

# **A Rawlsian Approach to Business Ethics**

## **Essays in Employment Relations and Corporate Social Obligations**

*A dissertation submitted in partial fulfilment  
of the requirements for the award of the degree of  
Doctor of Philosophy in Philosophy*

by

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#### Declaration

I, Anirban Mukherjee, declare that the dissertation titled *A Rawlsian Approach to Business Ethics: Essays in Employment Relations and Corporate Social Obligations*, submitted to the Indian Institute of Technology Guwahati for the award of the degree of Doctor of Philosophy in Philosophy, is an original work carried out by me under the supervision of Professor (Dr.) Prabhu Venkataraman. I further declare that I have not submitted this work, or any part thereof, in any form to any other institution or university for the award of any degree or diploma.

All external sources used in the completion of this dissertation have been duly acknowledged and cited.

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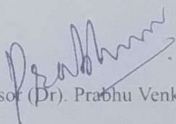
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**Certificate**

This is to certify that the research work for the thesis titled *A Rawlsian Approach to Business Ethics: Essays in Employment Relations and Corporate Social Obligations*, being submitted by Mr. Anirban Mukherjee (Registration Number: 216141003) for the degree of Doctor of Philosophy at the Indian Institute of Technology Guwahati, has been carried out under my supervision.

The present thesis, or part thereof, has not been submitted to any other institution or university for the award of any degree or diploma.

  
Professor (Dr.) Prabh Venkataraman

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Any errors or limitations that remain are, of course, my own.

## Abstract

Business ethics remains a prominent but conceptually unstable field. Debates routinely oscillate between appeals to managerial virtue, stakeholder balancing, market outcomes, and corporate discretion, without a shared standard for assessing legitimacy. This dissertation argues that this instability arises from a category error. Business ethics is too often framed as a matter of optional moral beneficence or individual ethical conduct, when it is more properly understood as a problem of institutional justice. Once this reframing is adopted, the justificatory task becomes clearer and the available normative resources more sharply defined.

As such, the dissertation proceeds in two stages. The first stage clarifies the conceptual and normative terrain. Chapter One argues that markets, rather than individual managers, constitute the appropriate object of ethical evaluation, and that while stakeholder theory offers a more accurate account of contemporary business practice than stockholder primacy, it lacks a coherent justificatory foundation. Chapter Two addresses this deficit by assessing whether dominant ethical theories can ground a public standard for evaluating market institutions under conditions of pluralism. Consequentialism, deontology, and virtue ethics are rejected not as morally incoherent, but as structurally underdetermined for this task. By a process of elimination, Rawlsian social contract theory is identified as the most suitable framework for assessing business ethics as part of a system of fair social cooperation.

In the second stage the dissertation applies this framework to three contested domains. Chapter Three shows that choice-based defences of sweatshop labour fail once liberty is treated as non-negotiable, and that state enforcement of basic liberties is required

where systemic coercion undermines voluntariness. Chapter Four argues that formal exit rights are insufficient to secure freedom of association in employment, and that meaningful exit is a condition of legitimacy realised through institutional design rather than corporate virtue. Chapter Five defends mandatory corporate social responsibility as a justifiable institutional obligation under the Difference Principle, independent of contingent empirical outcomes.

Taken together, the dissertation advances a limited but substantive claim. Business ethics is best understood as a matter of institutional justice. Rawlsian political liberalism, though thin by design, is sufficient to evaluate key issues in business ethics by assessing whether the institutional conditions governing economic activity can be justified to free and equal citizens under conditions of reasonable pluralism.



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## Introduction

### Business Ethics: Confusion and Scope

From a general perspective, the expression *business ethics* appears linguistically strained. According to the *Oxford English Dictionary*, *business* is defined as “the activity of making, buying, selling or supplying goods or services for money.” *Ethics*, by contrast, is defined as “moral principles that control or influence a person’s behaviour.” When read together in this unreflective manner, the two terms appear to occupy distinct and non-overlapping normative domains.

Business appears, on this reading, to concern the instrumental pursuit of monetary gain. It is typically associated with efficiency, calculation, and rationality. Ethics, by contrast, concerns standards of right and wrong conduct. Understood in this way, nothing in the activity of making or exchanging goods for money appears, in itself, to call for ethical evaluation. The very idea of business ethics therefore risks appearing not merely controversial, but conceptually confused.

This naïve linguistic reading encourages a further view. Ethical considerations can be viewed as external to business activity rather than internal to it. At best, they appear as constraints imposed from the outside. At worst, they appear as impediments to effective market functioning. If the defining aim of business is profit, then ethical conduct may seem optional. It may appear merely prudential, or even irrational, where ethical restraint conflicts with financial advantage. In this limited but influential sense, business ethics appears strained.

This initial appearance, however, sits uneasily with both historical practice and contemporary institutional reality. That ethical norms have shaped market activity is

evident. However, what remains unclear is how such norms should be theorised, justified, and located within modern economic institutions. Commercial exchange has rarely, if ever, been treated as normatively neutral. Archaeological evidence from the Indus Valley Civilisation indicates the use of standardised weights and measures to secure fairness in trade (Possehl 2002). Such practices suggest that even early market activity presupposed norms of honesty, reciprocity, and public trust.

Exchange was regulated not merely by convenience or efficiency. It was regulated by shared standards that rendered transactions intelligible and reliable. Similar concerns are evident in the long-standing use of standardised coinage across ancient and medieval economies. They are also evident in social ideals that link economic privilege to social obligation. The ideal of *noblesse oblige*, for example, expresses the view that social or economic advantage carries corresponding duties. Those who benefit disproportionately from a social order are expected to exercise restraint and responsibility toward those who do not. Although this ideal is historically associated with aristocratic societies, the underlying idea has persisted through time. Power and advantage generate obligations rather than ethical exemptions. This logic has clear resonance in modern corporate contexts.

Contemporary practices reinforce this point. Fair-trade certification schemes, ethical sourcing requirements, and emerging environmental and social governance standards all presuppose that market activity is subject to normative evaluation beyond mere legality or profitability. They also presuppose that economic power carries responsibilities that extend beyond compliance or profit maximisation. Consumers routinely expect firms to avoid exploitative labour practices, respect basic human rights, and to account for environmental externalities, even when doing so increases costs. Governments and international organisations increasingly codify these expectations. They do so through trade agreements, reporting obligations, and due diligence requirements.

Such practices are often justified instrumentally by appeal to reputation, risk management, or long-term value creation. Their widespread acceptance nonetheless reflects a deeper assumption. Participation in markets carries obligations of fairness, transparency, and responsibility.

This assumption becomes especially salient once the scale of modern corporations is considered. Firms today control vast reserves of capital, labour, and natural resources, and their decisions shape outcomes across multiple social domains (Phillips and Margolis 1999). Their position within market systems places them in relations of asymmetrical power with workers, consumers, and communities. Such control confers not merely market influence but distributive power. By allocating opportunities, risks, and resources, corporations unavoidably structure social outcomes. As Berlin (1969, 1992) and Nagel (1979) observe, institutions that structure trade-offs among competing goods cannot avoid questions of justification. One way of articulating this claim is that institutions that exercise such distributive influence need to be assessed in light of principles governing fair social cooperation. In particular, where inequalities arise through institutional arrangements, their justification depends on whether they operate to the advantage of the least advantaged.

These considerations do not suggest that business has always been ethical in practice. They point to a different conclusion. Ethical norms have long been treated as conditions of legitimate exchange. They have not been treated as alien intrusions upon market activity. Human societies have consistently preferred forms of trade that are predictable, trustworthy, and rule-governed. This preference persists even where such norms constrain immediate financial gain.

The result is not contradiction, but tension. If business ethics appears linguistically suspect, why has ethical regulation of exchange been historically persistent and socially demanded? Conversely, if ethical norms are integral to the legitimacy and functioning of

markets, why does the very idea of business ethics continue to appear optional, supplementary, or even incoherent in both popular and academic discourse? The aim at this stage is not to resolve this tension. It is to mark it clearly. Doing so is necessary in order to explain why the field of business ethics remains theoretically fragmented, and why its most persistent disputes concern not particular outcomes, but the appropriate level at which ethical evaluation should occur.

### **The Separation Thesis**

This tension is not accidental. It is articulated explicitly in literature as what has come to be known as the Separation Thesis. In its canonical formulation, the thesis holds that the discourse of business and the discourse of ethics are conceptually distinct. A proposition of the form “x is a business decision” is taken to carry no moral content. A proposition of the form “y is an ethical decision” is taken to carry no business content (Freeman 1994). On this view, questions of efficiency, profitability, strategy, and shareholder value may be addressed independently of questions of right, wrong, or justice. Ethical considerations enter, if at all, only as external constraints or discretionary additions.

The appeal of this thesis is readily intelligible. It promises clarity through a division of labour. Business decisions are governed by economic and managerial criteria. Ethical judgements are governed by moral reasoning. It appears to protect business from ethical overreach and ethics from empirical entanglement. Separatists also align with entrenched forms of professional role morality. Managers, acting *qua* managers, are authorised, and often required, to prioritise firm objectives. In this sense, the separation thesis functions as a background assumption across management education, economic modelling, and corporate governance theory. It does so even where it is rarely articulated explicitly

(Freeman 1994; Wicks 1996). Yet the very existence of this thesis is inimical to business ethics as a serious field of inquiry. If business and ethics are treated as non-overlapping domains, ethical evaluation can never be constitutive of business practice itself. Ethics is relegated to the status of an overlay. It becomes permissible where convenient and dispensable where costly. At best, it appears as a prudential supplement justified in the language of reputation or risk management. At worst, it is rendered conceptually irrelevant. Business decisions are taken to exhaust their own justification by reference to profitability or legality alone. Under conditions of separation, business ethics is condemned to one of two unsatisfactory roles. It may moralise from the outside. Alternatively, it may translate ethical concerns into business reasons. In the latter case, ethical judgement is dissolved into instrumental strategy (Goodpaster 1991; Freeman 1994).

Such a stance is a form of justificatory evasion. Treating business decisions as ethically inert does not remove normative commitments from business practice. It merely obscures them. Ethical evaluation is systematically displaced away from the institutional structures that generate business outcomes and redirected toward downstream effects. Ethics is permitted to assess outcomes, intentions, or managerial character, but not the rules and justificatory frameworks that structure economic activity in the first place.

This displacement produces a discipline that talks past itself. Critics invoke exploitation, inequality, or harm. Defenders respond in the language of choice, efficiency, or legality. Each side operates within a different discourse, both claiming conceptual propriety. As Sandberg (2008) observes, even explicit rejections of the separation thesis often lack determinate content. They slide between semantic, descriptive, and normative claims without resolving the underlying divide. Ethical scrutiny is thereby permitted only episodically. It is never treated as a condition of business legitimacy itself.

The separation thesis thus explains a central pathology of the field. Ethical disagreement persists, and ethical evaluation is systematically displaced. Scrutiny is shifted away from the institutional structures that generate business outcomes and redirected toward downstream effects. Ethics is permitted to assess only these outcomes, intentions, or managerial character. It is not permitted to assess the institutional rules and justificatory structures that generate those outcomes in the first place.

This dissertation proceeds from the opposite assumption. Business decisions are not ethically inert until morality is added. Ethical principles are not external ideals to be balanced against business objectives. The organisation of economic activity is itself a site of normative choice. Rejecting the separation thesis is therefore not a rhetorical gesture. It is a conceptual precondition for treating business ethics as a matter of institutional legitimacy rather than discretionary moral benevolence.

### **Scope and Method**

The central concern of this dissertation is not whether businesses ought to behave ethically in a generic or aspirational sense. The concern is how business ethics should be framed once the institutional nature of markets is taken seriously. Ethical evaluation in this domain cannot rest solely on the intentions of individual managers. Nor can it rest on the aggregation of outcomes. It must attend to the rules, structures, and background conditions under which economic cooperation takes place. The claim advanced here is therefore limited but substantive. In the contexts examined, questions of business ethics are questions of institutional justice.

Accordingly, the dissertation adopts an institutional approach to business ethics. Rather than asking whether particular corporate acts are virtuous or socially minded, it asks

whether the practices and arrangements through which firms operate can be ethically justified to those subject to them. This shift redirects attention from discretionary moral conduct to questions of legitimacy, fairness, and obligation. These questions arise not at the margins of economic life, but at its core.

Methodologically, the study proceeds through philosophical analysis. It relies on conceptual clarification, normative reconstruction, and critical engagement with existing literature in business ethics, political philosophy, and law. Empirical material is drawn upon where relevant, particularly in later chapters, but it serves an illustrative and contextual role rather than a justificatory one. The primary concern is the normative question of how business practices ought to be assessed, and under what conditions they can be regarded as ethically legitimate.

The argument unfolds in a deliberate sequence. Each chapter narrows the scope of inquiry while building upon the conceptual groundwork laid by the previous one.

### **Research Objective and Findings**

Chapter One seeks to determine what would be an appropriate conceptual frame for understanding business ethics. Through philosophical analysis, two foundational debates are examined. First, whether moral evaluation should focus on individual decision makers (moral managers) or on the nature of markets (moral markets). Second, whether stockholder theory or stakeholder theory is better suited to more accurately determine the nature and expectations of contemporary business practices.

Findings: Business ethics is best understood as a question of institutional legitimacy instead of individual moral conduct. Moral markets are a more appropriate object of ethical evaluation than individual moral managers. Furthermore, stakeholder theory is more

normatively suited to explain the nature and expectations of contemporary business practices. Finally, it notes that despite greater explanatory power stakeholder theory lacks a coherent justificatory foundation.

Chapter Two seeks to identify an ethical theory capable of providing a robust justificatory foundation for business ethics.

Findings: Consequentialism, deontology and virtue ethics are inadequate for evaluating market institutions and questions of institutional legitimacy. These theories do not fail ethically, rather they fail structurally. Consequentialism fails to assign responsibility in complex, interdependent markets. Deontology fails to systematically resolve the conflict between competing duties. Virtue ethics is tied to individual moral character rather than structural issues. By the process of elimination, social contract theory, understood in a Rawlsian sense, offers the most suitable framework for evaluating issues in business ethics as part of a system of fair social cooperation.

The subsequent chapters rely on this finding to apply a Rawlsian framework to specific issues of business ethics. The issues were chosen to ensure that both Rawlsian principles can be demonstrated to be able to address pertinent issues in business ethics. The Liberty Principle is invoked to help address issues in sweatshop labour and employment termination. While the Difference Principle is used to justify mandatory CSR policies.

Chapter Three assesses the ethical inadequacy of the "choice argument" in the context of sweatshop labour under an assumption of a Rawlsian account of liberty. It does so by examining the background conditions of severe deprivation in which these choices take place

Findings: Voluntary choices made against the backdrop of severe deprivations fail to satisfy the Liberty Principle. Voluntariness alone cannot account for the legitimacy of a choice. Therefore, violations of basic liberties warrant government oversight. Such oversight is not paternalism as it is a requirement of fair social cooperation.

Chapter Four examines employee exit rights as an instantiation of the Liberty Principle under the freedom of association.

Findings: Formal exit rights often fail to secure meaningful action due to systemic constraints such as employment-at-will regimes and restrictive covenants. Additionally, a proper understanding of justice across different institutional levels supports robust exit rights as a requirement of legitimacy in employment relations.

Chapter Five seeks to determine whether mandatory corporate social responsibility (CSR) policies can be ethically justified.

Findings: empirical econometric evidence fails to conclusively establish whether mandatory CSR is beneficial or not. The context-dependent nature of such arguments underdetermine the normative question of legitimacy. Furthermore, a threshold justification problem is identified by assessing policies comparatively across legal jurisdictions. The Difference Principle is then used to justify the issue of mandatory CSR as a fair institutional obligation rather than discretionary corporate benevolence.

In conclusion, taken together, the chapters advance a unified thesis. Business ethics is best understood as a matter of institutional justice rather than optional moral beneficence. By situating firms within a Rawlsian framework of fairness, reciprocity, and public justification, the dissertation seeks to reframe debates in business ethics as questions

concerning the terms under which economic cooperation can be regarded as legitimate and just.



## Chapter One

### Mapping the Terrain of Business Ethics: Competing Theories

This chapter establishes the conceptual terrain of contemporary business ethics by examining two foundational debates. The first concerns the appropriate locus of ethical evaluation in business, contrasting approaches that focus on individual managerial responsibility with those that focus on ethical regulation of markets. The second concerns the purpose of the firm, as articulated in the opposition between stockholder primacy and stakeholder theory. The chapter traces the institutional and theoretical conditions under which stockholder theory achieved dominance, and examines the motivations behind the subsequent development of stakeholder theory as a broader framework of corporate responsibility. It argues that stakeholder theory provides a more plausible descriptive and managerial account of contemporary business practice than stockholder primacy, while also subsuming stockholder considerations in an instrumental sense. At the same time, the chapter identifies a central limitation of stakeholder theory - its lack of a settled justificatory standard capable of normatively grounding its core claims and guiding the resolution of competing stakeholder interests. The chapter's contribution is therefore clarificatory in demarcating the problem space within which further inquiry must proceed.

#### **Moral Managers and Moral Markets**

A persistent organising question in business ethics concerns the appropriate locus of ethical evaluation. One option locates ethical responsibility primarily in individual decision-makers. Senior managers are often emphasised because they shape corporate

strategy, organisational culture, and key policies. Another option locates ethical responsibility primarily in the design and regulation of markets. On this view, the aim is to structure incentives, rules, and enforcement so that ordinary market participation tends to yield ethically acceptable outcomes. This contrast is often framed as a debate between a Moral Manager model and a Moral Market model (Boatright 1999; Smith 2005).

The distinction matters because each model implies a different diagnosis of what typically goes wrong in business and what should count as success for business ethics as a field. The Moral Manager model treats ethical failure as a problem of deficient judgement, weak character, poor practical reasoning or organisational culture. On this view, failures could have been avoided if decision-makers had treated ethical reasons as action-guiding reasons. The Moral Market model treats ethical failure as a problem of institutional structure. Even well-intentioned actors can be channelled towards harmful outcomes by competitive pressure, informational asymmetries, weak regulation, or badly specified legal and contractual rights (Boatright 1999; Smith 2005). The contrast is not intended as an exhaustive taxonomy, and it does not deny overlap in practice. It merely marks a difference in explanatory priority.

The Moral Manager model is familiar in business ethics pedagogy and in professional self-description. It presents the problem of business ethics as the problem of integrating ethical reasons into managerial deliberation and organisational design. On this view, business ethics aims to produce managers who do not treat law and profit as the only operative constraints. It aims to produce managers who incorporate moral considerations as action-guiding reasons. This orientation is reinforced by the way canonical cases are often taught. Cases are frequently framed as situations in which a particular leader chose, or failed to choose, a morally salient course of action. The moral drama is presented as a conflict between a profit-oriented organisational logic and a manager's capacity to resist

that logic on principled grounds (Boatright 1999). This pedagogy encourages the thought that progress in business ethics should be measured by the extent to which managers are trained and socialised into a more ethically responsive mode of deliberation.

