded conditions of moral personhood”; that is, being able to act in certain ways (French, 1979, p. 210).

French defines an alternative conception of moral personhood that understands ‘moral person’ as referring to a non-eliminatable subject of a responsibility ascription in the sense of ‘having a responsibility’ or a ‘liability to answer’; that is, having a responsibility relationship to another (French, 1979, pp. 210-211). To be responsible in this sense means not only being the cause for some action but also having intended it (French, 1979, p. 211). Thus, for corporations (or other collectives) to be moral agents they must, for French, be capable of forming intentions and acting on them.

As described above, being able to deliberate and to act on these deliberations is a key part of the common morality view of individual agency. French’s theory holds that corporations should also be seen as being able to deliberate and that, as human individuals may locate such a capability in their powers of reasoning, the congruent capability belonging to corporations can be located in what he calls their Corporate Internal Decision Structure (CID Structure). This structure functions as a map of the organisation and the responsibilities different stations and levels within the corporate power structure possess and as “corporate recognition rules” (French, 1979, p. 212). French writes that when this structure is working well, it “accomplishes a subordination and synthesis of the intentions and acts of various biological persons into a corporate decision... A functioning CID structure incorporates acts of biological persons” (French, 1979, p. 212). It does this by mapping where these acts fall in terms of the corporation’s decision making process as well as explaining the logic behind these decisions; that is, the intent:
When an action performed by someone in the employ of a corporation is an implementation of its corporate policy, then it is proper to describe the act as done for corporate reasons or for corporate purposes to advance corporate plans, and so as an intentional action of the corporation. (French, 1995, p. 27)

Being able to describe an act in terms of a corporate intent and being able to locate responsibility within a corporate decision making chain means, for French, being able to ascribe responsibility to a corporation. Thus, they can be held to be moral persons (or, moral agents).

Thus, for French, the most important feature of agency is that which allows for moral responsibility to be ascribed to the agent, not in the sense of being able to cause an action but in the sense of being able to deliberate, to form an intention and then perform an action. Human persons and certain collectives, those with fully functioning decision structures, are, for French, moral agents or persons on the basis of possessing this feature.

1.3 Toni Erskine’s theory of institutional agency

French’s theory, though general, is primarily concerned with organisations structured like corporations and with the relevance of their agency to business ethics. Toni Erskine has used French’s theory as a basis for expanding his concept of moral agency into the realm of international relations. Here we find the kind of institutions most relevant to the problems of global justice: states, intergovernmental organisations, corporations and non-governmental organisations (NGOs). Erskine draws from French’s work the key identifying criteria for determining which “conglomerate collectivities” or institutions qualify as moral agents (Erskine, 2004, p. 25).

The first of these is that feature described above when discussing the limits of individualist conceptions of agency: having a ‘corporate’ identity that is more than the aggregate of the individuals who belong to the institution. This identity must be independent of the groups’ particular memberships. Erskine lists a number of French’s examples of such identities including the Red Cross, political parties, Congress and large corporations such as Gulf Oil Corporation (French, 1984, p. 13 quoted in Erskine, 2004, p. 25).
The second important feature is that described above: the decision making function. This feature is important for Erskine’s theory because it stipulates that the institution is able to deliberate and it “entails a degree of decision-making unity that would allow the group in question to arrive at a predetermined goal, rather than simply displaying the spontaneous convergence of individual interests that one might experience in a crowd” (Erskine, 2004, p. 25).

Erskine proposes a third feature not mentioned by French, one connected to this decision making function and drawing on O’Neill’s conception of agency: an executive function that can effectively translate decisions into action (Erskine, 2004, p. 25). The important point here is the institution have a capacity for ‘purposive’ action (Erskine, 2004, p. 25).

The fourth feature, connected to our understanding of persons, is that institutions must have an identity over time. They must be able to form projects, to learn from experience and project themselves into the future (Erskine, 2004, p. 25). Here the institution must be able to conceive of itself as having this identity over time and Erskine takes this to mean groups must be ‘self-asserting’ (Erskine, 2004, p. 26). Erskine differentiates this term from a demand for consciousness or self-awareness; rather it is a criterion of self-assertion that serves to disqualify groups that do not see themselves as units. To be self-asserting essentially means that an institution is not “merely externally defined” and participates in the fostering or development of an identity that distinguishes it from other entities (Erskine, 2004, p. 26).

Erskine refers to institutions that are identified as possessing these four features as ‘institutional moral agents’. Institutional moral agents are capable, by virtue of being constituted in the way described above, of bearing moral duties. However, Erskine holds that, just being a moral agent is not enough to determine whether a particular institution should be held responsible, in the sense of blame, for failing to act according to a moral imperative. Moral agents must be capable of performing the requisite actions demanded by the imperative (Erskine, 2004, p 26). Erskine argues that allowing for an incapability to perform certain actions, despite institutions meeting the other criteria for moral agency, does not weaken the concept of institutional agency itself, only that the criteria can be met in degrees (Erskine, 2004, p. 26). That is, while an institutional agent may not be able to perform all the actions its moral duties demand of it, there may be some actions it is capable of and can be
held accountable for. Further, Erskine holds that in order to be accountable, institutional moral agents must enjoy a level of freedom from external impediments. That is, the moral duties imposed on institutions must be reasonable in the sense of accounting for the kinds of constraints they face in performing their actions. Erskine gives examples of such limited agency including states being constrained by the financial (and political) demands of foreign creditors or intergovernmental organisations given mandates but not the necessary resources to achieve them (Erskine, 2004, p. 27).

Erskine and French’s conception of moral agency is grounded in the same original idea:

some groups—namely those that are agents themselves and possess sophisticated integrated capacities for deliberation and action—are analogous to the individual human moral agent in ways that make assigning them responsibilities a coherent endeavour. (Erskine, 2004, p. 27)

The endeavour is one of reconciling the immense power of well-organised collective action with moral claims as to how this power should be utilised. Erskine differs in emphasis from French in her conception by focusing less on how collective decision making systems resemble the decision processes of human agents and more on how agency is characterised by its powers, its capabilities, and how certain morally relevant powers are possessed by certain institutions.

1.4 Onora O’Neill on the powers of agents

Erskine’s focus is influenced by Onora O’Neill’s account of agency that has, at its core, the very power to perform purposive actions. By this she does not mean power in the sense of jurisdiction or sovereignty:

The powers of all agents and agencies, including states, are multiple and varied, and often highly specific. These specificities are worth attending to, since it is these capacities that are constitutive of agency, and without agency any account of obligations (and hence any account of rights and or of justice) will be no more than a gesture. (O’Neill, 2003, p. 45).