The appeal of this model is both psychological and normative. First, managers often enjoy a space where they may exercise discretionary judgment that is not fully determined by law, contract, or organisational rules. Second, many ethically significant harms arise precisely in that discretionary space. Third, it seems problematic to insist that discretion be exercised without reference to moral reasons since the exercise of discretion affects other persons' interests and opportunities. Under these conditions, the Moral Manager model presents itself as an attempt to take moral agency seriously where it is clearly operative.

Even when one grants that institutional reform matters, it can still seem plausible to insist that managerial responsibility is practically indispensable. Smith argues that regulatory systems are often incomplete and reactive. They can struggle to anticipate novel forms of opportunism. On this view, morally responsible management is needed to identify and pre-empt wrongdoing when rules and enforcement lag behind strategic behaviour (Smith 2005). Smith also argues that market-level reform is not automatic. Reforms may not arrive, they may arrive too slowly, or they may be diluted by political constraints. This supports a complementary role for moral management as an internal check that does not wait for external rulemaking.

However, the Moral Manager model faces serious difficulties when it is treated as the central organising aim of business ethics.

The first difficulty concerns scope. The model tends to focus on senior executives in large firms, even though most economic life occurs outside that social role. Many participants in economic systems are not executives. They are employees, consumers, investors, contractors, and small business owners. If business ethics is framed primarily as

the cultivation of ethically excellent executives, then the moral agency of ordinary market participation becomes secondary or invisible. Yet these roles are pervasive and collectively decisive (Boatright 1999).

A second difficulty concerns predictability under competitive pressure. Even if some managers act on moral reasons, the institutional environment may reward less scrupulous behaviour and penalise restraint. If that is correct, then the Moral Manager model risks becoming a normative ideal that is systematically selected against. Boatright presses this point by suggesting that business ethics becomes a “losing battle” if it is understood as a project of producing moral managers in environments structured by market logics that reward hard-headed value maximisation (Boatright 1999, 585). The point is not that moral managers never exist. Rather, it is that they are unlikely to be a reliable mechanism by which ethical outcomes are produced across a system.

A third difficulty concerns discretion itself. The difficulty lies in potentially allowing discretion that lacks public standards, formal constraints, or clear accountability. Where the Moral Manager model treats discretion as a resource for ethical agency, discretion can also function as a channel for arbitrary power and unaccountable paternalism. Even when managers act with benevolent intent, the model can license an image of managers as guardians of the public good. It can invite managers to decide, through private judgement, how to balance other people’s interests. Boatright argues that a model which asks managers to take ethical considerations into account by discretionary choice may loosen the discipline of role responsibility. It may also loosen rule-bounded constraints that protect stakeholders’ interests. Smith does not accept Boatright’s sharp separation between institutional and managerial reform. Even so, Smith’s argument reinforces a different point. What matters is how discretion is structured and monitored, not merely whether managers have good intentions (Smith 2005, 138-139).

These problems do not show that moral management is irrelevant. They show that moral management is an unreliable foundation for business ethics when it is treated as the primary mechanism through which ethical outcomes should be expected to arise.

The Moral Market model begins from a different unit of analysis. Instead of treating the firm and its decision-makers as the focal point of business ethics, it treats the market order as the principal object of ethical design. The aim is to build markets and regulatory frameworks that reliably generate acceptable outcomes from ordinary economic roles. Boatright's central intuition is that market participants, including managers, typically act as economic agents seeking advantage under competitive conditions. If that is how most of us behave in our economic roles, then business ethics should not depend on morally exceptional decision-makers. It should focus on designing rules so that permissible pursuit of self-interest tends to yield acceptable outcomes (Boatright 1999).

A core idea in this model is role responsibility. In complex systems of production and exchange, individuals occupy roles with defined powers and obligations. The ethical task is not to ask each role-occupant to transcend the role whenever moral discomfort arises. The ethical task is to specify roles, constraints, rights, and enforcement structures so that the system is not dependent on heroic discretion. Boatright articulates this point through a preference for rule-bounded arrangements and through a preference for limiting discretionary options. The aim is to reduce the space in which opportunism can thrive and the extent to which stakeholders must rely on managerial goodwill.

This can also be expressed in regulatory terms. Moral markets are markets that operate through formal modes of social control and through a contract approach to regulation (Cohen 2010, 574). The point is that business relationships, which depend on personal trust and informal norms, are fragile under scale, complexity, and competition. Formal rules and enforcement can stabilise expectations. They can reduce vulnerability to

arbitrary power. They can also distribute responsibility across the institutional architecture rather than concentrating it in individuals.

The Moral Market model also fits a broader strand of business ethics that emphasises ethical limits to markets. Some goods and relationships may be unsuitable for market exchange, or suitable only under stringent constraints. Under that approach, the ethical question is not only how market actors behave. It is whether particular markets are legitimate and how they should be structured if they exist at all (Wempe and Frooman 2018). This further shifts attention towards institutional design and away from personal virtue as the central explanatory mechanism.

The moral market model has clear attractions for a dissertation concerned with systemic constraint and the distribution of resources within employment and market policies. If ethical outcomes depend on unusually conscientious managers, then those outcomes are precarious. If ethical outcomes are built into the rules of business, then the system is less dependent on morally exceptional individuals. It also becomes more compatible with a public-facing discipline concerned with institutional norms rather than personal heroism. This does not yet commit one to any particular theory of justice. It is a claim about the level at which business ethics should primarily locate its evaluative work.

Still, the Moral Market model has limitations, and they should be acknowledged and not passed over.

A principal objection is that regulation is often incomplete, slow, and politically contested. Smith argues that rules lag behind strategic innovation. Legal regimes can fail to anticipate the next form of opportunism. Regulation can also encourage a compliance mentality. Actors can treat law as a game with loopholes. They can treat the ethical purpose of rules as irrelevant to practice. Under these conditions, markets can become morally thin while remaining legally sophisticated (Smith 2005).

Another related objection is epistemic. Even if one wants moral markets, one must specify what counts as an ethically acceptable outcome. One must also specify which trade-offs are acceptable. Those are normative questions. They cannot be resolved purely by appeals to efficiency or contracts. The Moral Market model can therefore appear to defer ethical disagreement to political contestation, where the legitimacy of constraints depends on public justification.

These objections do not undermine the central comparative claim. They show that moral markets are difficult to realise perfectly. They do not show that moral management is a superior foundation. Indeed, several of Smith's criticisms of Boatright can be incorporated into a refined Moral Market approach. One can accept that regulation is incomplete and still insist that the primary aim of business ethics should be institutional design. One can then treat moral management as a secondary mechanism for coping with regulatory gaps, rather than as the central mechanism through which the field expects ethical outcomes to be secured (Smith 2005).

The Moral Manager model captures something ethically important. It takes seriously the reality of managerial discretion and the fact that corporate decisions can affect persons' interests. It also supports an intelligible pedagogical project, namely the cultivation of ethical reasoning capacities in those who exercise power. Yet as a general foundation for business ethics, it is structurally fragile. It is too dependent on unusually conscientious agents. It is too easily defeated by competitive selection pressures. It also risks reintroducing paternalistic discretion as the mechanism by which stakeholder interests are protected.

The Moral Market model however offers a more institutionally realistic and normatively disciplined starting point. It treats ethical business practice as an outcome of rule-bounded structures that distribute responsibility across the system. It emphasises

formal constraints and enforceable expectations. It therefore aligns business ethics with the design of markets that reliably constrain power, limit arbitrariness, and make ethical outcomes less contingent on personal virtue. Moral management remains relevant, but it is best treated as supplementary. It is a partial response to regulatory incompleteness, not the primary organising framework for business ethics.

If business ethics is approached primarily through institutional structure, then corporate governance becomes a central site of analysis. A dominant governance dispute concerns the purpose of the firm and the corresponding duties of management. This is the terrain of the stockholder-stakeholder debate.

### **Stockholder Theory**

Stockholder theory offers a distinctive account of the purpose of the firm and the corresponding role of morality in corporate management. At its core is the claim that a business organisation exists to advance the interests of its stockholders, and that managerial responsibility should be understood in relation to that end. The most influential articulation of this position is associated with Milton Friedman, who argues that the social responsibility of business is to increase its profits while conforming to the "rules of the game", understood as compliance with law and the norms of open and free competition (Friedman 1970). Friedman's formulation is notably ambiguous. In what follows, it is read minimally, as a claim that any constraint enters business practice primarily through publicly established legal and competitive frameworks rather than through discretionary moral judgement exercised by managers in their professional role.

This claim is not merely descriptive. It also advances a normative thesis about how responsibility should be allocated within a market society. Managers are not asked to

determine which social objectives deserve pursuit. They are asked to pursue the firm's economic objectives within constraints established through law, regulation, and the terms of their employment. Ethical restraint therefore enters business practice through institutional design rather than through independent moral deliberation by corporate decision-makers. Stockholder theory thus presents itself as a theory of managerial obligation, not as a denial that moral considerations matter in economic life.

This institutional orientation places stockholder theory within a broader tradition in political economy that treats markets as coordination mechanisms capable of producing socially beneficial outcomes from self-interested action. In this respect, Friedman's position resonates with the "invisible hand" claim associated with Adam Smith (2007). The relevance of this lineage is limited but important. It lies in the shared emphasis on background institutions rather than personal benevolence as the primary locus of moral order. Adam Smith was not offering a theory of corporate governance, nor defending modern stockholder primacy. The comparison serves only to situate stockholder theory within a family of views that locate ethical work in institutional structure rather than individual virtue.

The normative core of stockholder theory is most clearly expressed through an agency and fiduciary logic. Managers administer resources that have been entrusted to the firm by those who supply capital. To use those resources for purposes other than those authorised by the firm's objectives is therefore to act beyond one's mandate. This is not merely an efficiency concern. It is an ethical claim about the misuse of entrusted assets. The fiduciary duty of management is understood as a duty to protect stockholder interests as a class, rather than to pursue personal moral projects or to allocate corporate resources according to discretionary judgements about social value (Boatright 1994).

On this account, the distinctive ethical constraint on management arises from role responsibility rather than from general moral obligation. Managers occupy an office with defined powers and duties. Those duties are owed to the firm and, indirectly, to stockholders who bear residual financial risk. The wrongness of unauthorised corporate social spending lies in the fact that it involves the use of corporate assets for purposes not agreed to by those whose resources are at stake. Stockholder theory therefore frames managerial ethics as fidelity to role-defined obligations rather than as moral entrepreneurship.

In contemporary debate, stockholder theory is often associated with a familiar cluster of propositions. These include the claims that stockholders own the business, that businesses exist primarily to make money, that management stands in a principal-agent relationship to stockholders, that managerial duties are owed exclusively to stockholders, and that stockholders possess residual claims on corporate assets once other obligations have been met (Freeman et al. 2010; Stout 2012). Presented together, these claims appear to offer a clear and determinate account of corporate purpose. In practice, however, they are conceptually distinct and easily come apart.

The claim that stockholders own the firm illustrates the need for clarification. Stockholders do own the company in a legally meaningful sense. They hold equity interests, enjoy voting rights, possess rights to dividends when declared, and retain residual claims in liquidation. At the same time, this form of ownership is deliberately separated from ordinary rights of control and use. Stockholders do not exercise day-to-day authority over corporate assets, nor may they unilaterally direct corporate activity. Control is vested in boards of directors, whose powers are constrained by fiduciary duties, statutory obligations, and constitutional documents (Stout 2012; Norman 2013).

This separation of ownership and control is a defining feature of modern corporate governance rather than an anomaly. Even majority stockholders are constrained by

governance procedures and duties owed to the firm as a whole. Ownership in this context therefore refers to a limited bundle of legal rights rather than to comprehensive authority. Stockholder rhetoric often relies on the intuitive sense of ownership associated with personal property, while corporate law institutionalises a weaker and more mediated conception.

Similar qualifications apply to the principal-agent framing. While stockholders appoint directors and may remove them through prescribed procedures, they do not stand in a simple principal-agent relationship with management. Voting rights are limited and episodic. Directors are not required to follow stockholder instructions in the ordinary course of business, nor are they obligated to maximise short-term profits. In many common-law corporate systems, boards retain wide discretion to allocate resources, provided that they act in good faith, within the scope of their authority, and with due regard to stockholder rights (Stout 2012; Norman 2013).

This discretionary authority is not incidental. It reflects the recognition that firms operate under uncertainty and that value creation often requires judgement rather than rule-following. Boards routinely allocate both benefits and burdens across time and across constituencies. When profits are high, they may choose to reinvest profits into the business, raise the compensation of managers, expand operations, or build strategic reserves. When profits are low, they may reduce dividends, lay off employees, or renegotiate obligations. These decisions affect employees, creditors, customers, and communities as well as stockholders. The reality of corporate governance therefore is more about constrained judgement rather than mechanical instruction-following (Stout 2012).

Therefore, the fiduciary duty owed to stockholders must also be understood against this background. It is a duty to protect stockholder rights, not a mandate to maximise stockholder wealth in every decision context. Boards may lawfully choose strategies that

do not maximise short-term returns, provided they act in good faith and in pursuit of the firm's long-term interests. When stated with legal precision, stockholder theory therefore supports a more modest claim than its popular formulations often suggest.

Recognising these limits does not require abandoning stockholder primacy. Stockholder theorists have long acknowledged that attention to stakeholder interests may be justified on instrumental grounds. Friedman himself concedes that firms may invest in employee welfare, environmental protection, or community relations when such actions contribute to long-term profitability. Reputation, retention, and reduced conflict can all serve the firm's economic objectives. On this view, stakeholder considerations are permitted, but they remain subordinate to the overarching aim of advancing stockholder interests (Friedman 1970).

Another commonly cited justification for stockholder primacy appeals to residual claims. Stockholders are described as residual claimants because they are entitled to whatever value remains after contractual and legal obligations are met. This position is often taken to justify their special status. In practice, the residual claimant argument is more complex. In liquidation, stockholders are typically the last to be paid, and their claims may be exhausted entirely. In ongoing firms, residuality refers to exposure to variability rather than to control over assets. The argument therefore supports a claim about risk bearing rather than about absolute authority. Stockholders accept uncertain returns in exchange for potential upside, but this does not entail that management must privilege their interests in every decision. Residuality explains why stockholders receive certain governance rights. It does not settle how those rights should be exercised or how conflicts among constituencies should be resolved (Stout 2012).

Taken together, these clarifications support a more defensible version of stockholder theory. On this version, the objective of management is to promote the long-

term value of the firm. Profitability and stock price function as imperfect but operational indicators of whether the firm is being managed successfully. The appeal of this refinement lies in its promise of accountability. A single, measurable objective constrains managerial discretion and reduces the scope for self-serving behaviour disguised as concern for diffuse stakeholder interests.

At the same time, reliance on market-based metrics introduces familiar risks. Emphasis on stock price can encourage short-term profit chasing and accounting fraud. Well-known corporate failures such as Enron are often cited to illustrate how metric-driven governance can generate incentives for misrepresentation and strategic behaviour that undermine organisational stability. Such cases do not refute the stockholder theory. They highlight tensions between simplified performance indicators and the complex, temporally extended nature of corporate success.

A final feature of stockholder theory concerns the boundary it draws between business and politics. By assigning responsibility for moral limits to law and regulation, the theory locates social policy decisions within democratic processes rather than managerial discretion. Managers are not asked to determine which social goals deserve pursuit. They are asked to pursue the firm's objectives within publicly established constraints. This division of labour offers a clear and institutionally tractable framework. It also places considerable weight on the capacity of legal systems to specify and enforce appropriate constraints.

It is at this point that stakeholder theory enters the discussion. While stockholder theory offers a coherent account of managerial duty grounded in fiduciary and agency reasoning, its reliance on law as the primary moral boundary and its derivative treatment of non-stockholder interests motivate alternative accounts of the firm's purpose. Stakeholder theory emerges in response to these perceived limits, seeking to

reconceptualise the firm as a nexus of relationships with plural claims rather than as an instrument for advancing stockholder interests alone.

### **Stakeholder Theory**

Stakeholder theory emerges as a response to the perceived limitations of stockholder primacy and its narrow conception of corporate responsibility. Where stockholder theory centres the purpose of the firm on advancing stockholder interests within legal constraints, stakeholder theory broadens the evaluative lens. It treats the firm as embedded in a network of relationships whose interests cannot be reduced to, or justified solely by, stockholder value. The theory does not deny the importance of profitability or the distinctive legal position of stockholders. It simply challenges the claim that stockholders are the only parties to whom managers owe ethically significant duties.

The motivating intuition of stakeholder theory is straightforward. Corporate activity routinely affects a wide range of actors whose interests are not exhausted by contractual relations. Employees depend on firms for employment and financial security. Customers rely on the safety and reliability of products and services. Suppliers and financiers assume risks tied to the firm's continuity. Communities and the environment may bear costs that are not necessarily reflected in market prices. Stakeholder theory seeks to bring these affected interests within the scope of ethical and managerial consideration, rather than treating them as residual externalities to be addressed only through regulation or market correction.

The canonical formulation of this view is associated with Freeman, who defines stakeholders as “all of those groups and individuals that can affect, or are affected by, the accomplishment of an organisational purpose” (Freeman 1984, 25; Jones et al. 2001). This

definition is deliberately expansive. Stakeholder status is not determined by ownership, formal authority, or direct exchange. It is determined by relational impact. The firm is thus reconceptualised not merely as a nexus of contracts, but as an institution whose decisions generate morally relevant effects across multiple constituencies. Importantly, this formulation does not deny the legitimacy of stockholder interests. It merely reframes them as one set of claims among others that managers must consider.

Early articulations of stakeholder theory often relied on relatively structured representations of the firm and its relationships. A common move was to distinguish between primary and secondary stakeholders. Primary stakeholders were those with direct and ongoing relationships with the firm, typically involving formal exchange or mutual dependence. These groups usually included employees, customers, suppliers, financiers, and local communities. Secondary stakeholders were those who could influence or be influenced by the firm without standing in direct transactional relationships, such as governments, advocacy groups, competitors, and the media (Freeman et al. 2007). This distinction aimed to clarify the different kinds of interests at stake and to acknowledge that some groups stood in closer or more persistent relations to the firm than others.

This early distinction between primary and secondary stakeholders was often linked to the idea that firms might owe different kinds of obligations to different groups. Primary stakeholders were commonly thought to give rise to special obligations, such as honouring contracts, ensuring workplace safety, or providing fair dealing. Secondary stakeholders were more often associated with general moral duties, such as avoiding harm, respecting rights, or engaging honestly. The primary-secondary distinction thus provided a way of mapping the firm's obligations without collapsing all stakeholder claims into a single undifferentiated category.

Subsequent work in stakeholder theory moved away from hierarchical or fixed prioritisation schemes. Later formulations increasingly portray the firm as an interconnected web of relationships, in which influence and moral relevance are context-dependent rather than determined by stakeholder category alone. On this view, no stakeholder group is inherently primary or secondary in general moral terms. The salience of claims depends on the nature of the firm's activities, the form of dependence involved, and the specific ways in which interests are affected. Bevan and Werhane (2011), for example, emphasise the relational and systemic character of corporate agency, arguing that stakeholder relationships are mutually constitutive and dynamically interconnected in a web of obligations.

This relational turn strengthened the descriptive plausibility of stakeholder theory. It reflected the reality that corporate decisions often generate cascading effects across constituencies and across time. At the same time, it intensified a set of theoretical difficulties that have been widely noted in the literature.

A first and persistent difficulty concerns identification and scope. If stakeholders are defined as all those who can affect or be affected by the firm, the category risks becoming indeterminate. The expansive definition captures the intuition that corporate actions have wide-ranging consequences, but it provides limited guidance on where to draw boundaries. Attempts to narrow the category by focusing on primary stakeholders offer greater clarity, yet risk excluding groups whose interests may nonetheless be morally significant. Conversely, broad formulations face the problem of over-inclusiveness, where almost any affected party can plausibly claim consideration. Without a principled account of who counts as a stakeholder, and in what sense, the scope of managerial responsibility risks becoming arbitrary (Jones et al. 2001; Orts and Strudler 2009).

Related to this problem is the question of distance and relevance. Stakeholder theory must account not only for who is affected, but for how and to what degree. Some groups, such as employees, are tightly integrated into the firm's ongoing operations. Others, such as distant communities or advocacy organisations, may be affected more indirectly or episodically. The theory must explain whether and why proximity, dependence, or vulnerability should matter when assessing claims. Appeals to distinctions between special and general obligations are often invoked at this point, but these distinctions themselves require justification and are not specified consistently across stakeholder accounts (Gibson 2000).

A second cluster of difficulties concerns normative pluralism. Stakeholder theory has been developed and defended through a wide range of ethical frameworks. These include Kantian approaches emphasising respect for persons, contractarian models focusing on fair agreement, integrative social contract theory, convergent stakeholder theory, feminist and critical perspectives, and communitarian accounts that stress social embeddedness (Freeman 1994; Jones and Wicks 1999; Dunfee and Donaldson 2001; Parmar et al. 2010). This diversity allows stakeholder theory to resonate with many moral intuitions and practical concerns. It also complicates its justificatory structure.

The problem is not pluralism as such. The problem arises when plural normative foundations yield conflicting prescriptions without a shared standard for adjudication. When stakeholder claims conflict, stakeholder theory does not specify which justificatory logic should prevail, or why. As a result, the theory often functions as a family of related approaches rather than as a unified normative framework. Its breadth enhances its appeal, but it undermines its capacity to provide determinate guidance under conditions of disagreement.

A third difficulty concerns the problem of balancing. Stakeholder theory frequently instructs managers to balance the interests of different stakeholders. Yet it provides limited guidance on what balancing entails in practice. Balancing may be understood as compromise, proportionality, prioritisation, or trade-off. The criteria for choosing among these interpretations are rarely specified. In governance contexts where boards already possess wide discretion, the injunction to balance stakeholder interests risks collapsing into unstructured judgement. Without public standards, appeals to balancing can legitimise arbitrary or self-serving decisions under the language of inclusiveness (Orts and Strudler 2009).

These difficulties have led some commentators to interpret stakeholder theory not as a fully specified normative theory, but as a framework or perspective. On this view, stakeholder theory sensitises decision-makers to the moral dimensions of business activity without supplying a comprehensive decision procedure. Norman (2013), for example, argues that stakeholder theory often operates as a way of seeing the firm rather than as a determinate account of how competing claims should be resolved. This interpretation helps explain both the theory's widespread uptake and its persistent indeterminacy.

Despite these limitations, stakeholder theory has become a dominant organising framework in contemporary discussions of corporate responsibility, business ethics, and management scholarship. It offers a more plausible descriptive account of how firms operate in practice. It recognises that corporate decisions routinely involve trade-offs among multiple constituencies. It also subsumes stockholder primacy in an instrumental sense, insofar as stockholder interests are treated as one set of stakeholder claims rather than as the sole criterion of corporate purpose.

At the same time, the very features that give stakeholder theory its appeal also expose its central weakness. The theory asserts that managers ought to attend to stakeholder

interests, but it does not specify, in a principled way, why this obligation holds, how competing claims should be ranked, or which public standard ultimately grounds these duties. As a result, stakeholder theory remains normatively ambitious yet justificatorily incomplete. It identifies what is at stake in contemporary business ethics, but it does not yet supply a criterion of legitimacy capable of constraining discretion, resolving conflict, and justifying authority under conditions of pluralism.

That deficit marks the limit of stakeholder theory as a foundation for institutional business ethics. It is also the point at which further theoretical selection work becomes unavoidable.

## **Conclusion**

This chapter has clarified the conceptual landscape of contemporary business ethics by examining two debates that structure the field. The first concerns the locus of moral responsibility in business. The contrast between moral manager and moral market models brings into focus a shift in explanatory emphasis, away from individual managerial discretion and towards institutional design, role definition, and regulatory constraint.

The second debate concerns the purpose of the firm. Stockholder theory offers a clear and influential account grounded in agency logic, fiduciary duty, and legal constraint. Its historical dominance is best explained by institutional and intellectual considerations rather than by normative conclusiveness. Stakeholder theory emerges in response, extending the scope of corporate responsibility to include a wider range of affected parties and offering a more comprehensive descriptive and managerial account of contemporary business practice. Its development from structured stakeholder classifications to relational

and systemic models reflects ongoing attempts to capture the complexity of corporate relationships.

At the same time, the chapter has identified a persistent difficulty. While stakeholder theory has become a dominant framework for understanding corporate responsibility, it lacks a settled justificatory standard capable of grounding its core claims, constraining managerial authority, and guiding the resolution of competing stakeholder interests under conditions of pluralism. This deficit defines the central problem space within which further normative analysis must proceed.



## Chapter Two

### **In search of a Normative Core: Consequentialism, Deontology, Virtue Ethics, and Social Contract Theory**

Stakeholder theory is a dominant framework in contemporary business ethics. Despite its widespread adoption, however, it lacks a clear and coherent normative core capable of supporting the evaluation of markets as institutions. Much of the existing literature addresses issue-specific questions or managerial guidance without articulating a public standard of justification for economic arrangements as a whole. This chapter takes that justificatory gap seriously. It examines a few consequentialist, deontological, and virtue ethics approaches frequently invoked within stakeholder theory and argues that, while each remains morally intelligible, all underdetermine institutional guidance under conditions of pluralism. Consequentialist frameworks struggle to assign responsibility within complex, interdependent market systems, while deontological approaches lack a publicly defensible method for ordering competing duties. In response, the chapter develops a Rawlsian social contract framework as a residual account of institutional legitimacy. Drawing on justice as fairness, it argues that markets and other economic institutions form part of the basic structure of society and must therefore be justifiable to free and equal citizens on publicly acceptable terms. On this view, stakeholder obligations are grounded not in managerial discretion or ad hoc moral claims, but in principles of institutional justice. The chapter concludes that social contract theory supplies a more coherent justificatory foundation for business ethics than existing stakeholder-theoretic approaches, without presupposing agreement on any comprehensive moral doctrines.

This dissertation proceeds within a liberal justificatory tradition that treats markets as social institutions whose legitimacy can, in principle, be publicly assessed. It therefore does not adopt Marxist approaches that treat markets and private ownership of the means of production as inherently exploitative and unjust by definition. On such views, the question of institutional legitimacy does not arise, since markets are condemned at the level of their basic form rather than evaluated as candidates for justification. The aim here is different. It is to ask how market institutions, given their central role in contemporary societies, may be justified to free and equal citizens under conditions of reasonable pluralism.

This orientation is consistent with Rawls's explicit agnosticism concerning the ownership of the means of production. Rawls repeatedly emphasises that the principles of justice are compatible with both private-property economies and socialist regimes, provided that the basic structure satisfies the requirements of justice (Rawls 1999, 248, 241–242; Rawls 2001, 177). Markets are not constitutive of capitalism as such. They are institutional mechanisms that may operate within different property regimes. As Rawls notes, "whatever the internal nature of firms, whether privately or publicly owned, they take the prices of outputs and inputs as given and draw up their plans accordingly" (Rawls 1999, 241–242). Market institutions are therefore common to both private-property and socialist systems.

Although Rawls is formally indeterminate between capitalism and socialism, he nonetheless assigns a central role to competitive markets. This is partly for reasons of efficiency in the allocation of productive resources, but more importantly because markets serve political values. They provide an essential means for securing equal basic liberties and fair equality of opportunity by dispersing economic power and limiting arbitrary control (Krouse and McPherson 1988; S. Freeman 2007). In existing conditions, Rawls

suggests, private ownership of the means of production may be the most effective way of realising these principles, and he therefore treats it as a default assumption for illustrative purposes rather than as a normative commitment (Rawls 1999, 57, 242; Rawls 2001, 177).

The relevance of this position for the present argument is methodological rather than doctrinal. By remaining agnostic about ownership while insisting on the public justification of market institutions, Rawlsian political liberalism preserves space for evaluating markets in terms of legitimacy rather than moralised condemnation. This makes it possible to assess whether existing market arrangements secure fair terms of social cooperation, or whether they instead generate forms of systemic coercion that undermine freedom of association and exit. Marxist critiques illuminate many of the pathologies of market dependence, but they do so by denying the justificatory question that this dissertation seeks to answer. The task here is not to decide between capitalism and socialism as such, but to evaluate the legitimacy of market institutions under conditions of pluralism.

Debates in business ethics often orbit around an implicit contrast between stockholder and stakeholder theories of the firm. Stockholder theory holds that a corporation's primary obligation is to maximise returns for its stockholders, treating other stakeholders as instrumental to that end. This position rests on the claim that stockholders are uniquely entitled to the residual gains from value creation and trade, a claim that stakeholder theory explicitly rejects (Freeman et al. 2010, 10; Hasnas 2013). Stakeholder theory instead proposes a broader account of corporate responsibility, according to which firms have obligations to a range of actors who can affect or are affected by corporate activity, including employees, customers, suppliers, financiers, communities, governments, and competitors (Freeman 1984, 25; Jones et al. 2001; Freeman 2007, 7; Freeman 2010).

Since Donaldson and Preston's influential analysis, stakeholder theory has been understood as comprising descriptive, instrumental, and normative dimensions. Descriptive

approaches aim to explain corporate behaviour, while instrumental approaches examine whether stakeholder management promotes traditional objectives such as profitability or growth, and normative approaches seek to identify the moral principles that justify corporate obligations to stakeholders (Donaldson and Preston 1995, 70-71). For Donaldson and Preston, the normative dimension provides the “ultimate” justification of stakeholder theory (Donaldson and Preston 1995, 87-88). Freeman, by contrast, resists any sharp separation between these dimensions, arguing that stakeholder theory functions as an integrated form of managerial “storytelling” in which normative commitments are assessed by their practical usefulness in guiding managers (Freeman 2002, 44; Freeman et al. 2010, 213). On this view, a normative core is acceptable only insofar as it enables managers to create value for stakeholders in real organisational contexts rather than in abstract moral theory.

This pragmatic orientation has shaped much of the subsequent literature. Even so, there remains a persistent disagreement about the normative foundations of stakeholder theory. Donaldson and Preston maintain that normative stakeholder theory is conceptually unavoidable when interpreting the modern corporation, while simultaneously observing that the fundamental ethical principles involved often remain insufficiently examined (Donaldson and Preston 1995, 72). Freeman likewise concedes that many scholars continue to treat stakeholder theory as a moral project at its core, and that serious engagement with its normative questions cannot be avoided by appeals to managerial practice alone (Freeman et al. 2010, 220-221; Hasnas 2013, 49).

The result is a conundrum. The injunction that firms should “pay attention” to stakeholders is normatively indeterminate. It is compatible with a wide range of ethical theories, including versions of stockholder primacy that are often presented as stakeholder theory’s principal rival (Freeman et al. 2010, xv). Freeman himself argues that Friedman’s

shareholder-value view can be interpreted as consistent with stakeholder theory, as long as it does not explicitly instruct managers to disregard the interests of non-shareholders (Freeman et al. 2010, 12). If true, then the stakeholder label risks becoming vacuous. Almost any serious moral approach to business could qualify as stakeholder theory, provided it does not advocate the outright exclusion of certain affected parties (Hasnas 2013).

This indeterminacy is not merely conceptual. It reflects a deeper justificatory problem. Stakeholder theory succeeds in identifying sites of moral conflict within contemporary firms and markets, but it does not supply a public standard for resolving those conflicts under conditions of persistent disagreement. Appeals to managerial judgement, pragmatic balancing, or plural moral foundations reintroduce discretion at precisely the point where institutional constraint is required. What is missing is a framework capable of adjudicating competing claims in a way that is publicly justifiable.

This chapter addresses that problem. Its aim is not to defend stakeholder theory as a comprehensive moral doctrine (Rawls 2005, xxxvi n.4), nor to derive firm-specific duties or assess particular business practices. Rather, it asks what kind of normative framework is capable of justifying business institutions as part of a broader system of social cooperation under conditions of reasonable pluralism that exists because of the plurality of competing defences of the stakeholder theory. It argues that the dominant normative approaches in business ethics, including consequentialist, deontological, and virtue-ethical frameworks, systematically underdetermine institutional guidance when applied to this task. By a process of elimination, the chapter concludes that social contract theory is uniquely suited to supply a public criterion of legitimacy.

Rawlsian political liberalism is introduced as the most developed contemporary specification of that approach, not as a source of immediate prescriptions, but as the normative framework that will structure the analysis in the chapters that follow.

### **Consequentialism and Institutional Underdetermination**

Consequentialism is a family of ethical theories that evaluate actions solely by reference to their outcomes. An action is morally right, on this view, iff it produces better consequences than any available alternative. What counts as “better” depends on a prior theory of value, which is specified independently of ethical concepts such as duty, rights, or intention. Classical utilitarianism identifies value with pleasure or welfare, but consequentialist theories more broadly may treat preference satisfaction, environmental preservation, or species survival as intrinsic goods. What unifies these views is not their account of value, but their method of moral judgement. All determine rightness by asking which action produces the most value, however that value is defined (Darwall 2013).

This structure initially appears well-suited to business ethics. Markets and firms produce large-scale social effects. It seems natural to evaluate them by asking whether they generate good or bad outcomes. However, when consequentialism is applied to markets as institutions, a structural difficulty emerges. The problem is that consequences matter in ways that consequentialism cannot stably assign or organise.

Recent work by Semrau (2024) makes this difficulty explicit. Semrau challenges what he calls MACE - *Markets Are Amenable to Consequentialist Evaluation*. The core of the argument is that no individual market can plausibly be treated as the direct cause of morally significant outcomes. Outcomes of the sort that concern business ethics emerge

from the interaction of multiple markets operating together. This makes it difficult to isolate any single market as the bearer of ethical responsibility.

First, markets interact in shaping social and economic consequences. Consider the case of women's social status. One might attribute harm to the market in women's sexual labour. Yet the dissemination of pornography depends equally on the market for internet access. Consumer responses to price changes further complicate the picture (Hayek 1945). If falling prices in pornography reduce demand for physical sex work, perceived social status might improve rather than decline. In such a case, the outcome cannot be attributed to one market rather than another. As Semrau observes, "[n]o individual market has the property <diminishes women's status>" taken in isolation (Semrau 2024, 7).

Second, profits move across markets, obscuring responsibility for harmful outcomes. Satz (2010, 98) argues that the conflict diamond market is morally objectionable because it finances civil war. Semrau points out that the funds must pass through the weapons market to produce that effect. If the initial purchase of diamonds was funded through the real estate market, it becomes unclear where responsibility lies. If weapons sales after a conflict are later used to fund healthcare, the same reasoning would imply ethical praise (Semrau 2024, 8). These examples illustrate that markets operate within extended causal chains. Consequentialism lacks a principled way to locate responsibility at a particular point in that chain.

Third, markets alter the option sets available to agents in other markets. Radcliffe-Richards et al. (1998) defend kidney markets on the grounds that they increase welfare. Satz (2010, 199-202) objects that where kidney markets exist, individuals willing to collateralise their bodies receive better credit terms. Since making people pay to retain control over their own bodies is morally objectionable, she concludes that kidney markets are harmful. Yet bonded labour markets are often criticised by targeting the credit market

rather than the labour market itself (Satz 2010, 171-188). Semrau argues that this selective attribution of blame is arbitrary. If the moral status of a market depends on options created elsewhere, then markets cannot be assessed in isolation (Semrau 2024, 8).

Several attempts have been made to rescue MACE by refining the way consequences are linked to market activity. Rather than abandoning outcome-based reasoning altogether, these approaches seek to specify which consequences should count, and how responsibility for them should be allocated. However, none of these refinements succeeds. Each either assigns responsibility too broadly or narrows it in an arbitrary way.

One such attempt is Transactional Consequentialism, which treats individual market exchanges as the basic unit of moral assessment. Each transaction is evaluated as a discrete act, and the objective consequences that flow from it are counted in determining its moral status. At first glance, this strategy appears to solve the problem of systemic diffusion by localising responsibility at the level of individual choice. However, in practice, it dramatically overextends moral attribution because it counts all outcomes that follow from a transaction, even those that are temporally or causally remote. Semrau illustrates this with the case of conflict diamonds. If money generated through real estate transactions is later used to purchase diamonds, and those diamonds subsequently fund weapons that prolong a civil war, then the real estate market itself becomes morally implicated. Yet the same negative outcome is also attributed to the weapons market, since arms sales directly enable violence. The result is that the same harm is blamed on multiple markets simultaneously, leading to “double counting” of consequences (Semrau 2024, 8). The moral reach of markets is overstated, and responsibility loses any determinate location. Instead of clarifying moral assessment, transactional consequentialism generates confusion about who, or what, is being evaluated.

A second strategy is the Suitable Relation Restriction, which attempts to avoid this problem by counting only those consequences that follow from a transaction through a sufficiently direct or “suitable” causal relation. In theory, this restriction prevents far-removed effects from being attributed to a market actor. In practice, however, the notion of a suitable relation proves unstable. If suitability is defined narrowly, using legal or spatial criteria of causation, then even minor interruptions in the causal chain dissolve responsibility altogether. In the conflict diamond example, once money passes through several markets, any link between an initial transaction and the eventual harm becomes too indirect to count. If suitability is defined more broadly, responsibility again spreads too widely. As Semrau observes, the boundary between relevant and irrelevant consequences is either arbitrary or determined by ad hoc judgement (Semrau 2024, 12). The restriction does not resolve the problem of responsibility allocation. It merely relocates it.