Hence, O’Neill’s conception on agency is also concerned with how we might understand the assigning of duties or obligations, particularly where the agent concerned can make a wide impact on issues related to justice. O’Neill’s account of
capabilities asserts that “agents’ capabilities are not to be identified with their individual capacities, or with their aggregate power” (O’Neill, 2003, p. 45). That is, what is of concern when considering moral obligations are not the capacities the agents may be able to employ in favourable situations but the “capabilities, that is to say of specific, effectively resourced capacities that they can deploy in actual circumstances” (O’Neill, 2003, p. 46, original emphasis). O’Neill is here pushing for a ‘realistic’ starting point for making normative claims, one that is concerned with the kinds of action that agents can make, not necessarily with those that would be ideal.

O’Neill positions her approach as an alternative to what she sees as the ‘realist’ conception of states and agency which is limited in its consideration of motives (assumes ethical considerations are excluded) and its acceptance of unlimited sovereignty. Her earlier work in this area also locates the capabilities based conception in opposition to what she sees as an idealization of individual human agency (O’Neill, 1986, p. 53). One of the main reasons O’Neill posits a form of institutional agency is due to the limitations raised by aiming our ethical reasoning at individuals and in idealising the powers of individual agents:

If ethical reasoning is accessible only to individuals, its meagre help with global problems should not surprise us. Individual agents do not, after all, live up to the rational economic men, impartial moral spectators and varied ideal rational choosers who jostle in modern mythologies. Human freedom and human rationality are both limited; human agents integrate different aspects of their deliberation incompletely, and depend in varied ways on other forces and agents. (O’Neill, 1986, p. 53).

O’Neill’s argument is that when we accept the limitations faced by human agents, we can begin to better understand institutional agency as not that different. The ‘realist’ argument against state and institutional agency is based, according to O’Neill, on an idealistic view of the cognitive and executive functioning of human agents and the independence enjoyed by these agents. O’Neill rejects a conception of human action that “attributes to agents only what is explicitly present to their consciousness” (O’Neill, 1986, p. 63). Instead she argues for an understanding of human agency reduced to capabilities:
Individual agents find only limited, often inaccurate, descriptions of their action present to consciousness. Because human cognition is both fragmented and opaque much that we do escapes our conscious attention… For this reason no plausible account of individual responsibility claims that individuals are responsible only for their actions as these are actually present to consciousness, or made present by self examination. For self-examination too is hostage to received ways of thinking. (O’Neill, 1986, p. 63)

By rejecting the realist need for consciousness of action in determining responsibility and thus moral agency, O’Neill is able to argue that only limited but integrated capacities to reason and act, whilst retaining some independence, are essential features of moral agency (O’Neill, 1986, p. 62). She goes on further to claim that the limitations on the actions and independence of human agents complete the picture of a thin theory of agency that can be applied to both individuals and institutions. In certain situations, institutions have greater capabilities than human agents and this is all the more argument for their being considered relevant moral agents, as necessitating ethical reasoning that includes such institutions amongst its audience.

Although O’Neill does not go into detail as to how institutional agents resemble individuals in terms of their cognitive capacities she does cite ‘structures’ possessed by states which “provide methods of integrating a large range of information in rational ways and enacting national policies, whilst retaining some national independence” (O’Neill, 1986, p. 62). This idea resembles French’s idea of CID structures in corporations and resembles four of Erskine’s qualifying criteria for determining institutional agency.

1.5 Summary
The development of theories of institutional agency has primarily been conceived as a means of finding a coherent way in which to ascribe responsibility to certain collectives. The motivation for this has been to understand the actions and effect of certain collectives such as states, corporations and intergovernmental agencies as having a moral dimension and to determine who or what bear duties to bring about justice. French, Erskine and O’Neill have all taken a similar approach to thinking about institutional agency, one that is based on our common way of ascribing responsibility to human individuals. Thus, all three theories examine what it is about individuals that determine whether they can bear moral duties, extracts these
characteristics, and then argues there are certain kinds of institutions that also have such characteristics and are thus able to be the subject of moral imperatives. The next chapter will offer a critique of these theories by examining whether institutional decision making processes are really as analogous to individuals', the importance of intentionality for responsibility ascriptions and whether the model of agency being used, one which makes moral agency inseparable from the idea of duty-bearing, is actually coherent in the way these theories claim.
2. Moral agency and responsibility
The presentation of French, Erskine and O’Neill’s ideas on institutional agency has demonstrated how each are aiming to ascribe moral responsibility and duties to certain institutions and that this is done by explaining how institutions and individuals share a number of characteristics or capacities constitutive of moral agency. The following chapter offers a critique of these ideas. First, it will argue that the characterisation of the decision-making processes and executive function of large organisations offered by these authors is lacking in important details and is inaccurate to a large degree. Thus, the argument for institutional agency from shared characteristics will be shown to be weak. Secondly, it will critically examine why the decision-making structure of institutions as described by French, Erskine and O’Neill is portrayed in this way and its importance for their understanding of responsibility. It will argue that the concept of intentionality is critical for their theories of agency and for the kind of moral responsibility ascriptions they wish to make towards institutions but that the model of decision-making processes in institutions used in their theories does not offer a sound basis on which to attribute intentionality. Thirdly, it will argue this portrayal of decision-making is untenable for ascribing moral responsibility in terms of blame or duty and that these ascriptions are reducible to a clearer understanding of individual agency within the institution. It will conclude by contending that for institutional moral agency to be a viable concept, it needs to be distinct from concerns for moral responsibility.

2.1 Decision making in large organisations: how ‘human’ or ‘rational’ is it?
The study of decision-making and action by organisations is a discipline in its own right and I will not attempt to offer a position on the various theories on offer. Instead, I will draw upon Michael Metzger’s and Dan Dalton’s study of corporate moral agency and organisational behaviour published in 1996 to argue that the portrayal of decision-making and executive functions in institutions discussed in the previous chapter is simplistic and of little resemblance to that offered by key theorists working in the fields of public administration and business. While their focus is on businesses, I hold that their observations are general enough to be applied to any larger organisational structure.