A third attempt relies on counterfactual reasoning, often described as the Difference-Maker Test. This approach asks us to compare a world in which a given market exists with a world in which it does not, and to attribute moral responsibility to the market for any difference in outcomes between the two. Semrau applies this test to the sexual labour market. If, in a counterfactual world without that market, women’s social status appears to improve, the market may be judged harmful (Semrau 2024, 13-14). Yet this method also fails once the interdependence of markets is taken seriously. Removing one market alters the structure of others. In the absence of a sexual labour market, consumers may turn to pornography instead. Any improvement in women’s social status may be offset or reversed by changes elsewhere in the system. The test can indicate whether closing a market produces a better outcome in isolation, but it cannot account for the full background network of markets that shape those outcomes. It treats markets as modular when they are not.

Faced with these difficulties, Semrau concludes that MACE cannot be sustained. Markets do not act independently. Their effects emerge from a dense web of interactions with other markets, institutions, and background conditions. Whether responsibility is assigned at the level of transactions, causal relations, or counterfactual differences, the result is the same. Consequences are not discrete, traceable outcomes that can be cleanly attributed to individual markets. They are complex, shifting, and shared across economic systems. The assumption that markets can be ethically evaluated one at a time, on the basis of their outcomes alone, is therefore fundamentally flawed.

Consequentialism does not fare any better when the focus shifts from markets as systems to individual firms as decision-making units. At first glance, the approach appears attractive. Business ethics often presents itself as a practical discipline. Consequentialism seems to offer a simple decision procedure - evaluate the expected outcomes of alternative courses of action and choose the one that produces the greatest overall good. This promise of clarity, however, proves illusory. Even setting aside the systemic problems identified by Semrau, a deeper instability emerges when consequentialism is applied to firm-level obligations.

This instability is particularly visible when we consider two influential but sharply contrasting consequentialist arguments within business ethics, one associated with John Hasnas and the other with Daniel Palmer. Both operate squarely within consequentialist reasoning. Both appeal to overall welfare. Yet they deliver opposing prescriptions.

Hasnas (1998) defends stockholder primacy by appealing to the invisible hand tradition (Friedman 1962, 1970; Quinn and Jones 1995; Smith 2007). When firms pursue profit within competitive markets, they unintentionally promote general welfare. From this perspective, asking firms to take on social responsibilities beyond profit maximisation is not merely unnecessary. It is counterproductive. It interferes with the price system and

undermines the very mechanisms through which markets generate beneficial outcomes. Profit maximisation is therefore justified, not because it is morally admirable in itself, but because it reliably produces good consequences.

Palmer (1999), by contrast, defends stakeholder theory using explicitly utilitarian reasoning. On his account, business decisions should take into consideration the welfare of all those affected by corporate activity, not merely shareholders. This follows directly from two core commitments of consequentialism. First, moral action should maximise overall good. Second, the interests of all affected parties should count equally in that calculation. From this standpoint, privileging stockholders simply because they are stockholders lacks justification. Firms ought to attend to stakeholder interests wherever doing so improves aggregate welfare.

Palmer is careful to acknowledge practical constraints. He concedes that there will be cases in which accommodating stakeholder demands would threaten the viability of the firm. In such cases, profit maximisation may once again become the appropriate course of action. However, this concession is not grounded in any special moral status accorded to stockholders. It is justified solely by reference to outcomes. If firm survival better serves overall welfare, then stockholder-oriented behaviour is acceptable.

This contrast exposes a fundamental tension. Hasnas and Palmer rely on the same consequentialist framework, yet they reach opposite conclusions about what firms ought to do. Hasnas concludes that firms should not be asked to serve stakeholder interests because profit-seeking already produces good outcomes. Palmer concludes that firms should serve stakeholder interests unless doing so would undermine the good those firms are capable of producing. Consequentialism thus functions as a justificatory resource for both ignoring and prioritising stakeholder claims, depending on how outcomes are projected in a given context.

This is not a disagreement between competing moral theories. It is simply an internal instability within a single framework. The same principles are invoked. The same commitment to overall welfare is maintained. Yet the framework yields no stable guidance about the role of the firm. Instead, it permits oscillation between stockholder primacy and stakeholder obligation without offering a principled way to decide when one should prevail over the other.

The problem runs deeper than disagreement over empirical predictions. Consequentialism struggles to account for role-based obligations that structure institutional life. Firms operate within governance frameworks that assign standing responsibilities. Managers are fiduciaries. Firms enter into long-term relationships with employees, suppliers, and communities. These roles generate expectations that persist over time. They are not easily reduced to outcome calculations. Fiduciary responsibility, for example, is not merely a tool for promoting good consequences. Rather, it is a standing obligation tied to institutional role occupancy. Consequentialism lacks the conceptual resources to explain why such obligations should bind when alternative actions promise better outcomes in the short term.

Palmer's own argument illustrates this strain. In attempting to reconcile stakeholder accommodation with firm survival, he effectively concedes that firms must sometimes act as if shareholder interests take priority. Yet this priority is always provisional. It holds only so long as it serves overall welfare. The result is not a theory of institutional obligation, but a flexible decision procedure that adjusts its recommendations case by case. Such flexibility may be appealing from a managerial perspective, but it undermines the framework's capacity to constrain discretion.

Consequentialism therefore fails in two related ways. First, as Semrau demonstrates, it cannot assign responsibility across complex, interconnected market

systems. Second, as the contrast between Hasnas and Palmer shows, it cannot generate consistent guidance even at the level of individual firms. To remain coherent, it must shift between different evaluative strategies, appealing to indirect effects in some cases and direct outcomes in others. This incoherency and inconsistency allow consequentialism to justify almost any institutional arrangement. For the purposes of institutional business ethics under conditions of pluralism, this is decisive. Consequentialism therefore does not fail because it values the wrong things. It fails because it underdetermines institutional guidance. It cannot supply a public criterion of legitimacy capable of grounding stable role-based obligations or resolving conflict without recourse to discretionary judgement. Its inadequacy is structural rather than ethical.

### **Deontology and Unresolved Conflict**

Deontology evaluates actions by reference to duties rather than outcomes. What matters, on this view, is whether an agent acts in accordance with what they owe to others. Unlike consequentialism, which asks agents to maximise good results, deontology holds that some actions are right or wrong independently of what they produce. These duties can be grounded in different ways. Kantian deontology appeals to universal principles, requiring agents to act only on maxims that could be willed as universal laws and to treat persons never merely as means but always as ends (Kant 1998). Rossean pluralism, by contrast, identifies a set of prima facie duties, including fidelity, reparation, gratitude, justice, beneficence, self-improvement, and non-maleficence, whose relative weight must be assessed in particular circumstances (Ross 2002).

What unifies these approaches is their agent-centred orientation. Deontological theories ask who is acting, what relationships they stand in, and what obligations arise from

those relationships. As Rawls puts it, “the concept of right is prior to that of the good” (Rawls 1999, 28). Moral evaluation does not begin by identifying desirable outcomes and working backwards. It begins by identifying what agents owe to one another and then treats outcomes as constrained by those obligations. Darwall captures the same point when he emphasises that moral agents are situated within networks of claims and responsibilities, not positioned as neutral maximisers of value (Darwall 2013, 27).

This focus on duty, consent, and respect for persons gives deontology an appeal that consequentialism often lacks. However, when applied to business and market institutions, deontology encounters a different but equally serious difficulty. It can identify duties, but it cannot publicly order them. In institutional contexts characterised by role differentiation, persistent disagreement, and plural moral claims, deontological frameworks either collapse into rigid absolutism or devolve into discretionary managerial balancing.

Hartman’s Aristotelian critique (2008) sharpens this diagnosis by explaining why deontological frameworks predictably fail in institutional cases without denying the moral force of the duties that they identify. His main objection is that principle-based ethics supplies no public, non-arbitrary method for resolving conflicts among them once they arise in organisational practice. In cases like his Hay Associates example, agents can acknowledge the injustice of discrimination, the weight of fiduciary duty, and the moral claims of clients simultaneously, yet still lack any principled procedure for determining which duty should prevail. Appeals to Kantian universalisability or to Rossean prima facie duties do not resolve this indeterminacy. At best, they relocate the burden onto managerial discretionary judgement under the label of “balancing”. For Hartman, this is not an accidental gap but a structural limitation of deontology in complex institutional contexts. Where multiple role-based and relational duties collide, deontological ethics can identify what is morally at stake, but it cannot generate decisions that are publicly defensible as

anything other than the contingent judgement of a particular decision-maker. The result is either rigid absolutism or unregulated managerial discretion, neither of which can ground institutional legitimacy under conditions of moral pluralism.

The problem is also evident in John Hasnas's deontological defence of stockholder primacy. Hasnas (1998) argues that firms have a clear moral obligation to prioritise stockholder interests because stockholders voluntarily invest their money on the condition that it be used to generate profit. By accepting that investment, managers enter into a moral contract. To divert funds towards social or environmental purposes without shareholder consent is to break a promise. On Hasnas's view, this wrongness does not depend on outcomes. It depends on fidelity to the agreement. He reinforces this position by distinguishing business from government. Unlike taxation, which is compulsory, investment is voluntary and conditional. Consent therefore defines the moral limits of corporate action (Hasnas 1998, 28).

This argument has intuitive force. It appeals to a widely shared moral intuition that promises ought to be kept and that using someone's resources without permission is wrongful. Yet its apparent clarity conceals a deeper problem. Hasnas's account treats one duty as absolute and excludes all others from consideration. As Daniel Palmer shows, this simplification cannot be sustained.

Palmer (1999) accepts that managers have duties to stockholders. However, he denies that these duties exhaust the moral landscape of business. Firms also stand in morally relevant relationships with workers, consumers, communities, and those affected by their supply chains. These relationships generate duties that are not reducible to shareholder consent. Palmer illustrates this with a familiar example. A firm must choose between two suppliers, one slightly cheaper but involved in child labour and environmental harm, the other more expensive but ethically compliant. If the sole duty were to maximise shareholder

profit, the firm would be required to choose the unethical supplier. Yet this conclusion is morally implausible. Firms also have duties to avoid harm, to act fairly, and to respect basic moral constraints. These duties do not derive from outcome maximisation. They arise from the moral status of those affected.

Palmer's argument exposes the rigidity of Hasnas's position. A Rossean pluralist framework, which recognises multiple prima facie duties, undermines the claim that shareholder profit always takes priority. Taken seriously, Hasnas's view leads to morally absurd implications. A firm operating legally in a jurisdiction that permits child labour might be morally obliged to exploit it if doing so benefits shareholders. As Palmer puts it, "we cannot have an ethical obligation to do things that are unethical" (Palmer 1999, 705).

However, Palmer's pluralism introduces a different problem. Once multiple duties are acknowledged, deontology provides no public method for adjudicating conflicts between them. It identifies competing moral claims but offers no shared principle for ordering them. The result is again discretionary managerial balancing. Decisions depend on judgement calls about which duty matters more in a given case. These judgements may be sincere and morally informed, but they are not publicly binding. They cannot ground institutional legitimacy under conditions of disagreement.

Kevin Gibson's attempt to ground stakeholder theory deontologically illustrates this difficulty with particular clarity. Gibson (2000) aims to show that firms have moral duties to stakeholders by appealing to Kantian respect for persons. Stakeholders, he argues, should be treated as ends in themselves rather than as mere means to profit. From this starting point, he constructs a structured argument:

- P1. Stakeholders are identifiable groups.
- P2. These groups have interests.
- P3. These interests are protected by law.

P4. Recognised interests create rights.

P5. Rights create legitimate claims and duties.

Therefore,

C. Businesses have moral duties to stakeholders.

At first glance, this argument promises to supply what deontological stakeholder theory lacks - a clear bridge from interest to obligation. However, on closer inspection, that bridge collapses. The critical move occurs at P3. Gibson asserts that stakeholder interests are protected by law, but this claim is overstated. Some interests are legally protected. Others are not. Even where legal protection exists, Gibson does not explain how protection converts interests into rights, or how rights generate determinate duties. Stakeholder interests range widely, from consumers seeking lower prices to employees seeking job security (Gibson 2000, 250). The argument offers no criterion for distinguishing interests that generate enforceable rights from those that do not.

Gibson himself acknowledges the problem. He concedes that “not all rights imply duties...the fact that groups may make claims does not automatically make them legitimate, and the basis of that claim will determine if the firm has an obligation to meet that claim” (Gibson 2000, 250). This concession undermines the argument’s conclusion. If not all claims generate duties, and if the legitimacy of claims depends on further criteria that remain unspecified, then the inference from stakeholder interest to corporate obligation fails. The framework identifies moral considerations but cannot translate them into binding institutional requirements.

In this respect, Gibson’s failure mirrors Hasnas’s. Both attempt to ground institutional obligation in deontological duty. One does so by absolutising a single duty to shareholders. The other does so by proliferating duties without providing a method for ordering them. In both cases, the framework breaks down when confronted with the

complexity of real market institutions. Even Palmer's more flexible pluralism cannot resolve this problem. When duties conflict, deontology offers no public principle for deciding which should prevail. The result is either rigidity or discretion.

For the purposes of institutional business ethics under conditions of pluralism, this limitation is decisive. Deontology can identify moral claims. It cannot adjudicate between them in a way that is publicly justifiable and institutionally binding. It therefore underdetermines institutional guidance. Its inadequacy lies not in moral insensitivity, but in its inability to resolve conflict without recourse to ad hoc judgement.

### **Virtue Ethics and the Return of Moral Managers**

Virtue ethics approaches moral evaluation by focusing not on outcomes or rules but on the character of agents. Its central concern is the cultivation of excellences of character that enable individuals to act well across a range of situations. In its classical form, this approach derives from Aristotle's *Nicomachean Ethics*, which frames ethics as an inquiry into the good life and the development of practical wisdom (*phronesis*) within a community (Aristotle 2002). Moral judgment, on this view, is neither algorithmic nor rule-bound. It is perceptual, contextual, and irreducibly tied to the quality of the agent.

This orientation has made virtue ethics attractive to some theorists in business ethics, particularly as a response to the perceived rigidity of deontological rules and the instability of consequentialist calculation. However, virtue ethics' focus on individual excellence introduces a fundamental misalignment between the unit of moral evaluation and the institutional nature of the problems at hand. Rather than supplying a framework for evaluating markets or firms as systems of social cooperation, virtue ethics repeatedly collapses back into a theory of managerial character. In doing so, it reintroduces the moral-

manager model that this dissertation earlier rejected as normatively inadequate for being dependent on unusually conscientious agents and risking paternalistic discretion as the mechanism by which market interests are protected.

Wijnberg (2000) offers a clear illustration of this problem. Acknowledging that Aristotle himself says little about commerce or management, Wijnberg explicitly reconstructs virtue ethics for business contexts. He argues that “the existence of the corporation and its interaction with its stakeholders become instrumental to the manager’s desire to act virtuously” (Wijnberg 2000). This move is revealing. The corporation is treated as a means through which individual managers may express or cultivate their virtues, and not as a moral agent or as a site of institutional justice. Ethical evaluation is thus redirected away from the structure and purpose of the firm and toward the moral aspirations of those who happen to occupy managerial roles.

This shift is problematic for two reasons. First, it misconstrues the subject matter of business ethics. The core questions of business ethics concern the responsibilities, powers, and constraints of firms as organised economic actors, not the personal moral projects of their managers. Second, it introduces a form of contingency that is incompatible with institutional evaluation. If ethical business practice depends on the presence of virtuous managers, then moral assessment varies with personnel rather than with structure. A change in management should not alter the moral obligations of the firm. Yet under a virtue-ethical framing, it does.

Wijnberg reinforces this individualism by arguing that virtue ethics resolves anxieties about collective responsibility. Rather than attributing moral agency to corporations, he suggests that responsibility should rest with individuals within the firm. However, this does not solve the problem it is meant to address. Business ethics is concerned with how responsibilities attached to corporate roles are constrained and

justified, not with whether individuals can bear responsibility. The question is not whether a manager can act virtuously, but how the moral obligations of a firm are to be specified in a way that remains stable across changes in personnel. Virtue ethics does not answer this question and instead bypasses it.

Hartman's Aristotelian account represents a sophisticated attempt to rehabilitate virtue ethics in business ethics, and it therefore deserves careful attention. Hartman explicitly rejects what he calls the "standard account" of ethical decision-making, according to which ethical correctness consists in conformity with moral principles. Drawing on Aristotle, he argues that ethical decisions are best understood as the products of character, appropriate emotional response, and correct situational framing. As he puts it, "an ethical decision is not essentially one that is made in accordance with certain principles; it is one that is caused by certain psychological and social conditions" (Hartman 2008).

Hartman's diagnostic contribution is significant. He shows, with considerable force, that principle-based reasoning routinely underdetermines action in complex organisational contexts. His Hay Associates case demonstrates that agreement on abstract principles does not resolve concrete dilemmas when fiduciary duty, equality, and risk come into conflict. In this respect, Hartman's critique aligns with the broader eliminative strategy of this chapter. Deontological frameworks lack a public method for ordering competing claims. Virtue ethics appears attractive precisely because it promises to overcome this indeterminacy through character and judgment.

However, Hartman's solution reproduces the very problem it seeks to avoid. Ethical success, on his account, depends on the presence of the right kind of person operating within the right kind of organisational culture. Moral evaluation becomes inseparable from the qualities of the decision-maker and the local practices of the firm. While this may explain how good decisions come about, it does not supply a criterion for assessing

decisions independently of the agent's character. Nor does it offer guidance for institutional design under conditions where virtuous agents cannot be assumed.

This limitation becomes more pronounced as Hartman extends his analysis beyond individual cases. His account of corporate culture as a system of shared frames underscores the moral significance of organisational context. Actions acquire their meaning within practices, and moral perception is shaped by institutional environments. Yet this move deepens the problem of public justification. If moral evaluation depends on locally embedded frames, then disagreement across contexts becomes intractable. There is no standpoint from which institutional arrangements themselves can be assessed without presupposing particular forms of life.

Even recent work on moral imagination and moral courage only sharpens this difficulty rather than resolving it. Bhuyan and Chakraborty (2024, 2025) explicitly incorporate hierarchy, authority, and findings from social psychology into virtue-adjacent accounts of ethical agency. They show convincingly that ethical failure in firms is often predictable, situational, and rooted in deference to authority rather than ignorance of moral reasons. Yet the normative burden in these accounts continues to rest on individual capacities such as imagination, courage, and practical judgement. Even when institutions are diagnosed as hostile or coercive, the proposed response remains the cultivation of exceptional agents capable of resisting them. Ethical success is therefore rendered contingent on moral heroism, and institutional assessment is displaced by an analysis of how individuals cope within unjust or constraining structures. This confirms, rather than undermines, the limitation of virtue-based approaches for questions of legitimacy.

Hartman acknowledges the relevance of political economy and even gestures toward liberal democratic institutions as supportive conditions for ethical life. However, he offers no principled standard for evaluating those institutions. Trial and error replaces

justification. Moral learning becomes experimental and path-dependent. This may be descriptively plausible, but it is normatively insufficient for the task at hand. Business ethics, as framed in this dissertation, is concerned with the legitimacy of coercive and coordinating institutions under conditions of reasonable pluralism. Virtue ethics does not address this problem. It relocates moral authority to character, culture, and community without explaining how these are to be justified to those who do not share them.