Metzger and Dalton consider French’s theory of corporate moral agency as representative of the ‘Rational Actor’ understanding of organisations, an
understanding that assumes organisations such as corporations make decisions in the same way that rational individuals do (Metzger & Dalton, 1996, p. 530). Erskine’s reliance upon French and O’Neill’s invocation of human capabilities in her understanding of institutional agency exposes it to the flaws Metzger and Dalton find with this model. The most basic flaw they identify is that the model seems to ignore the very nature of organisations and how they behave. They write that the Rational Actor model:

assumes that corporations [and other kinds of organisations] make decisions like individuals, and fairly simple-minded individuals at that. It seems rather curious for a model of organisational decision-making to ignore the fact that its subject is an organisation, with all that fact entails. For example, nowhere in the Rational Actor model will one find a hint of the internal differences in goals and perceptions that can foster intergroup conflict in real organisations” (Metzger & Dalton, 1996, p. 539)

The very nature of organisations is that they are made up of individuals who each have complex motivations and personal interests that may not be consistent with the stated aims of the group. The structure of organisations, in terms of the incentives and punishments open to their members, can influence behaviour in a way that goes against any ‘rational’ understanding of how the organisation should function. According to Metzger and Dalton, “it has been suggested, that there is something about the dynamics of organisations that leads people to behave differently in groups than they would as individuals” (Metzger & Dalton, 1996, p. 540). Examples of such phenomena include ‘risky shift’, where groups seeking consensus tend to select a riskier choice than the average of their individual preferences, and ‘groupthink’, where the mode of thinking aimed at reaching agreement within a cohesive group starts to override more realistic assessments of what actions should be taken by the group (Metzger & Dalton, 1996, pp. 540-541; Janis, 1977). However, Metzger and Dalton admit, such phenomena is not always negative and in many ways can contribute to the cohesiveness or effectiveness of the group. While certain kinds of group behaviour may be irrational for an individual to perform, it does not immediately follow that it is irrational in itself.

Other kinds of behaviour, however, emerge from large organisations that could be understood as contradictory to the Rational Actor model. Large organisations
undertake activities beyond the capacity of any one individual to manage and thus require a diffusion of authority. There are different levels of decision-making and different areas of responsibility within the organisation. The top-level of management is unable to maintain complete control over all the activities of the organisation and the diffusion of authority can facilitate discretionary behaviour by managers and organisation members. This discretionary activity can often be at odds with the overall goals of the organisation (Metzger & Dalton, 1996, p. 545). Individuals making decisions can act irrationally in terms of organisational purposes and, because these individuals possess a certain amount of authority, their decisions are seen as representative of the organisation. Just as irrational individual behaviour such as groupthink can appear (and possibly is) rational at the whole-organisation level, rational individual behaviour on behalf of the organisation can appear irrational at the organisational level.

A concept of organisational behaviour that includes the possibility of individuals within the organisation from acting against the purposes of the organisation undermines the Rational Actor model’s need for the organisation to be considered unitary. A crucial feature of institutional agency, as described by Erskine, is decision-making unity, allowing such institutions to arrive at predetermined goals and differentiating institutions from groups not possessing moral agency (see above and Erskine, 2004, p. 25). An essential feature of actual organisations is, however, the very diffusion of this decision-making capacity throughout the organisation. While there may be a leadership figure or group, large institutions require that most decisions, particularly those resulting in observable or physical activity, be carried out at lower levels. This begs the question of the institutional theories of agency presented in the last chapter as to whether only the limited number of decisions carried out by the leader(s) of the organisation, the executive, constitute the moral agency of the organisation or whether decisions and actions taken by all those in the organisation are constitutive of institutional agency.

There are other models of organisational behaviour that are able to capture those aspects that fall out of the Rational Actor model. Metzger and Dalton consider two kinds, the Bureaucratic Politics model and the Organisational Process model, but admit that neither provides a complete picture of organisations and how they work. The Bureaucratic Politics model “emphasises the roles that intraorganisational
parochialism and conflict play in shaping corporate action”. It portrays organisations as composed of different groups each with their own preferences, values and interests (Metzger & Dalton, 1996, p. 547). Decisions are not made by a central body or structure in a fashion analogous to rational cognitive function but through a bargaining process between players with different levels of power through a maze of informal and formal channels (Metzger & Dalton, 1996, p. 548). Formal titles and positions and charts of responsibility may be a poor indicator as to the true power of individuals within an organisation and of the process by which decisions are actually made (Metzger & Dalton, 1996, p. 548). Thus, the kind of formal structure of authority, decision making and executive functioning, so important to French’s conception of agency, may bear little resemblance to the actuality of these elements within an organisation.

The Organisational Process model considers organisations to be aggregations of loosely allied decision-making units with primary responsibility for a narrow range of problems (Metzger & Dalton, 1996, p. 549). To guide the processes of all these units, promote stability and reduce individual discretion, organisations routinise decision-making through the creation of standard operating procedures (SOPs). SOPs are an important element in the internal control of large organisations but can have unintended consequences such as limiting the efficacy of information gathering when managers perceptions of the organisation are limited to their own subunit; limiting the range of options managers consider when confronted by a problem (only those that are part of the SOP); and, slowing an organisation’s response to mistakes as they are often unwilling to alter SOPs and will do so incrementally, even if the SOP itself is the cause of the mistake (Metzger & Dalton, 1996, p. 550). Thus, the operating procedures of an organisation, the kind of thing presumably captured by the decision-making structures at the heart of the theories of institutional agency, are limiting factors in terms of the capabilities of the organisation, are changeable (albeit slowly) but are also partly responsible for why certain courses of action are taken by those making decisions.

Considering these two different models of organisational behaviour, and accepting that neither of them provides a complete picture of how organisations actually function, they do provide considerable challenges to the notion of institutions possessing a structure that integrates a massive range of information in rational ways
to enact policy (see above & O’Neill, 1984, p. 62). The structure itself needs to be understood to really determine how it may contribute to or affect the agency of the institution and the individuals it is comprised of; even taking O’Neill’s focus on capabilities within particular situations and circumstances, much more needs to be known about the institution and its operations beyond acknowledging that it has some kind of decision-making structure and ability to direct actions:

…actual knowledge about the steps leading up to a particular action is a necessary precondition for making any well-founded judgements about either its moral quality or the degree of culpability of any individual or group of individuals inside the organisation. Was the particular outcome intended or reasonably foreseeable consequence of decisions made by responsible persons acting consistently with corporate policy? Or was it the undesired outcome of an internal political struggle or the inadvertent product of flawed organisational processes? Or was the actual progress that led up to the event in question an amalgam of all three models or the product of some other organisational malady? (Metzger & Dalton, 1996, p. 551)

The point to make here is not which model of organisational behaviour is the most correct or that there are no institutions that would actually meet the different institutional moral agency theories’ requirements once these operational factors are taken into account. Rather what a consideration of how organisations can actually work suggests is that any analogy between how decisions and actions come about in organisations with human rational decision-making and action will be severely limited. O’Neill’s attempt at a ‘thin’ theory of agency requires, if we are to assess the capabilities of an organisation in a particular circumstance, an in-depth knowledge of key decision-making individuals and the working structure belonging to it—a level of knowledge which would allow for individual responsibility to be assessed and thus call into the question the very usefulness of an institutional theory of agency.

Before accepting this criticism and rejecting the theories of institutional agency that have been presented, it is necessary to understand why a decision-making structure resembling human cognition has been considered by French, Erskine and O’Neill as so crucial to accepting the idea of a collective form of agency.
2.2 Intentionality and responsibility

The theories explored in the previous chapter conceived of moral agency as a necessary condition for ascribing moral responsibility. French’s understanding of agency revolves around the idea of having a responsibility relationship to another, a relationship that is created when one entity acts towards another intentionally. Erskine and O’Neill’s theories are also strongly centred on the idea that agents must not only act, but act with purpose, with intention. It is, in fact, the key idea running through all these theories: certain institutions act intentionally, not as an aggregate of all the individual members’ intentions but as a whole. Why the kinds of decision-making structures criticised in the previous section are so crucial to these theories is that these structures are seen as giving institutions intentionality.

Rather than engage with all of the literature debating intentionality in law, philosophy and psychology, I will examine only the ways in which intentionality is tied to responsibility in the theories under consideration not because the literature is irrelevant, but because I will argue later that intentionality is not a necessary condition for moral agency. The theories of institutional agency being discussed, in attempting to find a coherent way in which to ascribe responsibility to institutions, are entangled in the different meanings of responsibility. To be morally responsible, in one sense of the word, for H.D. Lewis, “means simply to be a moral agent, and this means to be an agent capable of acting rightly or wrongly in the sense in which such conduct is immediately morally good or morally bad, as the case may be” (Lewis, 1948, p. 9). Another sense of moral responsibility is that of being the cause of an event or state of moral consequence. Virginia Held presents a more systematic account in her discussion of whether collectives meet the standards of moral responsibility expected of individuals, an account cited by Erskine, as follows:

(1) Person $M$ performed action $A$ at time $t$; $M$ was aware that he was doing $A$; $M$ was aware of the moral nature of $A$.

(2) $M$ could have done $A$ or non-$A$.

(3) $M$ was morally responsible for doing $A$.

(1) and (2) are requirements for (3).

(4) $A$ was right (wrong) or good (bad)

(5) $M$ ought (ought not) to have done $A$.

(3) and (4) are requirements of (5).

Other assumptions that might be added for clarification of those listed, but which I shall not employ, are:
(6) The validity of (5) was ascertainable by $M$ at $t$.

(7) $M$ deserves praise (blame).

(5) and (6) are requirements for (7). (Held, 1970, p. 474).

A further relevant sense of moral responsibility is that connected to the concept of duty. Here responsibility is not connected to culpability, but to capability and circumstance and moral principles, and the connection between the three. Responsibility in this sense is the responsibility to take some action, whether as an agreement or promise, an expectation arising from a position of authority or power, or deriving from a moral principle. Responsibility and duty are, in this sense, synonymous; however, using them interchangeably can give rise to a subtle but important confusion.

French’s and Erskine’s theories begin at point (7) of Held’s system, asking how we can praise or blame corporations or institutions. French wants to understand agency in the sense of this responsibility ascription and Erskine asks, as the subject of her key presentation to date of her theory, whether we can say that an institution, in this case the United Nations, can have ‘blood on its hands’ (French, 1995; Erskine, 2004). French and Erskine thus trace back the steps of Held’s theory, though not explicitly following her system, to ascertain whether certain collectives meet the other requirements for moral responsibility: making decisions amongst a range of good and bad options, and, being aware of the good and bad nature of these options. The characteristics that define agency for these two theories are those allowing for this awareness and decision-making capability.

Being aware of the range and nature of the choices available and then making a decision as to which to take, constitutes, in a very simplistic way, the notion of intentionality for French and Erskine. Neither attempts to argue for an institutional ‘awareness’ in the sense of ‘being conscious of’ that might be applied to individuals. Their argument is that the kinds of decision-making structure belonging to institutions process information about the choices open to them and then choose amongst these options in such a way that they can be described as acting intentionally in the same way that individuals act intentionally. We have seen, however, that this structure, in large organisations particularly, does not work as simply as French and Erskine seek to portray it. The diffusion of authority, the way the structure impedes information or limits it, creates a situation in which it seems unlikely that any organisation could be
truly aware of the nature of its decisions or where only a very limited number of actions (or inactions), determined by those at the highest level of the decision-hierarchy and possessed of all the relevant information, could be said to have been intentional in the sense required for this understanding of moral responsibility. We can understand now why the decision-making structure, as portrayed in the theories of institutional agency being considered, is so important for their understanding of moral agency. However, a theory of moral agency dependent on such a structure raises doubts as to whether or how often institutions could really be said to be morally responsible for anything they do in the sense of blame or praiseworthiness. There remains, however, another sense in which we might be able to conceive of institutions as being morally responsible, one that may not be as dependent on this flimsy understanding of intentionality.

2.3 A responsibility to: duty bearing and agency
Toni Erskine, in basing her understanding of institutional agency in terms of capabilities, accepts that there will be many cases in which we cannot hold an institution morally responsible but contends this does not constitute a denial of their agency at other times or in other circumstances. In writing of the United Nations, Erskine admits that its decision-making and executive function are often severely limited by features of that structure such as when a veto is made in the Security Council and in such situations, “the United Nations cannot be defined as an agent” (Erskine, 2004, p. 37). However, Erskine writes:

This is very different from saying that the United Nations acts “irresponsibly”, or should be condemned for an act of omission… If, at times, the United Nations does not qualify as a purposive actor in its own right, it cannot be a moral agent and can be neither assigned duties nor held accountable for their abrogation.

Thus, Erskine appears to be aware of the kinds of criticism raised above about how the structure of an organisation can affect or deny the kind of agency necessary within her theory for the establishment of moral responsibility. But, for her, this just means that the attribution of agency is suspended temporarily. Erskine’s theory does not admit that the features of organisational behaviour discussed above affect her concept of moral agency, only that if these features undermine any decisions being made or carried out in a particular circumstance then the assignation ‘agent’ should be
withheld. This quite broad limitation on the attribution of agency makes Erskine’s concept appear rather arbitrary in its application and confuses the understanding of moral responsibility as agents come and go on the basis of their effectiveness in making decisions. Human individuals, in any common understanding, do not lose their status as agents on the basis of their ability to make decisions and act on them in a certain set of circumstances, though the attribution of responsibility may change if these are considered to be mitigating circumstances. Yet Erskine argues for a very different sense of agency to be applied to institutions, one that “precludes such a judgement” of responsibility while the very status of the institutions is determined according to whether or not its key features as an agent were being undermined (Erskine, 2004, p. 37). Erskine’s conclusion is that moral agency “need be neither a static nor singular nor always stable attribute” (Erskine, 2004, p. 41).