Moreover, Hartman's appeal to empirical psychology introduces further tension with political liberalism. His suggestion that liberal neutrality may be empirically unrealistic, given tendencies toward in-group bias, is left undeveloped. Even if correct, it cannot substitute for a normative account of legitimacy. The fact that neutrality is difficult does not show that it is dispensable. Virtue ethics offers no resources for resolving this tension. It neither defends neutrality nor provides an alternative public standard.

In this respect, virtue ethics mirrors the moral-manager model diagnosed earlier in this dissertation. Ethical responsibility is located in the discernment, imagination, and integrity of particular individuals. Markets and firms are evaluated indirectly, through the character of those who inhabit them. Institutional stability is made dependent on personal excellence. This is precisely what a theory of business ethics cannot afford to do.

Virtue ethics therefore fails because it is misaligned with the justificatory task identified in this chapter and does not provide a publicly justifiable criterion for assessing institutions themselves. Under conditions of pluralism, where reasonable agents disagree about ideals of character and forms of life, virtue ethics underdetermines institutional guidance. The gap it leaves open is not accidental. It reflects the limits of an agent-centred moral theory when confronted with problems of political and economic legitimacy.

## The Result of Underdetermination

The preceding sections establish a limited but decisive result. Consequentialism, deontology, and virtue ethics each remain intelligible ethical frameworks. Each continues to perform useful work within circumscribed domains. Consequentialist reasoning is often effective for policy comparison and impact assessment. Deontological reasoning captures the moral force of duties, promises, and rights. Virtue ethics offers a rich account of moral agency, judgment, and character formation within practices. None of these frameworks is incoherent, nor are they ethically bankrupt.

However, none of them are structurally suited to the justificatory task of institutional legitimacy under conditions of reasonable pluralism. All three frameworks systematically underdetermine institutional guidance. Consequentialism cannot assign responsibility within complex, interdependent market systems, nor can it generate stable role-based obligations. Deontology identifies duties but lacks a public ordering principle capable of resolving conflicts without discretionary judgment. Virtue ethics explains how good decisions emerge but ties moral evaluation to personal excellence and local cultures, reintroducing the moral-manager model and leaving institutional legitimacy unaddressed.

The point of this eliminative exercise is therefore not moral defeat. It is justificatory inadequacy. These theories fail because they cannot supply a public, conflict-resolving standard at the level of institutions that business ethics requires once it is understood as a problem of legitimacy rather than discretionary morality, and not because they endorse objectionable values. None offers a shared standard that can constrain institutional design and adjudicate disagreement without appeal to private moral judgment. They cannot justify coercive or coordinating structures to citizens who reasonably disagree about the good, the right ordering of duties, or the ideals of character.

This eliminative result clears conceptual space. It does not establish what justice in markets requires, nor does it resolve substantive disputes about particular practices. What it does show is that if business ethics is to offer more than post hoc moral commentary, it must appeal to a framework explicitly designed for public justification under conditions of disagreement from the outset.

### **Social Contract Theory as the Residual Framework**

Social contract theory begins from a different justificatory question than the approaches considered so far. Rather than asking which actions maximise good outcomes, which duties bind particular agents, or which forms of character produce good decisions, it asks which rules free and equal persons could reasonably accept as governing the terms of their social cooperation. Justice, on this view, is not derived from individual moral excellence or aggregate welfare. It is grounded in fairness and mutual respect under conditions designed to remove arbitrary advantage. This shift in focus is decisive for the problem at hand. Where consequentialism, deontology, and virtue ethics struggle to generate publicly justifiable guidance at the institutional level, social contract theory is expressly constructed to do so.

John Rawls provides the most systematic contemporary articulation of this tradition through his conception of justice as fairness. Rawls's central concern is the design and evaluation of what he calls the basic structure of society. The basic structure consists of the main political, social, and economic institutions that together shape social cooperation over time. These institutions determine how rights and duties are assigned and how the benefits and burdens of cooperation are distributed across generations (Rawls 1999, 6; Rawls 2001, 8-9; Rawls 2005, 11, 40-41, 66-67). Because individuals are born into this structure rather

than choosing it, its rules must be justifiable to all those subject to them. The justificatory burden is therefore public and institutional rather than personal or discretionary.

Rawls's method for identifying such justifiable rules is a hypothetical thought experiment, the original position. In this thought experiment, free and equal moral agents are tasked with choosing the principles that will regulate the basic structure. They do so behind a veil of ignorance that deprives them of knowledge of their own social position, class, gender, talents, religious commitments, or conception of the good life (Rawls 1999, 118-123). The parties are rational in the sense that they can form, revise, and pursue their own conception of the good, and they are reasonable in the sense that they are willing to propose and abide by fair terms of cooperation provided others do the same (Rawls 2001, 18; Rawls 2005, 50-54). Because no one knows where they will end up once the veil is lifted, principles chosen in this position must be acceptable from any social standpoint. The device is explicitly not a historical contract. It is a justificatory representation of fairness.

Rawls is clear that justice as fairness is intended as a freestanding political conception. It does not rely on any comprehensive moral, philosophical, or religious doctrine. Instead, it draws on ideas implicit in a society's public political culture, understood as the shared values and political ideas that structure democratic reasoning. These include commitments to equal citizenship, basic liberties, and fair terms of cooperation (Rawls 2005, 8, 10, 12, 14). The aim is to make room for an overlapping consensus among citizens who affirm diverse and sometimes incompatible comprehensive doctrines. Legitimacy, on this account, depends on whether principles of justice can be publicly justified to reasonable citizens under conditions of pluralism. This is why Rawls insists on the publicity condition. Principles governing the basic structure must be publicly known, capable of being reasonably accepted, and able to sustain stable cooperation over time (Rawls 2005, 66-67).

From the original position, Rawls argues that rational and reasonable parties would select two principles of justice. The first is the Liberty Principle - each person is to have an equal claim to a fully adequate scheme of basic liberties, including freedom of thought, conscience, association, and political participation. These liberties are lexically prior. They cannot be traded off for economic advantage or aggregate welfare gains (Rawls 1999, 53-54; Rawls 2001, 42-43; Rawls 2005, 294-295). The second principle governs social and economic inequalities and has two parts. First, positions and offices must be open to all under conditions of fair equality of opportunity. Second, inequalities are permissible only if they work to the greatest benefit of the least advantaged members of society, and is known as the Difference Principle (Rawls 1999, 53-54; Rawls 2001, 42-43). Rawls justifies this second principle through the idea of reciprocity. Starting from a baseline of equality, departures are fair only if they improve the prospects of those who are worst off (Rawls 2001, 123).

### **Discussion and Pre-emptive Objections**

What matters for present purposes is not the immediate application of these principles to particular firms or practices, but the structure of justification they embody. Justice as fairness is explicitly designed to address disagreement under conditions of reasonable pluralism. It provides a public standard for evaluating institutional arrangements without appeal to contested moral doctrines, discretionary balancing, or assumptions about personal virtue. Unlike consequentialism, it does not depend on tracing outcomes through complex causal chains or assigning responsibility within interdependent systems. Unlike deontology, it does not rely on agent-centred duties that lack a publicly agreed ordering.

Unlike virtue ethics, it does not presuppose the presence of exemplary decision-makers or morally supportive organisational cultures.

Social contract theory therefore enters the arena not just as one moral framework among others, but also as the residual framework left standing once the justificatory task is specified with sufficient precision. It is structurally suited to supply what the earlier approaches could not. It operates at the level of institutions rather than individual actions. It addresses conflict through publicly justifiable principles rather than private moral judgement. And it is explicitly constructed to secure legitimacy in societies marked by deep and persistent disagreement. Rawls provides the most developed articulation of this approach, but at this stage his role is limited. He specifies the form that a successful public justification must take. The substantive institutional work that follows will depend on that framework, but it is not yet undertaken here.

Before social contract theory can be treated as the residual framework for institutional business ethics, it must be shown to withstand a certain class of framework-level objections. These objections do not yet concern how Rawlsian principles apply to firms, markets, or corporate forms. Their concerns are whether Rawls's theory can plausibly ground any obligations in economic life at all. The task of this section is therefore limited to presumptively arguing against a few common objections that question the legitimacy of Rawls's framework as a mode of public justification.

The first major objection concerns the nature of the social contract itself. Critics argue that Rawls's contract is purely hypothetical. No one signs it or explicitly agrees to its terms, and it therefore lacks any moral authority required to ground obligations, particularly in domains such as business where actors are already bound by real contracts and legal duties. Managers cannot be morally bound by obligations they never agreed to. For this reason, it is sometimes described as a quasi-contract and a legal fiction designed to avoid

unfairness rather than a genuine source of obligation. If this is correct, its moral force appears doubtful, especially when applied to business contexts.

This objection rests on a misunderstanding of the role the contract plays in Rawls's theory. Rawls does not claim that moral duties arise from actual consent. The original position is not intended to represent a historical agreement, or even a counterfactual agreement that agents might plausibly have entered. It is a device for reasoning about justice. What matters is not whether anyone has agreed, but whether the principles selected could be reasonably accepted by free and equal citizens under fair conditions. Even if the contract is described as hypothetical or quasi-contractual, the values it generates are not arbitrary. Liberty, fair equality of opportunity, and the difference principle are justified because they express terms of cooperation that reasonable persons could affirm. For Rawls, reasonableness involves a willingness to accept fair terms of cooperation, provided others do the same. We cannot coherently demand fairness from others while refusing to offer it ourselves.

A related worry is that this hypothetical morality might override real-world obligations, such as a manager's duty to shareholders. If Rawlsian principles are treated as prior, it may appear that they displace existing legal or contractual commitments. Rawls's framework, however, does not deny the importance of such obligations. It recognises that moral duties can override legal or contractual ones when those arrangements require wrongdoing. A person is not morally required to honour a contract that is unjust. In Rawls's layered account of justice, duties arising within particular roles are matters of local justice. These duties are shaped by the background conditions established by domestic justice, which governs the basic structure of society. Local obligations are therefore not self-justifying. They are answerable to the wider framework that determines whether the institutional setting in which they arise is itself just. The fact that Rawls's contract is

hypothetical does not weaken its moral force. It strengthens it, precisely because it appeals to what all reasonable citizens could accept, rather than to contingent acts of agreement. It offers a principled way of judging institutions, including economic institutions, by asking whether the terms of cooperation they impose can be publicly justified.

A third objection arises from attempts to apply Rawlsian justice directly to individual firms by introducing a second social contract. Freeman (1994) proposes such an approach through a second veil of ignorance focused on economic transactions. Behind this veil, stakeholders would agree on principles governing firm-level relations. Freeman's Doctrine of Fair Contracts articulates six principles intended to regulate stakeholder interactions on the basis of their moral equality. This proposal, however, has been subject to sustained criticism.

One line of critique argues that Freeman's model undermines the very idea of a social contract. Phillips and Margolis (1999), Hartman (2001), and Moriarty (2005) point out that Freeman allows stakeholders to exit contracts freely. If parties can walk away whenever the terms become unattractive, the binding force of the contract is weakened. The freedom to exit erodes the moral weight that the contract is meant to generate.

A second line of critique targets Freeman's Principle of Externalities. According to this principle, if a contract between A and B imposes costs on C, then C should be allowed to join the contract and renegotiate its terms. Child and Marcoux (1999) argue that this leads to implausible outcomes, such as permitting third parties to intervene in contracts over minor or diffuse harms. More fundamentally, Freeman offers no clear criterion for determining which third-party claims are valid. Without such a test, the second veil lacks the normative resources needed to distinguish between competing stakeholder claims or to establish priority among them.

These criticisms may nevertheless rest on a false premise, namely that a second contract is required in the first place. Rawls's original theory already supplies the normative grounding needed to protect stakeholder interests. Because the principles of justice apply to the basic structure of society, including its economic institutions, they already secure the civil liberties of all citizens. They regulate the terms of social and economic cooperation and define the moral entitlements of those who participate in that structure (Cohen 2010, 565)

From this perspective, stakeholders do not require a new hypothetical agreement to justify claims such as maternity leave, fair wages, or environmental protection. These claims are already supported by Rawls's two principles of justice. The first guarantees equal basic liberties. The second requires fair equality of opportunity and permits inequalities only when they benefit the least advantaged. Maternity benefits, for example, may be justified by the difference principle if they help those who bear disproportionate burdens maintain access to opportunities. Minimum wage laws protect access to primary goods such as income and wealth that are necessary for pursuing a wide range of life plans (Rawls 2005, 181). Environmental protections reflect justice understood as a fair system of cooperation across generations (Rawls 2001, 5).

These obligations are not matters for hypothetical contracts between firms and stakeholders. They are institutional responsibilities to be implemented through public policy and legal mechanisms. Reconstructing Rawls at the level of the firm through a second veil is therefore unnecessary and misaligned with the structure of his theory. Rawls's original principles already provide the normative foundation for stakeholder claims as claims of citizens participating in economic life.

With these objections addressed, it becomes clearer how social contract theory responds to moral problems that other approaches struggle to resolve. Consequentialist

models often fail in markets where responsibility is dispersed across many actors. Deontological approaches, by contrast, lack a built-in method for ordering competing duties. Rawlsian social contract theory offers a more structured way to reason about justice in economic life. It introduces a clear moral ordering. Basic liberties take priority. Equality follows, and both constrain what economic actors may permissibly do. This structure makes it possible to resolve moral conflicts in a consistent manner, a task at which both consequentialism and deontology repeatedly falter.

Consider the case of women's systemic disadvantage. Consequentialist reasoning often becomes entangled in questions of responsibility. It asks whether blame should be assigned to the pornography industry or to the infrastructure of internet access that enables it. As Semrau observes, markets are interdependent, and responsibility cannot be mechanically located in a single node. Social contract theory approaches the problem differently. It begins with the standing of persons rather than with the aggregation of outcomes. The injustice lies not in the market structure as such, but in the failure to respect the liberty principle. Institutions fail when they do not recognise women as equal moral agents. The focus therefore shifts away from tracing causal chains and toward identifying breaches of fundamental political duties.

A similar logic applies to the case of conflict diamonds. Consequentialist approaches attempt to trace responsibility across multiple sectors, from diamond traders to weapons markets and downstream buyers. This diffusion weakens moral clarity. Within a Rawlsian framework, responsibility attaches first to those who violate basic liberties through coercion and violence. Moral judgement is anchored in these violations, not in the mere existence of commodity exchange. Market actors remain subject to evaluation, but responsibility is not scattered indiscriminately. It is located within a principled moral ordering in which liberty has priority and equality sets further constraints.

The credit market offers another illustration. In some jurisdictions, individuals may use kidneys as collateral. In others, credit is secured against future labour, producing bonded labour arrangements. The inconsistent moral treatment of these cases exposes the limits of consequence-focused reasoning. Social contract theory resolves this inconsistency. Where market practices undermine basic liberties or entrench unjust inequalities, particularly to the detriment of the least advantaged, they violate Rawls's two principles of justice. Bonded labour is morally objectionable because it entrenches inequality and fails the requirement of reciprocity embodied in the difference principle. The injustice lies not in the existence of markets, but in the form of social cooperation they structure.

Consequentialist reasoning also encounters difficulties within firms. Because it lacks lexical priority among values, it struggles to mediate between duties to shareholders and obligations to others. The resulting flexibility allows recommendations to shift between profit maximisation and stakeholder accommodation depending on projected outcomes. This instability undermines normative guidance. Social contract theory avoids this problem. Liberty and fairness function as non-negotiable starting points. No business practice is legitimate if it violates them. Shareholder interests, like all others, must be assessed within a framework that affirms the equal standing of all citizens.

Deontological models face a different difficulty. Palmer's Rossean pluralism recognises multiple prima facie duties, but it offers no method for resolving conflicts between them. This gap is exploited by theorists such as Hasnas, who treat the absence of an ordering principle as grounds for denying broader corporate obligations. Without a structured way to prioritise duties, fiduciary responsibility or stakeholder claims can always be made to appear decisive. Rawlsian theory avoids this fragmentation. It embeds a clear

sequence. Liberty is prior to equality, and both constrain permissible conduct. This ordering enables principled and consistent moral reasoning.

Gibson's deontological stakeholder model encounters a related problem. It struggles to explain how stakeholder interests become enforceable rights or how those rights generate determinate obligations for firms. Without a defined institutional context, the argument lacks traction. It cannot specify when corporate actors are bound to respond and when they are not. The transition from interest to duty remains insufficiently theorised.

Social contract theory provides firmer ground. By treating economic institutions as part of society's basic structure, it understands stakeholders not merely as interest-holders but as citizens whose claims arise from public political justice. The duties firms owe them are not derived from ad hoc agreements or moral intuition. They arise from publicly justified rules governing fair social cooperation. These obligations are shaped by the same principles of liberty and equality that regulate other parts of the basic structure. Stakeholder claims are therefore politically grounded and morally binding.

Across these cases, social contract theory shows its advantage. It connects business ethics directly to principles of political justice. It offers a method that is morally coherent, institutionally intelligible, and normatively stable. Consequentialist approaches pursue outcomes without stable attribution. Deontological frameworks identify duties without a public ordering principle. The Rawlsian approach begins with what must be respected and reasons outward from that starting point

In summary, social contract theory supplies a stable ethical basis for evaluating markets and business practices. It shifts moral attention away from fragmented consequences and toward the terms of social cooperation that free and equal citizens could reasonably accept. It is not only a theory of political legitimacy. It provides a framework for economic justice.

## Conclusion

This chapter began with a central question. How should markets be evaluated in a normatively consistent and coherent way? As currently developed, stakeholder theory lacks sufficient normative justification. It is often reduced either to managerial discretion or to an expansive framework that attempts to combine incompatible moral commitments. What is required is a foundation that can guide ethical reasoning while remaining precise enough to distinguish between competing claims.

Rather than grounding market morality in outcomes or isolated duties, social contract theory situates economic institutions within the basic structure of society. It subjects them to principles that citizens could reasonably accept as fair terms of cooperation. This reframes stakeholders not as interests to be balanced, but as equal participants in the moral and political foundations of markets. On this view, business ethics becomes a question of institutional legitimacy rather than managerial preference.

The chapter then advances a limited but foundational claim. Social contract theory can supply the normative coherence that stakeholder theory currently lacks. By rooting market evaluation in principles of justice that structure social cooperation itself, this approach provides a basis for grounding stakeholder claims, guiding institutional design, and assessing business practices in terms of moral legitimacy rather than discretionary judgement.

## Chapter Three

### The Choice Argument and the Limits of Non-Interference

This chapter forms part of a broader Rawlsian examination of business ethics as a problem of institutional legitimacy. Chapters One and Two of this dissertation established three claims that structure the analysis that follows. First, questions of business ethics are best understood as questions of institutional legitimacy, rather than as matters of individual moral virtue or benevolence. Second, individualist ethical theories, including consequentialism, deontology, and virtue ethics, are structurally ill-suited to evaluate market institutions and background economic arrangements. Third, Rawlsian social contract theory, understood through the two principles and the requirements of fair social cooperation, provides the appropriate normative framework for assessing the legitimacy of such arrangements.