O’Neill’s argument differs markedly on this point by holding that the kinds of limitations on decision-making and action experienced by institutions are essentially the same kind of contingencies human agents face: “If we compare the cognitive capacities of actual individuals with those of actual institutions, we find that both have limited and determinate but changeable capacities to absorb and integrate information” (O’Neill, 1986, p. 64). O’Neill argues that while there are many institutions that lack decision-making capabilities, have no powers to act, or have little independence from surrounding forces to meet her criteria for agency and who are thus not agents, this does not mean that all institutions should not be considered agents. Her later work on ‘agents of justice’ includes the concept of a plurality of agents where we can consider the many different kinds of agents involved in determining principles of justice as ‘primary’ or ‘secondary’:

**Primary agents of justice** may construct other agents or agencies with specific competencies: They may assign powers to and build capacities in individual agents, or they may build institutions—agencies—with certain powers and capacities to act... Primary agents of justice typically have some means of coercion, by which they at least partially control the action of other agents and agencies, which can therefore at most be secondary agents of justice. Typically, secondary agents of justice are thought to contribute to justice mainly by meeting the demands of primary agents... (O’Neill, 2003, p. 38).

---

2 Leaving aside hard cases such as those who suffer serious brain-injuries and coma-patients.
O’Neill’s capabilities approach to agency produces a concept of degrees of agency: that there are individuals and institutions with varying capacities to reason and act and that “these capacities change and may be changed by the agents whose capacities they are” (O’Neill, 1986, p. 67).

Erskine also made use of this notion of degrees of agency in her earlier work on institutional agency. However, she has developed her dynamic, multiple and unstable concept of agency primarily to reconcile conceptual differences between those who believe that institutions must necessarily be moral agents in and of themselves and those that hold that blame for acts of omission should not be shouldered on institutions but rather exclusively on the agents who make up the membership of the institution (Erskine, 2004, p. 41). Her concept allows for both of these positions to be correct in different contexts and the attribution of blame that applies in a particular case “is a matter of neither preference nor policy nor pretence. Rather it is discernable with regard to the specific actions and circumstances in question” (Erskine, 2004, p. 41). Erskine is very keen to emphasise throughout the elaboration of her theory that any attribution of institutional agency and of moral responsibility in no way negates the moral agency, and thus moral responsibilities, of the institution’s constitutive parts (Erskine, 2004, p. 41).

The strength of her theory is that where an institution fails to act in the event of a moral calamity, moral responsibility and blame can still be established. Even where it appears that the institution was incapable of acting and thus of being an agent, Erskine’s theory allows for other agents to be held responsible for this incapability. The key weakness of her theory is, as Erskine acknowledges, that such an understanding of agency renders the assigning of duties to institutions an almost meaningless exercise of calculating which agents will be agents at particular times in the future, a weakness that makes the assignation of duties to the individual constituents of institutions a much more practical and conceptually attractive option. If these constituent agents are to take the blame for any failure of an institution to work, why not the blame for when it does work, and, why not the duty to uphold certain moral principles? Why not direct the call to action at those responsible for ensuring institutions operate effectively?

The key difference between Erskine and O’Neill’s theories, although both are concerned with capabilities, is their main motivation for establishing institutional
agency. Erskine wants institutions, in certain cases, to be the subject of responsibility ascriptions in the sense of blame; O’Neill wants institutions to be included in ethical discourse and to thus be able to be the subject of responsibility in terms of duty. O’Neill sees the capabilities approach to agency as offering a means to begin a discourse between the relevant actors involved in establishing justice (or injustice). Focusing on capabilities “foregrounds an explicit concern with the action and with the results that agents or agencies can achieve in actual circumstances, so provides a seriously realistic starting point for normative reasoning” (O’Neill, 2003, p. 46; original emphasis). Erskine and O’Neill differ in the view from which they wish to begin their reasoning about responsibility: Erskine offers her theory as a way of establishing who has ‘blood on their hands’ while O’Neill offers a theory for determining who is able to ‘get their hands dirty’ prior to any action and who, thus, has a duty to do so.

Problems with Erskine’s position have been discussed above but O’Neill’s argument presents a different problem. By focusing on responsibility as an attribution of duty rather than Held’s view of cause and blame or praise for an action, O’Neill appears to be able to sidestep many of the problems concerning the diffusion of authority and ways in which organisational structures undermine the notion of the institution as a rational actor. O’Neill is concerned with institutional capabilities in particular circumstances, prior to any particular activity; in particular, possessing the capabilities to engage in ethical reasoning and to be the subject of moral duties. Within this understanding, agency is achieved in degrees and it is accepted that all agents are limited, “their cognitive capacities are restricted, and imperfectly integrated; their powers of action are limited by these cognitive capacities, as well as by material and institutional conditions, and are never more than partially independent of other agents and forces” (O’Neill, 1986, p. 67). With this flexible conception of agency we are to hope that we can discern a relevant audience for ethical discourse relevant to a particular problem.

However, O’Neill has not really avoided the problems posed by the rational actor model by focusing on moral responsibility as duty rather than as blameworthy. Practically, discerning the capabilities of an institution, however limited, will involve a complicated task of assessing the bargaining processes or SOPs at play within the institution, of measuring the model of decision making against the reality of the
internal decision-making hierarchy. This is because understanding the capabilities of an agent means assessing its limiting factors: in the case of institutions, this means its structure and the ways its constituents working together. The same aspects of organisational decision-making that hamper the effort to determine intentionality in French’s and Erskine’s theories also complicate the determination of capabilities in O’Neill’s theory. All three require a knowledge of the organisation at work, how the individuals making up the organisation function together, who actually carries authority and power, whether there are tensions or incompetent members, who has integral knowledge or skills and how different individuals react in different situations. Discerning which institutions qualify as agents in terms of their capabilities for ethical reasoning and for recognising their moral duties is tantamount to understanding the capabilities of the key individual member agents at work in the organisation, the way they work together and the limits they face.