This chapter applies that framework to a central and contested case in contemporary business ethics, namely sweatshop labour. The analysis undertaken here is therefore limited and diagnostic. The chapter examines whether a prominent moral defence of sweatshop labour, commonly referred to as the Choice Argument, functions as a justificatory obstacle to the enforcement of basic liberties that Rawlsian justice requires the state to secure.

Unfree labour practices remain widespread, particularly in developing countries, despite global efforts to improve labour conditions (Oosterhoff et al. 2017; Samanova 2022). Such practices are frequently shielded from regulatory intervention by moral arguments that appeal to respect for workers' autonomy, voluntariness of choice, and the absence of acceptable alternatives. These arguments typically conclude that state interference, through bans, regulation, or enforcement of labour standards, would harm

workers by removing their preferred options. The most influential articulation of this position is offered by Matt Zwolinski, both in his individual work and later in collaboration with Benjamin Powell, where sweatshop labour is defended through a principle of non-interference grounded in choice rather than the merits of multinational enterprises (MNEs).

This chapter challenges that defence. Its aim is not to deny that sweatshop employment may offer workers relatively better conditions than certain pre-existing local alternatives, nor to dispute that regulatory interventions may generate adverse economic consequences. Rather, the argument is that appeals to voluntariness and non-interference fail once the Liberty Principle is taken seriously. Where basic liberties are violated, the ethical force of choice-based justifications collapses. In such cases, the state is not merely permitted but actually required to intervene to enforce the conditions of legitimate social cooperation.

The analysis proceeds by critically engaging with the Choice Argument and examining its implications for autonomy, coercion, and liberty. Three interconnected claims are advanced. First, the Choice Argument contains internal tensions arising from the exploitative conditions under which sweatshop labour is offered and sustained. Second, the corporate and political structures surrounding sweatshop production generate forms of systemic coercion that undermine the voluntariness of workers' choices. Third, and most decisively, these conditions give rise to violations of fundamental civil liberties, including freedom of association and liberty of the person, which cannot be overridden by appeals to preference or welfare.

The purpose of the chapter is therefore negative and not constructive. It seeks to show that the Choice Argument does not successfully establish that liberty is already respected within sweatshop labour markets. By doing so, it removes a justificatory barrier that has been used to block state enforcement of basic liberties. The chapter does not

propose a comprehensive regulatory scheme, nor does it assign corporations expansive welfare responsibilities. Its conclusion is narrower. Where labour arrangements systematically undermine basic liberties, state regulation aimed at enforcing those liberties is not paternalistic or overreaching. It is a requirement of justice.

### **The Choice Argument**

Matt Zwolinski's defence of the Choice Argument offers a compelling case for non-interference in sweatshop labour, asserting that workers' choice to engage in such labour provides strong moral grounds for refraining from regulatory intervention. Reformulated, the argument proceeds as follows (Zwolinski 2007, 695):

- (1) Most sweatshop workers choose to accept the conditions of their employment, though this choice is severely constrained.
- (2) The fact of this choice is strong evidence that it is their most-preferred option.
- (3) If sweatshop labour is their most-preferred option, then we would harm them by taking that option away.
- (4) The fact that workers make a choice is a mark of their autonomy.
- (5) It is wrong to harm people or violate their autonomy.
- (6) Therefore, it is wrong to take away the option of sweatshop labour from workers who choose to engage in it.

Zwolinski's argument rests on two distinct yet complementary justifications: respect for autonomy, reflected in premises (1), (4), (5), and (6), and a duty to avoid harm by removing preferred options, reflected in premises (1), (2), (3), (5), and (6). While the argument acknowledges that violations of autonomy or the imposition of harm can, in principle, be justified, the burden of justification is placed squarely on those who advocate regulatory intervention in sweatshop labour markets.

According to the autonomy-based justification, interference with workers' choices is wrong because it fails to respect the "desires, goals, and projects" that constitute their authentic selves (Zwolinski 2007, 691). Even where the outcomes of those choices are viewed as undesirable, interference remains impermissible. Kates (2015, 193) illustrates this point through an analogy with intimate personal decisions, such as the choice of a spouse, where even well-intentioned interference would be morally unacceptable. Zwolinski concedes that some autonomous choices, such as acts of murder justified by religious belief, warrant interference when they violate the rights of others (Zwolinski 2007, 692).

The preference-based justification complements this account. On this view, interfering with sweatshop labour is wrong because it risks making workers worse off. The fact that workers choose such employment is taken to provide reliable evidence about their preferences and interests. Since individuals are assumed to be the best judges of their own welfare, removing the option of sweatshop labour is likely to cause harm (Zwolinski 2007, 692).

The justificatory structure of the Choice Argument can be clarified further by situating the Choice Argument within a broader debate concerning the moral limits of markets. Semrau (2024) distinguishes between two related but importantly different claims. The first is the claim that markets themselves are amenable to moral evaluation on the basis of their consequences. Semrau terms this the thesis that Markets are Amenable to Consequentialist Evaluation (MACE). This claim is descriptive rather than normative. To accept it is not to endorse consequentialism as a moral theory, but to hold that individual markets possess descriptive properties that provide a suitable basis for evaluating their consequences. Semrau argues, however, that this claim is false. Market outcomes are typically the product of multiple interacting markets and institutional arrangements, such

that there is no principled means of isolating the consequences of one market from those of another. If this is correct, a market's moral status cannot depend on its consequences in the way MACE presupposes.

Importantly, however, the Choice Argument does not rely on this stronger claim about markets themselves. Rather, it relies on a weaker and more widely accepted assumption, namely that *Market Interventions are Amenable to Consequentialist Evaluation* (MICE). MICE holds that acts of market intervention, such as prohibitions, regulations, or mandates, have descriptive properties that provide a basis for moral evaluation. Arguments of this kind are common in practical debates about markets. When Zwolinski opposes the prohibition of sweatshop labour on the grounds that such intervention would adversely affect workers' autonomy and welfare, the relevant consequences are not those of the sweatshop market as such. They are the anticipated consequences of the act that prohibits or regulates that market. In this respect, the Choice Argument exemplifies a standard MICE-based justificatory strategy. At this stage, no claim is made about whether such consequentialist considerations are decisive. The point is instead to clarify the kind of reasoning on which appeals to non-interference typically rely.

Zwolinski acknowledges that the soundness of the Choice Argument depends on contingent empirical assumptions concerning the voluntariness of workers' choices, the nature of their preferences, and their overall well-being under existing conditions. Much of the critical literature therefore focuses on whether these assumptions are satisfied. Critics such as Cohen (1983; 1987) and Olsaretti (1998; 2004) argue that the absence of reasonable or acceptable alternatives undermines the freedom of such choices. Others, including Barry and Reddy (2008) and Walzer (1983), contend that choices made under conditions of severe deprivation are coercive due to the exploitative background conditions in which they occur.

The claim that sweatshop employment represents workers' most-preferred option solely in virtue of their participation is also contested. Extreme deprivation may lead to the formation of adaptive preferences, shaped by unjust social structures rather than genuine interests or capabilities (Nussbaum 2000; Sen 2009). Moreover, Zwolinski's framework has been criticised for overlooking the possibility of moral imagination or positive deviancy, through which alternative and less harmful forms of employment might be realised (Arnold and Hartman 2003; Arnold and Hartman 2005; Hartman et al. 2003).

Concerns about the economic consequences of regulation further reinforce the non-interference stance. Critics of labour regulation argue that measures such as minimum wage laws may reduce employment opportunities, particularly for low-skilled workers in developing countries. While the empirical evidence on this point is mixed, studies cited by proponents of non-interference suggest that wage regulation can have unintended negative effects (Arnold and Hartman 2005; Pollin et al. 2004; Neumark and Wascher 2008; Alaniz et al. 2011; Bird and Manning 2008; Gindling and Terrell 2007; Gindling and Terrell 2009; Harrison and Scorse 2010; Meer and West 2016; Pauw and Leibbrandt 2011; Nguyen 2017; Wang and Gunderson 2011). On this view, well-intentioned regulatory interventions risk worsening the position of the least advantaged workers by reducing available employment opportunities.

These concerns are developed explicitly by Sollars and Englander (2018), who argue that sweatshop wage regulations, particularly minimum wage laws, are likely to generate negative employment effects in developing countries. Drawing on Neumark and Wascher's (2008) review of over one hundred empirical studies, they note that a substantial majority of robust findings indicate that minimum wage regulations disproportionately harm low-skilled workers by increasing unemployment or limiting access to work. Since sweatshops typically employ precisely these workers, the risk of regulatory harm appears

especially acute in this context. From this perspective, regulatory efforts aimed at improving labour conditions may inadvertently deprive workers of their most viable means of subsistence.

Normative arguments against interference complement these empirical concerns. Flanigan's "Unacceptable Alternatives" argument (2018) maintains that the mere absence of acceptable options does not impose a special obligation on employers to transform workplaces at their own expense. As an analogy, Flanigan suggests that it would be impermissible to coerce individuals into altering their personalities or appearances simply to make them more acceptable marriage partners (Flanigan 2018, 85; Olsaretti 1998). Similarly, employers should not be compelled to restructure workplaces merely because workers face limited alternatives. Instead, Flanigan argues that efforts to improve workers' positions should focus on expanding their option sets through policies such as cash transfers, direct provision of services, housing, or micro-lending, rather than through coercive regulation of firms.

Taken together, these empirical and normative considerations present a powerful case against regulatory intervention. They suggest that interference risks harming workers, unfairly burdening employers, and misidentifying the appropriate locus of responsibility. Nevertheless, the remainder of this chapter argues that such defences fail once the requirements of basic liberty are brought into view. While empirical consequences and welfare effects matter, they cannot override violations of fundamental civil liberties. Where such violations occur, appeals to voluntariness and non-interference lose their justificatory force.

### **Inconsistency due to Exploitation in the Choice Argument**

Zwolinski (2007, 700) acknowledges vulnerabilities in the Choice Argument, most notably the issue of worker exploitation. Concerns about exploitation pose an immediate challenge to the autonomy-based justification for sweatshop labour, insofar as they call into question the voluntariness of workers' choices and draw attention to coercion and unfair bargaining conditions. However, the significance of exploitation in this context requires careful specification, since not all forms of exploitation straightforwardly justify interference.

Exploitation is traditionally understood as a situation in which one party benefits disproportionately at the expense of another. An illustrative case is *The Port of Caledonia and the Anna*, where a shipmaster, having paid an exorbitant fee for rescue, was later able to recover much of that fee because the bargain was deemed unjust and entered under conditions of undue duress (Zwolinski 2007, 705; Wertheimer 1999). Zwolinski draws on this case to argue that although exploitative transactions may occasionally benefit both parties, they remain unjust due to the unfair distribution of benefits.

In subsequent work, Powell and Zwolinski (2012) argue that sweatshop labour may not necessarily be exploitative, despite its low wages and poor working conditions. They claim that it is unclear whether the distribution of burdens and benefits between sweatshops and workers is in fact unfair, given the absence of a credible general principle of fair distribution. Critics, they suggest, often fail to establish why a particular division of surplus should be regarded as unjust. For example, in the case of Reebok shoes, where workers receive only a small fraction of the final sale price, much of the remaining value is absorbed by advertising, materials, transportation, and other costs, with profits remaining modest when compared to other industries (Powell and Zwolinski 2012, 467; Myers 2004, 331).

Powell and Zwolinski further contend that MNEs and sweatshops do not merely take advantage of fortuitous circumstances, but are more accurately likened to professional salvagers, who provide assistance at high prices due to the effort and risk involved (Powell and Zwolinski 2012, 466–467). Thus, sweatshops respond to pre-existing hardship rather than creating or intensifying it, and the fact that workers accept such employment does not by itself establish exploitation.

Even if MNEs do not directly underpay workers relative to other unacceptable alternatives, wages may nevertheless fall short of what is ethically justified once broader political and economic conditions are considered. Labour agreements are shaped by institutional environments that influence workers' bargaining power, and MNEs may exacerbate these conditions by leveraging their economic influence over host governments. Investments are often made contingent on securing regulatory or fiscal advantages that serve corporate interests at the expense of workers and competitors. A report by the El Salvadoran Ministry of Labour in 2000, for example, revealed that none of the factories employing 85,000 workers had a worker union with a collective contract (Zwolinski 2007, 703; Arnold and Bowie 2003, 227). Other documented practices include the refusal to employ pregnant women, failure to make legally required social security payments, widespread violations of environmental law, and payment of wages below the national minimum (Arnold and Bowie 2003, 227–228).

Powell and Zwolinski acknowledge that such practices may involve coercion through undue influence over host governments, but they resist characterising this as “exploitation per se” (Powell and Zwolinski 2012, 467). This concession, however, introduces a significant tension within the Choice Argument. On the one hand, it is claimed that the distribution of benefits and burdens between MNEs and workers is not unfair due to the lack of a principled standard of fair distribution. On the other hand, the

acknowledgement that MNEs exert undue influence over host governments, in ways that benefit corporate interests at the expense of workers, undermines the claim that labour relations are non-exploitative. The explicit admission of coercion reveals an imbalance of power that distorts the conditions under which labour agreements are formed.

The analogy between sweatshops and professional salvagers is therefore problematic. It portrays sweatshops as passive responders to pre-existing distress rather than as actors that actively shape and perpetuate the institutional conditions that leave workers with few viable alternatives. By presenting sweatshops as neutral providers of assistance at high prices, the analogy obscures the role that corporate power plays in structuring labour markets and constraining workers' options.

This inconsistency can be illustrated in propositional terms by extending the autonomy-based Choice Argument as follows:

(1) Most sweatshop workers choose to accept their employment conditions, though this choice is severely constrained.

(1A) Sweatshops contribute to the constraint of workers' choices.

(1B) This constraint results from sweatshops wielding undue influence over host governments, securing benefits that serve corporate interests at the expense of workers and competitors.

(4) The fact that workers make a choice is a mark of their autonomy.

(4A) Undue influence constitutes a form of coercion, undermining workers' ability to make fully autonomous choices.

(5) It is wrong to harm people or violate their autonomy.

(6) Therefore, it is wrong to take away the option of sweatshop labour from workers who choose to engage in it.

(6A) Given the coercive influence that sweatshops exert over governments and workers, it is not morally wrong to regulate sweatshop labour to protect workers from exploitation and coercion.

Sweatshops are not passive entities merely offering higher wages. As proposition (1A) indicates, they actively shape the environment in which workers make choices, establishing conditions characterised by limited alternatives. This constraint arises from systemic pressures associated with MNEs' economic power. Proposition (1B) highlights the ways in which MNEs influence host governments to secure regulatory advantages that undermine workers' autonomy and suppress collective bargaining, including efforts to unionise or to enforce existing workplace safety regulations. Such undue influence constitutes a form of coercion, as indicated in proposition (4A), insofar as it impairs workers' capacity to make autonomous decisions. Coercion in this context does not arise solely from direct interference with workers' choices, but from the broader structural conditions that restrict the range of viable alternatives available to them.

At this stage, the force of the exploitation critique needs to be understood in a limited and specific way. The significance of exploitation lies not in its capacity to independently ground regulation, but in what it reveals about the institutional context in which labour choices are made. Exploitative conditions indicate background injustice, asymmetric power relations, and constraints on workers' options that undermine naïve appeals to preference and voluntariness. Whether regulatory intervention is justified, however, depends on a further question. That question concerns the presence of coercion that results in violations of basic liberties. The following section therefore turns from exploitation as a diagnostic indicator to an analysis of coercion and its implications for liberty and institutional legitimacy.

## Reframing Coercion

Powell and Zwolinski argue that sustaining the "...charge that sweatshop labour is coercive... [is] difficult to sustain in the face of rigorous philosophical analysis," despite their later explicit admission of "joint-coercion" (2012, 466–467). Their critique primarily targets accounts of psychological coercion, such as that advanced by Arnold and Bowie (2003, 229), according to which coercion occurs when three conditions are met. First, the coercer must have a desire regarding the victim's will. Second, the coercer must possess an effective desire to compel the victim to act in a way that satisfies the coercer's other-regarding desire. Third, the coercer must succeed in getting the victim to conform. Powell and Zwolinski criticise this framework on the grounds of vagueness, arguing that "compulsion" and "rational persuasion" is as ambiguous as "coercion" itself, and that Arnold and Bowie's account risks conflating coercion with other forms of influence. They illustrate this concern by appealing to the example of purchasing a car for a substantial amount, suggesting that it becomes difficult to distinguish coercion from persuasion under such a broad definition (Powell and Zwolinski 2012, 464–465). As such, they conclude that Arnold and Bowie's account fails to adequately differentiate coercive practices from ordinary workplace influence.

Powell and Zwolinski further criticise Arnold and Bowie's examples of workplace coercion, including threats to terminate workers with health conditions unless production quotas are met, or the refusal of a sweatshop to allow a haemorrhaging pregnant woman to leave work to seek medical attention (Arnold and Bowie 2007, 140–141; 2003, 230–231). They argue that while such actions may be substantially unreasonable, they do not necessarily meet the threshold of coercion. Sollars and Englander extend this critique by suggesting that if Arnold and Bowie's account were accepted, virtually any workplace

demand could be characterised as coercive, including basic expectations such as reporting to work on time under threat of dismissal (Sollars and Englander 2007, 123). Thus, it is claimed, Arnold and Bowie's account is overly broad, such that "coercion is everywhere" (Powell and Zwolinski 2012, 465), rendering the account too overinclusive.

Powell and Zwolinski's position rests on a narrow conception of coercion that emphasises physical force or explicit threats, thereby excluding other forms of influence. This position generates a tension within their own argument. While they deny that workplace practices in sweatshops are coercive, they simultaneously acknowledge the presence of "joint-coercion" (Powell and Zwolinski 2012, 467). If coercion can arise through the interaction of multiple agents and institutions, rather than through a single coercer issuing direct threats, then limiting coercion to cases of physical force becomes difficult to sustain. Coercion need not be intentional or direct in order to meaningfully constrain autonomy.

In contrast to this narrow view, Cohen's "Basic Structure Objection" offers a broader account of coercion that is attentive to institutional context. Cohen argues that the basic structure of society comprises both formal and informal institutions that exert coercive influence over individuals. Formal institutions, such as the state, impose coercion through authority and law. Informal institutions, by contrast, exert coercion through social norms and sanctions, including "criticism, disapproval, anger, refusal of future cooperation, [and] ostracism" (Cohen 2008, 144). Although informal structures do not typically involve physical force, their influence can be comparably pervasive in shaping individual behaviour and constraining autonomy.

Standard definitions of coercion also support a broader understanding. The *Oxford English Dictionary* defines "coerce" as forcing an act or choice, achieving compliance by threat, or restraining by force. While definitions that emphasise physical force are less

helpful in analysing non-physical coercion, the idea of compelling behaviour through pressure or threat readily extends to informal and systemic contexts. For example, a parent's disapproval may compel a child to act in a particular way without explicit threats. Similarly, sweatshops may exert pressure on workers through systemic and institutional mechanisms without resorting to physical force. Although physical coercion, such as preventing workers from leaving employment, is widely rejected in the literature (Powell and Zwolinski 2012, 464; Sollars and Englander 2007, 122; Zwolinski 2007, 696), systemic coercion remains a central concern.