O’Neill argues that:

Decisions and policies are indeed never produced by institutional structures in the abstract: individual office holders are needed for functioning institutions. Equally, they are never produced by individuals in the abstract: an institutionally embodied context of cognitive capacities and powers of actions is needed for functioning individuals. We have reason to attribute some decisions to individuals and others to institutions, depending on their relative importance in reaching a particular decision. (O’Neill, 1986, p. 66)

My contention is that the ‘institutional context’ we are meant to locate individuals within is, essentially, made up other individuals, of procedures and systems created and maintained by individuals. While we may have reason to attribute decisions to institutions, this is because it is the collective that is the institution that made such a decision possible. When it comes to determining responsibility, either in the sense of blame or duty, we need an understanding of the individuals who are constitutive of that institution. To understand the capacities of an institution is to understand the individuals who are part of it: their roles, their power, the way they bargain with, communicate and affect each other, and, the systems they create and support in order to work together. Understanding the institutionally embodied context of functioning individual agents is necessary to understand the agency of that individual, not the agency of the organisation. It is only from a different perspective that we may attain
any practical understanding of institutional agency, one not concerned with extracting
a thin concept of intentionality and one not necessarily determined by the concerns of
establishing moral responsibility, however important such concerns may be.
3. Who answers the call?
The concept of institutional agency has been developed in an attempt understand who is responsible for bringing about the kinds of injustice we face in the world and the suffering it brings on such a scale that it is difficult to comprehend, and who is responsible for answering the call to action that such suffering brings. Institutions are, unarguably, capable of bringing about wholesale improvement to the lives of many but is this capability enough to establish moral responsibility? I have argued in the previous chapters that the portrayal of institutions as agents by arguing for a congruency of characteristics such as rationality, intentionality and executive function with individual agents fails to depict the reality of how such collectives of individual agents actually function. Rejecting this particular portrayal is not a rejection of institutional agency as a useful concept nor does it deny that institutions have the capability to perform actions of a moral nature. Rather it points to an approach to the concept of moral agency based on such a capability to perform actions of a moral nature. This approach allows for the concepts of responsibility discussed in the previous chapter to be delineated from an understanding of agency.

The following chapter will present a concept of institutional agency based on the capacity of institutions to perform actions of a moral nature. I will argue that attributing agency to institutions is different from attributing a capacity for taking responsibility. I will argue that responsibility is an attribution of the capacity to bear and act upon duties, a capacity not borne by institutions but only the individuals who form them. It will conclude with an answer to the question as to who is morally responsible for bringing about justice as well as a proposal as to how those responsible are able to bring about justice through the power of institutions.

3.1 Who is capable: accounting for agency
The account to be put forward here is based on an understanding of moral agency as a capacity to perform actions of a moral nature. This understanding is in conflict with Kantian or Aristotelian understandings of moral agency based upon a capacity for moral reasoning or on fundamental notions of freedom. I will not address or criticise these conceptions here, as the account of moral agency I will present is one not aimed at determining the moral duties of agents. Rather, the aim here is practical rather than theoretical, it is to discover an account of agency that improves our understanding of who can determine justice and injustice, and, how we might work with this agency, or
create it, to improve lives and reduce suffering. Actions that harm or increase welfare, or that limit or improve justice, are, at a very basic level, to be understood as the actions of a moral nature with which this account is concerned. In this sense, the account of agency here is consequentialist in its approach; however, the account of responsibility and duty I will address further on is not necessarily bound to that approach to morality.

Understanding the moral actions that are determinate for global (in)justice requires an understanding of activity at a global level. Globally integrated, interdependent and dynamic economies, legal systems, international relations, trade relationships, forms of communication and expression are all features of the process referred to as ‘globalisation’, a process key to any understanding of the issues of global justice. This process has as its main identifiable actors, institutions of the kind I have been discussing: states, intergovernmental and non-governmental organisations and corporations.

The reasons why these institutions are considered actors is partly, as French and Erskine have argued, because they possess an identity that is more than the sum of their collective constituents, an identity which is ‘self-asserting’ in the sense that the institution thinks of itself as having a unified or overarching identity. It is also because the activities they engage in, such as the IMF demanding the restructuring of a state’s macro-economic structures, a UN peacekeeping mission or a massive corporate investment project, have consequences irreducible to the actions of the individual participants. Comprehending the totality of the outcomes or lack of them requires a comprehension of the totality of activity, that is, by identifying the collective structure or identity that brings it about.

The starting point for establishing whether these institutions are agents or not lies in this everyday understanding of them as capable of initiating transformations, having an effect or exerting some sort of power. Agency in this sense is the opposite of being an entity that is acted upon or responds to some kind of stimulus or activity, that is, a patient. As Luciano Floridi and J.W. Sanders (2004) argue in their discussion of artificial agents (such as computers), this conception of agency from a comparison between active and passive entities is too broad as, for example, earthquakes can be seen as initiating transformations, having an effect and exerting power. They propose three criteria for establishing agency:
1. Interactivity: an agent and its environment act upon each other.
2. Autonomy: an agent is able to change state without direct response to interaction (including internal changes to its state).
3. Adaptability: an agent’s interactions can change the rules by which it changes states (it can learn from experience and change its way of operating accordingly). (Floridi & Sanders, 2004, p. 9)

To this I would add the French/Erskine criteria of a self-asserting identity over time. Whilst this goes against Floridi’s & Sanders’ intention of discussing entities such as computers as agents, I believe it is important to be able to distinguish between collectives such as institutions who recognise themselves as possessing some form of collective force and goals and groups such as mobs who do not actually see themselves as belonging to a unit. I believe this is important because the concept of agency is to be used as an attribution or assignation of capabilities and that being attributed should be identifiable and able to identify itself.

Institutions can be deemed agents in the sense described above if they can be recognised as meeting the four criteria:

(1) The institution must be able influence or affect its environment in some way. This does not necessarily mean a physical effect as not all agents operate in physical environments. The environment, in turn, affects the agent either through its resources, by impeding the agent’s actions or in prompting certain kinds of actions. The key point here is that the agent must possess some level of force in the area or with the agents it works with and that, in turn, the context and other agents exert some level of force on the agent. Thus, the United Nations exerts force through sanctions on a state or by sending in a peacekeeping force but its actions are affected by whether it has enough resources at its disposal to enforce the sanctions or to send in troops.

(2) The actions or force directed by the institution should be recognisable not simply as automatic responses in relation to certain stimuli or as natural features of an operating environment, rather the institution should be able to be seen as in some way independent of its environment, able to act on its own and take courses of action from a range of possibilities.

---

3 Whilst making use of this definition, I do not consider the authors’ other arguments or theoretical approach to be part of my position.
(3) The institution must be able to change the way it is structured or operates as a result of interactions with its environment and other agents. In a sense, it can learn from experience, improve policies, seek out new ideas, terminate poorly performing areas or amend its standard operating procedures. For example, a state can change executives through elections, can amend its constitution or simply change policies or funding arrangements.

(4) The institution itself must be recognisable as that which performs the actions or exerts force rather than particular individual members. An institution’s identity, recognised and asserted by its constituent parts is realised in the course of its utilising its agency. Thus, the Commonwealth of Australia is recognised as having declared war on the regime of Saddam Hussein rather than the individual Australian soldier who fired shots at Iraqi soldiers.

There are a number of advantages to this approach over that taken by French, Erskine and O’Neill. Firstly, the internal workings of the institutions are not relevant to a consideration of their agency beyond allowing them to meet the above criteria. Thus, the problems posed by modelling organisational behaviour do not affect this account. Secondly, this account does not claim that institutions should behave in a way similar to rational decision makers and is able to encompass the diffusion of decision-making within large institutions. Thirdly, the limits on agency discussed by Erskine and O’Neill are, within this alternative account, part of the criteria for establishing agency itself. That is, the interactivity between an institution and its environment and with other agents is one of the criteria for its agency, as is its ability to act independently with and within these limiting factors. These limits can also motivate a change in the state of the institution or its ways of operating, indicating the third criteria for attributing agency. Fourthly, the focus of this account is on establishing a capability to perform actions not on establishing moral responsibility. Thus, the problems posed in establishing intentionality in large institutions are not applicable.

The question as to whether an institution is not only an agent, but also a moral agent depends not on the features of the institution itself but on the actions it is capable of performing. As described above, those actions of a moral nature which are of concern are those which can harm or benefit the well-being of those with some kind of moral status, and those which can create or perpetuate justice or injustice. This definition is deliberately vague as assessing the morality of particular actions and the moral status
of different entities is the domain of moral theory and my focus here is on moral agents rather than what is moral or immoral. Moral agency rests not on the morality or immorality of the agent, nor on notions of intentionality or responsibility. Rather, moral agency refers only to the capability of an agent to perform actions of a moral nature.

From this perspective, most agents who meet the criteria for agency would have a capability to perform actions of a moral nature, particularly those institutions of concern here. The power of institutional agents to cause harm or improve living conditions, to redress injustice or encourage the conditions for justice are why we are motivated to establish their moral agency in the first place. The account I have presented briefly here essentially determines their moral agency on the basis of this power. Arguing for moral responsibility and who bears moral duties are separate questions from agency but will be addressed in the next two sections.

3.2 Delineating moral agency from moral responsibility

The preceding account of moral agency, by basing itself upon certain capabilities for independent and evolving interactions with environments and other agents, ignores some of the key components discussed earlier in regards to responsibility in the sense of placing blame or ascribing duties to agents. Virginia Held’s account of responsibility, discussed earlier, demands an awareness of what action is being done and an awareness of its moral nature. The account I have presented deliberately leaves out such a requirement for establishing agency. The assumption that agency implies the possibility of responsibility ascriptions is the key weakness of the theories examined earlier. The assumption is derived from the very human desire to blame, to find culpable, those responsible for wrong but it is applied to agents who act in such a way that anthropocentric notions of culpability and agency fail to comprehend the actions being undertaken.

Accounting for the actions undertaken by large institutions requires freeing the concept of agency from the standards of establishing moral responsibility. No individual is capable of achieving what can be achieved through the powers of different kinds of institutions. It is important to recognise this organised collective force as an agency in itself: to acknowledge that what is done was only possible through collective efforts, to realise that the effects of acting together can far exceed
the cumulative total of all the individual efforts involved, to allow us to comprehend
the magnitude of such forces at work around the globe, and to recognise that the force
of such institutions is partly due to the identity as a single agent granted to it by the
constituents of the institutions and those it interacts with.

Abstracting moral responsibility from the concept of moral agency allows for us to
recognise these institutions as agents but it does not mean that establishing moral
responsibility is not possible or that it is unimportant. The previous chapter
demonstrated that ascribing responsibility to institutions was compromised by an
inadequate account of organisational decision-making structures as allowing for
purposive action analogous to the intentionality of individuals. Intentionality is a
crucial factor in most accounts of moral responsibility and in traditional conceptions
of legal culpability. The account of agency I have presented above does not include in
its criteria a capability for intentional or purposive action but it does not deny that
some agents possess intentionality. My position is that being capable of acting
intentionally is a criterion for establishing whether an agent can be ascribed moral
responsibility but that is not a criterion for a being an agent.

3.3 Assigning responsibility and duty
The account of agency and responsibility thus presented opposes French’s conception
of moral agency (being a ‘moral person’) as referring to the subject of a responsibility
ascription; rather, moral agency refers to the subject of a certain capability ascription
and responsibility refers to the subject of an intentionality ascription. Moral agency is
an assignation suitable to those who are capable of interacting with their environment
and other agents, who possess a self-asserting identity over time, who act with a
certain level of independence and who are able to change themselves or the way they
act as a result of their interactions. Responsibility is a separate assignation applied to
those agents who acted with intentionality or purpose, which were aware of what they
were doing and its moral nature.

Can institutions be responsible under this account? Michael Green, who takes for
granted that institutions are moral agents, holds that because institutions are far better
than individuals at collecting information about the consequences of their actions or
omissions, and because they possess such power to have massive affects, they should
be considered to not only take moral responsibility, but, often, a much greater
responsibility than is expected of individuals (Green, 2005, p. 124). Again, however, Green links agency with an assumption as to the capability of the institution to act with purpose in the same way as an individual, to possess some kind of awareness of their activities as a whole. We have seen however that organisations rarely work in such a simplistic or centralised way: information flows are limited by organisational structures, that decisions are made at different levels with differing levels of awareness as to their far-reaching affects or relation to the whole, actions are taken that work against the aims of the institutions, and personalities, groupthink and internal power struggles hamper concerted efforts.

Moral responsibility cannot be ascribed to institutions because intentionality cannot be ascribed to them, not least because the intentions an institution could be described as having or acting towards, in the sense of goals or program outcomes, are the agreed upon or shared intentions of the individuals constitutive of the institution (or those given power to determine the goals and policies of the institution). Actions that run against the stated or perceivable aims of an institution are typically guided by the intentions of the individuals in positions to direct them. The previous chapter demonstrated that the available accounts of institutional agency are not able to prove that these institutions have the level of awareness of their actions (or omissions) and the possible consequences required for intentionality. While Green argues that institutions should have a greater awareness than individuals, this rests on an unstable assumption regarding the decision-making process of institutions, and an assumption that agency equals intentionality. Understanding this decision-making process, the internal hierarchy, the diffusion of authority, the rivalries and internal conflicts, produces an understanding of the agency and intentionality of the individuals taking part in decision-making for the institution. The very complexity and instability of this process prevents the institution itself from meeting the criterion of intentionality and thus of being a subject of moral responsibility ascriptions.

This leads to the conclusion that while we can consider institutions as moral agents in that they are capable of actions of a moral nature, moral responsibility falls upon individuals, including those involved in the decision-making process of the institution, those who carry out actions on behalf of it, those who assist or create obstacles for the action, those who are involved in regulating the institution, its activities or the environment in which it works, those who created the institution and
those who could affect change in the institution, destroy it or create a new institution to interact with existing agents. This is a long list, and, of course, creates great difficulty in establishing levels of responsibility. However, we are discussing massive institutions whose actions are of a similar magnitude, moral responsibility for enabling such capabilities in an agent is bound to fall on a great many people.