Cohen's account can be further extended by Blanc's (2016) analysis of corporate power. Blanc distinguishes between a "corporation" understood as an individual economic entity and the "Corporation" understood as the broader legal and conventional system governing corporate activity (Blanc 2016, 414). While workers may be able to exit a particular firm, escaping the coercive structure of the Corporation as such is considerably more difficult. Workers in disadvantaged positions, particularly unskilled labourers, face limited opportunities to avoid corporate authority and encounter significant barriers to securing alternative employment (Blanc 2016, 415).

Systemic coercion within corporate structures can be illustrated through collective action problems that arise in workplace decision-making. Consider the case of working hours. Each worker is ostensibly free to choose whether to work nine or ten hours. However, individual choices are constrained by the decisions of others. If all other workers choose to work nine hours, a worker who chooses to work ten hours will earn more. If all others choose to work ten hours, a worker who chooses nine hours risks earning less or losing her job altogether. In either case, working ten hours becomes the dominant strategy. As Kates (2015, 196–198) shows, this dynamic leads to an equilibrium in which all workers

work longer hours, even if none would prefer that outcome. The additional hours are effectively imposed on each worker on pain of economic loss or termination.

Such a game-theoretic situation exemplifies systemic coercion. The coercion is non-intentional. It arises from the structure of the corporate environment itself rather than from any single agent issuing threats. Nevertheless, recognising systemic coercion in this way invites a familiar objection. If coercion is defined too broadly, it risks becoming ubiquitous. For instance, a manager's reasonable expectation for workers to report on time could be seen as coercive if one applies the systemic coercion framework too liberally. The worker may not wish to report on time, perhaps preferring to sleep in until late, but is "coerced" by the social norms that seek to influence their behaviour using sanctions like criticism, disapproval, anger, refusal of future cooperation, or ostracism. Moreover, even if they shifted to a new workplace, there would be a similar expectation of reporting on time, with other workers reporting on time, weakening the systemic coercion argument. This would be an unacceptable extension of the concept, since such expectations do not necessarily impose an undue constraint on worker autonomy.

To address this concern, it is necessary to distinguish between two analytically distinct levels of coercion, while preserving the earlier insight that not all coercion warrants interference. At the first level, descriptive systemic coercion refers to the ways in which institutional and market structures constrain choice by shaping the range of options available to individuals. This level of coercion explains how workers' decisions are influenced and limited. It does not, by itself, justify interference.

At the second level, justificatory coercion arises only where systemic pressures result in objective harm or the threat of objective harm, and where such harm involves violations of basic liberties in a manner that could reasonably be recognised as unfair by a third party. This second level incorporates a further necessary condition for interference.

Not all workplace pressures satisfy it. Actions such as requiring punctuality at work or negotiating the sale of goods at a reasonable price do not constitute justificatory coercion, since they do not involve liberty-impairing harm. By contrast, practices that compel workers to meet production quotas despite illness, or that deny medical assistance to a haemorrhaging pregnant worker, clearly meet this higher threshold. In latter cases, systemic coercion is no longer merely descriptive and is instead pervasive in a way that likely requires regulatory response.

This distinction can also be reflected in a reformulation of the preference-based Choice Argument:

(1) Most sweatshop workers choose to accept the conditions of their employment, though this choice is severely constrained.

(2) The fact of this choice is strong evidence that the employment is their most-preferred option.

(2A) Systemic coercion may restrict the range of available options, thereby distorting what counts as a worker's "most-preferred" choice.

(3) If sweatshop labour is their most-preferred option, then removing it would harm them.

(5) It is wrong to harm people or violate their autonomy.

(6) Therefore, it is wrong to take away the option of sweatshop labour from workers who choose to engage in it.

(6B) Where systemic coercion results in objective harm and violations of basic liberties, regulation is not morally wrong and may be required.

Sweatshop labour does not necessarily represent workers' most-preferred option when other available alternatives, such as agrarian work or unemployment, are themselves unacceptable. MNEs may exert undue influence that limits workers' options and pressures

them into accepting exploitative conditions, including longer working hours for the same pay under threat of termination. As proposition (2A) indicates, systemic coercion can distort preference formation by narrowing the range of viable alternatives. Where such coercion rises to the level of justificatory coercion, regulatory intervention is not an infringement of autonomy, but a response to its violation.

Workplace coercion is therefore a real and significant phenomenon that cannot be dismissed by restricting coercion to cases of physical force. However, neither should coercion be treated as ubiquitous. The relevant question is not whether workers face pressures in making choices, but whether those pressures involve liberty-impairing harm that undermines the conditions of legitimate consent. Having established this distinction, the following section turns to the implications of justificatory coercion for basic liberties and rights, and to the conditions under which regulatory intervention becomes a requirement of institutional legitimacy.

### **The Rawlsian Turn**

Despite the widespread criticisms of sweatshops, including exploitation, undue influence over host governments, and systemic workplace coercion, MNEs operating sweatshops do provide limited benefits to workers. A key benefit is that sweatshops often pay workers significantly more than other local employment options, sometimes as much as three to seven times higher (Powell and Skarbeck 2006). This wage disparity initially attracts labour, as workers perceive these positions as better alternatives, offering the possibility of higher wages and marginally improved living conditions. In this limited sense, it can be argued that MNEs contribute to improving workers' situations relative to the non-sweatshop options they might otherwise face.

However, the provision of higher wages alone does not settle the question at hand. While it is true that paying above the local wage rate may alleviate some immediate economic hardship, it does not address the relevant question for this chapter. The question is whether the institutional conditions under which they labour respect the basic liberties to which they are entitled as citizens, and not whether workers are better off in comparative terms.

It is sometimes argued that, by employing workers under conditions of severe deprivation, MNEs acquire additional moral duties beyond paying higher wages. Appeals to the interaction principle suggest that firms employing vulnerable workers incur obligations to ensure that the benefits workers receive are proportionate to the profits firms derive from their labour (Zwolinski 2007; Wertheimer 1999). On this view, sweatshop labour remains ethically suspect where corporate gains are disproportionately large relative to improvements in workers' lives.

There is, however, an important Rawlsian constraint on this line of argument. While MNEs may benefit from workers' labour, they do not possess any unique authority or expertise to determine workers' needs or to specify distributive standards. As Rawls emphasises, income and wealth are primary goods precisely because they enable individuals to pursue their own conceptions of the good (Rawls 1999, 54). Many institutions, including states and public agencies, are equally capable of providing income support or material assistance. For this reason, Rawlsian justice does not assign to firms a primary responsibility for securing distributive outcomes. To do so would risk mislocating obligations that properly belong to the basic structure of society.

Moreover, imposing open-ended welfare obligations on firms would generate indeterminate and potentially unreasonable demands. If MNEs were required to continually improve wages, conditions, and benefits until some unspecified threshold of sufficiency

were met, there would be no principled stopping point. Such expectations would risk burdening firms with responsibilities they are neither authorised nor institutionally equipped to discharge, while leaving the underlying sources of injustice untouched.

By contrast, the attribution of responsibility looks different when applied to the state. Under the social contract, states bear a foundational duty to secure and enforce the basic liberties of their citizens. Rawls's Liberty Principle holds that each person is entitled to a fully adequate scheme of equal basic liberties, compatible with the same scheme for all (Rawls 1999, 53; 2001, 42; 2005, 291). This principle is lexically prior to all other principles of justice (Rawls 1999, 266; 2001, 43; 2005, 294–295). As a result, considerations of economic efficiency, growth, or aggregate welfare cannot justify any violations of such basic liberties.

It is important to be precise about what the Liberty Principle protects. The principle does not guarantee fair wages, safe working conditions, or environmental protection as basic liberties in their own right. Rather, it protects a limited and specific set of fundamental liberties, including freedom of association, liberty of the person, freedom from psychological oppression and physical assault, freedom of thought and conscience, and the equal protection of the rule of law. However, while wages, safety, and working conditions are not themselves basic liberties, their systematic absence can undermine the meaningful exercise of those liberties, particularly freedom of association and liberty of the person.

When examined in this light, the operation of many sweatshops reveals persistent violations of basic liberties. One of the clearest examples concerns the suppression of workers' freedom of association. By preventing unionisation, either through intimidation at the firm level or through lobbying host governments to weaken labour protections, sweatshops and their corporate partners deny workers the ability to organise collectively and to exercise a core political and economic liberty. Such practices do not merely affect

wages or efficiency. They strike at the institutional conditions required for workers to act as free and equal participants in social cooperation.

In addition to suppressing freedom of association, sweatshops frequently undermine liberty of the person through forms of psychological coercion. Workers are often pressured to meet unrealistic production targets or to work excessive hours under the threat of termination. In extreme cases, this pressure results in grave harm, such as when employers deny medical leave to a haemorrhaging pregnant worker, leading to the loss of her foetus. Such practices exemplify liberty-impairing coercion. They deny workers bodily integrity, dignity, and meaningful control over their own persons.

Violations also extend to the rule of law, which is itself a basic liberty within Rawls's framework. In many contexts, sweatshops operate through the systematic non-enforcement or circumvention of existing legal protections. Practices such as refusing to hire pregnant women, failing to make legally mandated social security contributions, paying wages below the statutory minimum, or violating environmental regulations are not merely regulatory infractions. They represent failures of legal equality and undermine workers' standing as citizens entitled to the protection of public rules.

At this point, defenders of the Choice Argument typically appeal to empirical evidence. They argue that enforcing labour standards or minimum wages risks reducing employment opportunities for low-skilled workers, thereby making workers worse off overall. Such arguments assume that acts of market intervention can and should be evaluated on the basis of their consequences. This assumption is consistent with what has earlier been identified as MICE-style reasoning. MICE is descriptively true. Acts of regulation do have consequences, and those consequences matter for many practical purposes.

However, once violations of basic liberties are established, MICE-based considerations cannot perform the justificatory role assigned to them. Empirical uncertainty about employment effects, or even evidence of negative consequences, cannot override the lexical priority of the Liberty Principle. Where institutional arrangements systematically undermine freedom of association, liberty of the person, or the rule of law, the state is not merely permitted but required to intervene. At that point, debates about aggregate welfare or efficiency are beside the point. They address the consequences of intervention, not the legitimacy of the institutional order being regulated.

It is therefore important to attribute responsibility correctly. MNEs and their suppliers participate in and benefit from labour arrangements that violate basic liberties. These arrangements persist not because liberty protections are unknown, but because they are weakly enforced or deliberately undermined by states. The Choice Argument functions in this context as a justificatory barrier. By appealing to voluntariness and harmful consequences, it is used to resist state enforcement of existing rights. The argument does not excuse liberty violations. It obscures them.

For this reason, regulating sweatshops to enforce basic liberties is not an infringement of workers' autonomy. It is a condition of its possibility. Workers may choose sweatshop labour under conditions of severe constraint, but such choices cannot legitimise institutional arrangements that deny them the legal and social protections required for meaningful freedom. When the state enforces freedom of association, protects bodily integrity, and upholds the rule of law, it does not substitute its judgement for that of workers. It restores the background conditions under which choice can plausibly be regarded as autonomous.

In this respect, the enforcement of labour law is not an overreach but a core function of the social contract. Where liberty is systematically violated, non-interference is an

abdication of the state's responsibilities towards its citizens. The following conclusion draws these threads together and clarifies the limits of the Choice Argument once liberty is treated as non-negotiable.

## **Conclusion**

This chapter has not sought to resolve all moral questions surrounding sweatshop labour, nor to offer a comprehensive theory of global distributive justice. Its aim has been narrower and more exacting. It has examined whether appeals to worker choice and non-interference can plausibly function as justificatory barriers to the enforcement of basic liberties in global labour markets. The answer advanced is negative. Several contributions follow from this analysis.

First, the chapter has clarified the structure of the Choice Argument by showing that it does not evaluate the moral status of sweatshop markets as such, but rather the anticipated consequences of intervening in those markets. Properly understood, the argument relies on a MICE-style justificatory strategy. This clarification matters because it shows that the dispute is not about whether consequences are relevant, but about whether they can bear justificatory weight in the presence of liberty violations.

Second, the chapter has demonstrated that exploitation arguments, while important, do not themselves ground coercive intervention. Their significance lies instead in what they reveal about background injustice, distorted bargaining power, and the unreliability of preference revelation under conditions of severe constraint. Exploitation functions diagnostically rather than justificatorily. It identifies structural defects in labour markets without yet determining the permissibility of interference.

Third, the chapter has developed a two-level account of coercion that avoids both conceptual inflation and undue restriction. By distinguishing descriptive systemic coercion from justificatory coercion, it has shown how corporate and market structures can constrain choice without rendering all workplace pressures coercive. Coercion becomes pervasive only where systemic pressures result in objective harm and violations of basic liberties recognisable as unfair by a reasonable third party. This distinction allows coercion to be taken seriously without becoming ubiquitous.

Fourth, the chapter has disciplined the application of the Liberty Principle by specifying its scope. Wages, safety standards, and working conditions are not themselves basic liberties. However, their systematic absence can undermine the meaningful exercise of basic liberties, particularly freedom of association, liberty of the person, and the equal protection of the rule of law. In the context of sweatshop labour, the suppression of unionisation, the use of psychological coercion, and the routine non-enforcement of labour law amount to liberty-impairing institutional failures.

Taken together, these claims support a single institutional conclusion. Where basic liberties are violated, voluntariness cannot ground a principle of non-interference. Choices made under conditions that systematically deny freedom of association, bodily integrity, and legal protection cannot legitimate the institutional arrangements that produce them. Consequently, MICE-based defences of sweatshop labour fail once liberty is treated as non-negotiable. In such circumstances, the state is not merely permitted to intervene. It is required to enforce basic liberties as a condition of institutional legitimacy.

This conclusion does not impose open-ended welfare obligations on firms, nor does it deny that regulatory intervention may have adverse economic consequences. It instead locates responsibility where Rawlsian justice requires it to lie. Firms participate in liberty-violating arrangements. Those arrangements persist through state failure. Appeals to choice

and harm are then used to block enforcement. Once this structure is made explicit, non-interference no longer appears neutral. It appears as an abdication of the state's ethical obligations towards its citizens.



## Chapter Four

### The Exit Requirement of Associative Freedom

Employment relations are commonly described as voluntary associations. Individuals enter employment contracts by consent, and, at least formally, retain the option to leave. This feature is often taken to distinguish employment from coercive political institutions and to insulate firms from claims of injustice. Where exit is available, so the argument runs, continued participation reflects choice rather than constraint.

This chapter challenges that assumption. It does not deny that employment contracts are entered voluntarily, nor does it treat firms as part of the basic structure of society. Instead, it argues that the mere availability of formal exit is insufficient to secure freedom of association under conditions of modern employment. Where exit is systematically burdened, costly, or ineffective, employment relations may fail to meet conditions of legitimacy even while remaining formally consensual.

The problem is not that firms exercise authority in a way analogous to the state. Rawls is explicit that associations, including business firms, are not the primary subject of justice and are not regulated internally by the principles of justice as fairness (Rawls 2001, 10-12). Nevertheless, an indirect application is possible. Rather than drawing an analogy between states and firms, an indirect approach asks what justice requires of the social institutions that regulate economic enterprises, and what justice requires of enterprises operating within such an institutional context (Hsieh 2006, 262). As such, the normative relevance of Rawls' theory lies in assessing whether the background conditions under which economic associations operate can be publicly justified and not in prescribing firm-level virtue.

This chapter adopts a society-centric perspective. It does not seek to derive obligations for firms directly from Rawls' principles, nor does it treat corporations as part of the basic structure. Instead, it examines a single feature of employment relations and asks if the institutional conditions under which exit is exercised are compatible with freedom of association as protected by the Liberty Principle. The question, therefore is whether exit functions as a meaningful expression of associational freedom under prevailing institutional constraints.

Within a Rawlsian framework, freedom of association is protected by the Liberty Principle. Individuals must be free to form, join, and leave voluntary associations consistent with the same scheme of liberties for all (Rawls 1999, 53-54; Rawls 2001, 43-44). This freedom is not exhausted by the absence of legal prohibition. It presupposes conditions under which association and dissociation are meaningful options. Where exit is nominal but systematically undermined by institutional constraints, the liberty it is meant to secure is hollow.

This chapter treats exit as an interpretive specification of freedom of association at the level of local justice. It does not extend Rawls' theory directly to firm governance. Rather, it asks what must be true of employment relations, given Rawls' already justified framework, for association with firms to count as genuinely voluntary. The central claim is that freedom of association entails an Exit Requirement of Associative Freedom. Employment relations that systematically frustrate this requirement fail to meet conditions of legitimacy, even when no individual act of coercion is present.

Framed in this way, the ethical issue is not whether firms act benevolently, nor whether managers exercise virtue. It is whether the institutional conditions under which employment contracts operate secure the background justice necessary for meaningful exit. Where they do not, the appropriate response is not moral exhortation directed at firms, but

exogenous institutional constraint. Responsibility lies with the design of labour law, market regulation, and social institutions that structure employment relations, rather than with discretionary corporate ethics.

The sections that follow develop this claim in stages. The chapter first clarifies why formal exit cannot bear the justificatory weight often placed upon it. It then shows how systemic and non-intentional forms of coercion undermine the freedom of association that exit is supposed to secure. Finally, it situates the Exit Requirement of Associative Freedom within Rawls' account of local justice.

### **Formal Exit and the Basic Structure Objection**

Abraham Singer's objection to the applicability of Rawlsian justice to corporations turns on a single, powerful claim. Corporations are not part of the basic structure of society because they permit exit. As such, Rawls' theory is purported to address institutions that structure involuntary social cooperation, and cannot apply to corporate governance or business ethics more generally (Singer 2015, pp. 65, 88).

Singer's starting point is a faithful reading of Rawls. He presents Rawls as a political conception of justice as "restricted in scope to the main political institutions," "presented and defended in terms that do not presuppose moral doctrines," and as a theory that "expresses the philosophical principles that are inherent political society" (Singer 2015, 71-72). Rawls' theory focuses specifically on the basic structure of society, which encompasses major social institutions that operate collectively to ensure social cooperation across generations, distributing rights, duties, and advantages (Rawls 1999, 6; 2001, 8-9; 2005, 11, 40-41). The basic structure is a closed society, which we enter involuntarily at birth and exit at death to ensure the principles of justice are framed fairly (Hoffman and

Graham 2009, 84). Rawls' view is "freestanding," emerging from public political culture and not confined by any comprehensive doctrine, allowing it to incorporate values from multiple domains to form an overlapping consensus regarding its liberal position (Rawls 2005, 10, 12, 40, 144, 155).