Ascribing intentionality allows an agent to be the subject of moral responsibility ascriptions in the sense of blame as well as duty. For a moral duty to carry meaning, from whatever moral principle or theory it is derived from, it requires an agent be capable of being aware of the duty and of acting purposely to fulfil whatever obligations it proscribes. Assigning moral duties to institutional agents who are incapable themselves of realising this duty, of being able to accept its demands and act (or not act) purposely in following the demands such a moral requirement sets out, is to misdirect any effort aimed at encouraging moral behaviour or determining justice. Institutions are impressive forces in our world, capable of bringing improvement to the lives of many, of normalising conditions for justice but also of bringing suffering, of perpetuating and creating injustice. However, it is on individual agents, those with the capacity to act intentionally, to realise moral duties, which the burden of responsibility must fall. Individual agents are not only able to participate in directing the agency of institutions towards achieving the demands of moral duties, they are able, and morally responsible for changing existing institutions or creating new ones to enable these demands to be met.

3.4 Justice and institutional agents
The answer to the question of who answers the call, on the basis of the preceding account, is clearly individual human agents. However, I have also held that institutions are key for achieving global justice. Reconciling these two positions is possible when we take account of the way individuals work together in forming institutions or enabling them to act. Insisting on individual responsibility does not deny the agency of institutions or their capabilities. Rather, it recognises the capability of individual agents to take responsibility and the power they possess to form part of a collective effort. Accounting for institutional moral agency allows for these collective efforts to be understood as activity of a moral nature and it also allows for emphasis to be placed on the autonomy and adaptability of institutions. These are the characteristics of agency that allow for institutional actions to be
improved, learned from or halted, and, for further moral actions such as rectification or compensation to be enacted or for efforts to be made to improve the framework or structure within which they work. Responsibility for institutional agents engaging these characteristics falls on the individual constituents and those who can influence the institution’s operations yet it is only due to the institution being a moral agent that such responsibilities are created and that such actions are made possible.

The account of moral agency and of responsibility I am arguing for allows for the call to action to be concentrated but also to be dispersed among a broad group. This is because it recognises that individuals must take responsibility for institutional actions and bear the moral duties that the moral problems of global justice demand. However, it does not direct the call only towards those individuals part of or affecting existing institutions. The call is also directed at individuals who are able to form new institutions, to develop moral agency through collective effort, to realise their own moral duties through institutions existing or which require creating. As such, accounting for institutional agency does not allow for responsibilities to be allocated to a small group, for most individuals to be absolved of responsibility for dealing with global problems; it instead implicates all individual agents who interact with, are able to participate in, or can help to create globally affective institutions.

Global justice is global not simply in the sense of the interconnectedness of the world’s economies, political structures and societies but in the responsibilities it distributes to all individual moral agents. Institutional moral agency is a conceptual tool for realising the moral nature of institutional activity not for limiting the allocation of responsibilities for dealing with the dire inequality and suffering persisting in our world today. The account I have offered here only serves to demand more of individuals in terms of the blame and duty they must shoulder if we are to answer the call.
Conclusion

The account of institutional agency presented here is not intended to be comprehensive, but to offer a starting point from which we can better comprehend the agents and actions involved in achieving global justice. However, a number of possible problems with the account I have presented stand out and should be addressed before considering the paths that could be taken from this point.

A key characteristic of all the different accounts of agency that have been considered here is autonomy. The account I presented depended on a definition of autonomy as being able to change state or take an action without it being the result or response to some direct stimulus. The definition is ambiguous as to what counts as a direct stimulus and what really qualifies as a change or action. The notion of autonomy or that of freedom is a complicated and difficult issue for all theories of agency and I have deliberately chosen to avoid engaging with the philosophical debate on this issue. The key reason for this is because most of the debate surrounding the concepts of autonomy, freedom and determinism concern the idea of responsibility and my intention was to separate responsibility from the conception of agency. Autonomy’s place within my account is connected more to the idea of an agent’s identity, as separate from other agents or from the environment with which it interacts, than it is to ideas of intentionality and responsibility. For the purposes of the argument here, it is enough to determine an agent as autonomous if it can be identified, observed or acknowledged firstly as acting or changing and secondly without it being automatic or coerced.

The account of moral agency I have offered could also be considered problematic if it held that only the actions of an entity capable of moral responsibility could be described as ‘actions of a moral nature’. Here the argument is that moral actions are those of moral agents and are moral in the sense of the agent’s rightness or wrongness in carrying out the activity. My account views the morality of an action from the standpoint of the action (or omission) itself, its consequences and its contribution to wellbeing/suffering or justice/injustice. This standpoint arises out of the issues of concern (poverty, disease, inequality and rights abuses) and an acceptance that the actions that contribute to these issues can be judged in terms of some principles of rightness and wrongness. The different standpoints represent a metaethical dispute I have set aside in pursuit of a practical ethical approach to the immense and avoidable
suffering that persists around the world. While other standpoints on the moral nature of actions will produce different accounts of moral agency, I believe that they will arrive at similar conclusions as to who should take moral responsibility for achieving global justice. My position is, however, that a coherent conception of institutional moral agency allows us to better understand our capabilities to achieve this goal and the responsibilities and the power individual agents possess.

I began by asking who answers the call to action that global problems pose. Considering institutions such as states, intergovernmental organisations, corporations and non-governmental organisations to be the most capable of acting in response to this call, I considered some different accounts of these institutions as moral agents. This was to determine whether we could direct the kinds of ethical arguments made in support of the call at these institutions or whether there were other moral agents to whom we could ascribe responsibility for answering the call. The available accounts of institutional agency were found lacking in that their attempts at ascribing responsibility were based on a flawed assertion as to the intentionality of institutional actions. I proposed a different account of institutional agency based on their capability to perform actions of a moral nature, of the kind required by the call to action, but which ascribed responsibility to individual agents. This account found that it is individuals who are responsible for answering the call, as only they have the capability to be responsible in terms of the ethical arguments being made, but that it is through the power of institutions that individuals may be able to deliver on their responsibilities.

As stated above, this conclusion is only a starting point. I believe the next, and probably most important step is finding an adequate means of determining levels of moral responsibility considering the scale of the problems under discussion and the number of individuals involved. While an argument may be made for all individuals holding some responsibility for answering the call to action, it is obvious that some are implicated in creating the problems in the first place and that certain individuals are better positioned than others to react. The account presented here, if accepted, prevents moral responsibility for difficult issues being placed on to abstract and artificial agents like institutions but there remains a large ground for dispute as to the moral responsibilities of particular individuals. Fortunately, centuries of
philosophical, legal and political thought on this very issue leave us well placed to
direct the call of responsibility.
References