Within this framework, Singer argues that corporations cannot plausibly be treated as basic structure institutions. Drawing on criteria proposed by Abizadeh (2007, 319) and Cohen (2008, 132), Singer considers three possible grounds for inclusion in the basic structure: (1) institutions that determine and regulate the terms of social cooperation, or (2) institutions that have a profound and pervasive impact on people, or (3) institutions that subject people to coercion. He rejects the first criterion as too "vague" as determining what constitutes social cooperation would refer back to Rawls' conception of the basic structure, which does not explicitly specify the institutions included (Singer 2015, 76). He also points out a problem with the second criterion as "[t]he claim that principles of justice should extend to all instances of 'profound and pervasive' impact runs the risk of becoming overly inclusive" (Singer 2015, 78). The second criterion is also rejected as it may lead to illiberal comprehensive conceptions of justice as it would impact all institutions with significant impact and transform Rawls' liberal political theory into a comprehensive moral doctrine. For instance, although religion is an institution that has a profound and pervasive impact on people, it cannot be liberal as it cannot accommodate contradictory viewpoints like those of other religions, as it presupposes a metaphysical doctrine.

Singer therefore rests his case on the third criterion. What distinguishes basic structure institutions, he argues, is coercion. State institutions prevent exit and enforce compliance through law. Corporations do not. Employment relationships are entered voluntarily and may be exited. This freedom of association, Singer contends, is constitutive of corporate membership. If employees find corporate conditions unjust, they can leave.

Any injustice internal to the firm is thereby mitigated by the availability of exit (Singer 2015, 79-80).

To support this claim, Singer draws on Rawls' own distinction between political institutions and voluntary associations. Associations are defined by shared ends and voluntary membership and include churches, universities, scientific societies, and business firms (Rawls 2001, 10-11; Rawls 2005, 41-43). While the state enforces compliance, associations rely on consent. Religious institutions may exert considerable influence, but because individuals may exit them, they do not fall within the scope of the basic structure. Corporations, Singer argues, are analogous. They may wield economic power, but they do not subject individuals to the kind of non-exitable coercion that triggers Rawlsian evaluation.

From this, Singer draws a broader conclusion. Because corporations are not part of the basic structure, Rawls' theory has no substantive role to play in corporate governance or business ethics. Rawlsian principles may protect citizens against state coercion, but they do not regulate the internal arrangements of firms. Attempts to apply Rawls directly to corporations therefore misunderstand both the scope and the purpose of justice as fairness.

It is important to note that Singer's argument is not dismissive of ethical concerns in employment. Rather, it locates their resolution outside Rawlsian theory. So long as employees retain the freedom to exit, corporate power lacks the coercive character that would bring it within the ambit of political justice. As such, exit functions as a sufficient condition of voluntariness, and voluntariness, in turn, functions as a sufficient condition of non-coercion.

The issue at hand is not the classification of firms, but the role that exit is asked to play in Singer's argument. The hinge of the objection is not the basic structure distinction

itself, but the claim that the availability of exit is sufficient to render corporate relations non-coercive. The adequacy of that claim is the question to which the next section turns.

### **Why Formal Exit Fails: Systemic and Non-Intentional Coercion**

The central weakness in Singer's objection lies in the role he assigns to exit. The availability of exit is treated as sufficient to distinguish voluntary corporate association from coercive basic-structure institutions. This section shows why that assumption cannot be sustained. Exit may be formally available while being substantively ineffective. Where this occurs, the problem is not episodic abuse or managerial wrongdoing, but the structure of the institutional environment within which employment relations operate.

Sandrine Blanc's intervention reframes the exit debate by shifting attention away from individual firms and toward the institutional structure within which firms operate. Blanc distinguishes between the *corporation* as a particular legal and economic entity and the *Corporation* as the system of legal, contractual, and conventional rules governing corporate employment more generally (Blanc 2016, 414). Singer's exit argument, Blanc contends, is "ill-focussed" because it targets the wrong object. Exiting a particular corporation does not amount to exiting the Corporation.

This distinction is decisive. Even where an employee can leave one employer, they remain subject to substantially similar authority relations elsewhere. The background conditions of employment, such as labour market concentration, contractual norms, regulatory defaults, and economic dependence, persist across firms. Exit from one employment relation, therefore, does not free the individual from the structure that generated the constraint in the first place. What appears as voluntary mobility at the firm level masks a deeper form of structural dependence.

Blanc's point is not that corporations intentionally coerce employees. Rather, coercion is non-intentional and systemic. It arises from the way in which economic structures channel choices and allocate risks. Where exit systematically entails significant loss, insecurity, or degradation, the formal possibility of leaving does not secure meaningful freedom of association. Exit remains available in principle while being effectively blocked in practice.

Singer's reliance on exit as a sufficient condition of non-coercion presupposes a narrow conception of coercion. It presupposes that coercion is primarily a matter of state force, or at least of formal compulsion. However, this is not the only way in which institutions can constrain autonomy. Gerald Cohen distinguishes between formal coercion and informal coercion. Formal coercion involves physical force and includes state authority. Informal coercion may operate through social sanctions, including "criticism, disapproval, anger, refusal of future cooperation, ostracism", which can still significantly restrict individual autonomy (Cohen 2008, 144). Cohen's "Basic Structure Objection" challenges whether institutions can be treated as non-coercive simply because they lack the state's coercive apparatus.

Not that all influence is coercion. Yet we can claim that informal pressures and structured dependencies can constrain choice in ways that make a formally voluntary option practically unavailable. Psychological coercion is one way to describe this kind of constraint. Arnold and Bowie (2003, 229) propose three conditions: the coercer must have a desire regarding the victim's will, must have an effective desire to compel conformity, and must succeed in getting the victim to conform. This account matters here because it directs attention to the structure of constraint rather than to physical force. It also makes room for the idea that coercion may be present even when no explicit threats are made, and even when the constrained party retains a formal right to refuse or to leave.

None of this yet establishes that corporations are part of the basic structure. It instead establishes a narrower point that Singer's exit criterion cannot do the justificatory work he assigns to it. If informal and psychological constraints can make exit practically unavailable, then the existence of a formal exit option is not enough to show that corporate power is non-coercive in the relevant sense.

The mechanism by which formal exit fails can be easily illustrated without recourse to individual wrongdoing. Consider a stylised example of working hours. Each worker faces a choice between working nine or ten hours. If all other workers choose nine hours, an individual who works ten earns more. If all others choose ten hours, an individual who works nine hours risks reduced income or dismissal. In both cases, the dominant strategy is to work ten hours. The outcome is collectively worse for all workers, yet rational for each individually (Kates 2015, 196-198).

No external agent imposes this outcome. The coercion is non-intentional. It arises from the structure of incentives and the threat of exclusion from employment. Workers may formally exit, but doing so exposes them to the same structural pressures elsewhere. The choice is not between coercion and freedom, but between different instantiations of the same constraint.

This aspect of coercion is particularly problematic for those in the least advantageous positions within corporate hierarchies, such as "worst-off" low-skilled workers who face significant barriers to changing their social and economic circumstances. The Corporation may be non-intentionally coercive with respect to the ability to exit (Blanc 2016, 415). Suppose an employee who is willing to exit their job can easily find a similar job without incurring any significant cost. However, even if they can exit the authority of their current corporation, they would still be subject to the authority of the new corporation. While they may have exited a corporation, they have not exited the Corporation,

demonstrating the non-intentional coercion of the Corporation, which restricts their ability to exit, directly challenging Singer's perspective on the feasibility of exit. The freedom to exit a corporation is likely available only to the "talented" well-placed people (Cohen 2008, 119-120) who command high compensation in a market economy. Formal exit therefore functions unevenly across the labour market, undermining its role as a general safeguard of freedom.

Bhargava and Young further sharpen this diagnosis by showing how formal symmetry in exit rights can coexist with deep substantive asymmetry. Focusing on employment-at-will regimes, they argue that granting employers and employees an equal legal right to terminate the employment relationship does not secure equal freedom in practice (Bhargava and Young 2023, 520-522).

Employers typically face low exit costs. Employees do not. The exercise of exit by workers often entails loss of income, loss of health insurance, weakened access to social protection, reputational harm, and diminished future bargaining power (Bhargava and Young 2023, 525-526). Exit is legally enabled but institutionally constrained. As a result, it fails to function as a reliable protection against domination or arbitrary treatment.

Crucially, Bhargava and Young do not attribute this failure to employer malice. Their argument is institutional. Exit rights depend on complementary background institutions—social insurance, labour mobility, welfare provision, and macroeconomic conditions. Where these complements are absent or weak, exit becomes punitive rather than liberating (Bhargava and Young 2023, 529-531). Exit cannot be evaluated in isolation from the institutional environment that determines its costs.

This reinforces Blanc's claim. Even if employees may exit a firm, they cannot exit the structure that generates asymmetric vulnerability. Formal voluntariness thus fails to secure substantive freedom.

The diagnosis can be taken further. Even where exit is materially feasible, it may still be normatively defective. Roumeas argues that exit should not be understood merely as the ability to leave without prohibitive deprivation, but as a right to a fair exit, defined as dissociation without excessive and undue costs (Roumeas 2023, 160-162).

Material affordability is necessary, but not sufficient. Exit may be technically possible while imposing immaterial burdens that undermine autonomy. These include stigma, humiliation, reputational damage, emotional distress, and procedural disrespect (Roumeas 2023, 164-165). Such burdens can render exit degrading or punitive even where income loss is limited. Freedom of association is compromised not only when exit is impossible, but when it is structured to impose unjustified harms.

This insight matters for employment relations. Exit does not protect agency merely by existing as an option. It protects agency only if the conditions under which it occurs are themselves compatible with dignity and fairness. An employee who can leave but must do so under conditions that damage reputation or social standing is not fully free in the relevant sense (Roumeas 2023, 165-167).

Roumeas' account is deliberately diagnostic. She does not specify how undue costs should be allocated or mitigated institutionally (Roumeas 2023, 167-168). But her analysis clarifies what failure of exit looks like. Exit can fail without overt coercion, without material deprivation, and without intentional wrongdoing. It can fail because the burdens of dissociation are unfairly structured.

Taken together, these arguments undermine the claim that exit suffices to render corporate relations non-coercive. Blanc shows that exit from a firm does not amount to exit from the structure. Bhargava and Young show that formal exit rights can mask deep asymmetries of vulnerability. Roumeas shows that even a feasible exit may be normatively defective when its burdens are unfairly imposed. None of these arguments deny that

corporations are voluntary associations, nor do they collapse firms into the basic structure. What they deny is that formal exit can carry the justificatory weight Singer assigns to it. Exit may be available and yet fail to secure freedom of association in any meaningful sense.

At this point, the failure of exit is clearly institutional. The question that follows is not whether firms ought to behave better, but how background institutions must be structured if freedom of association is to be real rather than nominal. That question is taken up in the next section.

### **The Rawlsian Turn**

At this stage, the argument reaches its conceptual core. On the one hand, Singer is correct that corporations are not part of the basic structure of society and that Rawls' principles of domestic justice do not apply to them directly. On the other hand, the preceding sections have shown that the mere formal availability of exit does not suffice to secure freedom of association in practice. This generates a familiar but unresolved tension. If Rawls' Liberty Principle protects freedom of association, and if corporate employment routinely undermines the practical availability of exit, does this render Rawls' theory normatively inert in the face of employment-related coercion, as Singer suggests?

The answer depends on how Rawls' theory is situated across different levels of justice. Rawls' project is explicitly concerned with the justice of the basic structure, understood as the major political, social, and economic institutions that shape the distribution of rights, duties, and advantages over time (Rawls 1999, 6; Rawls 2001, 8-9). Rawls repeatedly emphasises that the principles of justice as fairness are not intended to regulate associations internally. As he states unambiguously:

“The principles of justice to be followed directly by associations and institutions within the basic structure we may call principles of local justice. Altogether then we have three levels of justice, moving from inside outward: first, local justice (principles applying directly to institutions and associations); second, domestic justice (principles applying to the basic structure of society); and finally, global justice (principles applying to international law). Justice as fairness starts with domestic justice—the justice of the basic structure. From there it works outward to the law of peoples and inward to local justice.” (Rawls 2001, 11)

This passage is decisive. It establishes that Rawls’ principles of domestic justice do not exhaust the normative space of his theory. Rather, they constrain and shape the principles of local justice that apply to associations, including business firms, without directly regulating their internal purposes or governance structures. Rawls reiterates this point elsewhere, noting that “principles of political justice *do not apply directly*...., nor is it desirable, or consistent with liberty of conscience or freedom of association, that they should” apply internally to associations such as “churches and universities, professional and scientific associations, *business firms* and labor unions” (Rawls 2001 164, emphasis added).

The critical implication is not that associations are normatively unconstrained, but that they are constrained indirectly. Principles of domestic justice impose limits on the kinds of associative arrangements that are legitimate, even where they do not prescribe specific internal rules. Within this framework, freedom of association occupies a central place. The Liberty Principle guarantees each person “an equal right to a fully adequate scheme of equal basic liberties” compatible with the same scheme for all (Rawls 1999, 11; Rawls 2001, 41-44; Rawls 2005, 291). Freedom of association is explicitly included within

this scheme. To associate freely is to have the right to join associations, and correspondingly, the right to leave them.

This is where exit becomes normatively salient. Rawls does not articulate a detailed principle of exit for associations. Nor does he need to. Once freedom of association is affirmed as a basic liberty, meaningful exit follows as a condition of its legitimacy. An association that systematically undermines the ability of its members to leave cannot plausibly be described as voluntary, even if entry was formally consensual. Exit, on this view, is not a distributive requirement of domestic justice. It is a legitimacy condition of associative relations operating at the level of local justice.

This reframing allows Freeman's Principle of Entry and Exit to be recovered without extending Rawls beyond his intended scope. Freeman argues that "each agreement must have clearly defined entry, exit, and renegotiation conditions" to allow parties to assess the possibility of fulfilment (Freeman 1994, 416). Phillips and Margolis object that this principle is un-Rawlsian because corporations, unlike the basic structure, are voluntary associations in which "the possibility of exit is constitutive of organisational membership" (Phillips and Margolis 1999, 623). That objection is correct as far as it goes. But it misidentifies the level at which Rawlsian evaluation is taking place.

The Exit Requirement of Associative Freedom is not a principle of domestic justice governing the basic structure. It is a requirement of local justice governing the legitimacy of associative relations under the Liberty Principle. It does not demand that corporations pursue particular distributive ends. It demands only that associative relations remain meaningfully voluntary. Where exit is rendered ineffective through contractual restraints, structural dependency, or systemic coercion, freedom of association is compromised, and the association fails to meet the conditions of legitimacy imposed by Rawlsian justice.

Singer's own account implicitly acknowledges this structure. In describing the relationship between political institutions, associations, and individual conduct, Singer asks us to "imagine a continuum" ranging from the compulsory regulation of primary political institutions to the voluntary pursuit of personal conceptions of the good (Singer 2015, 86). Churches and corporations occupy an intermediate position on this continuum. They are neither coercive in the same way as the state nor purely matters of personal choice. Once this is granted, the inference that Rawls is irrelevant to corporate associations no longer follows. The fact that Rawls does not regulate associations directly does not entail that associative relations are normatively insulated from his theory. It entails only that their legitimacy is assessed indirectly, through the constraints imposed by the Liberty Principle and the requirements of local justice.

Renaming the earlier formulation clarifies this point. What was previously described as a Principle of Exit is more accurately understood as the Exit Requirement of Associative Freedom. The change reflects a shift from principle-creation to legitimacy-specification. Exit is not introduced as a new Rawlsian principle. Rather, it is merely identified as a necessary condition for the meaningful exercise of a basic liberty that Rawls already affirms.

Now, if the Exit Requirement of Associative Freedom is a condition of legitimacy rather than a firm-level moral duty, the question of responsibility shifts accordingly. When exit is undermined in employment relations, the failure is not primarily one of corporate virtue. It is a failure of background institutions to secure the conditions under which freedom of association can be meaningfully exercised.

This contention follows directly from Rawls' society-centric framework. Rawls treats the basic structure as the primary subject of justice because it shapes the background conditions under which individuals and associations interact (Rawls 2001, 54). Once these

background conditions are properly regulated, “individuals and associations are then left free to advance their (permissible) ends within the framework of the basic structure, secure in the knowledge that elsewhere in the social system the regulations necessary to preserve background justice are in force” (Rawls 2001, 54). The point is simply that the legitimacy of associations depends on institutional conditions they do not themselves control.

This shift in responsibility matters for how failures of exit are diagnosed. If exit were merely a firm-level option, then barriers to exit would invite moral criticism of particular employers. But if exit is a requirement of associative freedom grounded in citizens’ basic liberties, then systematic barriers to exit signal a defect in the institutional environment within which employment relations occur. In that case, exhortation directed at firms is normatively misdirected. What is at issue is whether the background framework secures the social conditions necessary for free association.

This institutional diagnosis is reinforced by Bhargava and Young’s analysis of asymmetrical exit under employment-at-will. Their central claim is not that employers act wrongly in permitting exit in name only, but that exit fails to function as a safeguard when it is not supported by complementary institutions. Formal symmetry of exit rights does not ensure substantive freedom. Exit becomes protective only when labour markets, social insurance, and employment protections make leaving non-punitive and non-degrading (Bhargava and Young 2023, 529–531). Responsibility for securing those conditions lies with the state, not with individual firms acting in isolation.

Once exit is understood in this way, the question of legitimacy is no longer whether a particular employer permits resignation in principle. It is whether the institutional environment allocates the burdens of exit in a manner compatible with freedom of association. Where those burdens are systematically shifted onto workers, exit ceases to perform its justificatory role. The failure is structural.

Ronnegard and Smith (2024) articulate the implications of this view for corporate governance with particular clarity. They too reject the direct application of Rawls' principles to firms as a categorical mistake, while defending an indirect application through the design of legal and institutional constraints. Corporations, understood as voluntary associations, are not part of the basic structure. The corporate legal form, however, is. As a legally constituted vehicle for owning productive assets, it is created at the legislative stage and must comply with the two principles of justice (Ronnegard and Smith 2024, 298–299). This distinction is exactly what allows Rawlsian theory to constrain corporate conduct without collapsing into firm-level moralisation.

Rosengard and Smith treat corporate associations as "black boxes" with respect to their internal rules, but this simply reflects a different level of analysis. The legitimacy of corporate activity depends on whether the institutional framework within which firms operate secures citizens' basic liberties and fair opportunities. Where it does not, the defect lies with the framework.

From this perspective, any exogenous safeguards are not an intrusion into corporate freedom. They are the primary Rawlsian mechanism for securing liberty. As Singer himself observes, if the principles of justice do not regulate firms internally, "then they can only constrain from without" (Singer 2015, 8), and "the long-run perverse effects of meso-level institutions like the corporation are to be dealt with through the basic structure and not the meso-level itself" (Singer 2015, 82). Ronnegard and Smith accept this claim while rejecting Singer's inference that Rawls therefore has nothing to say about corporate governance. The constraint is exogenous, but it is nonetheless decisive.

Seen in this light, the Exit Requirement of Associative Freedom does not demand new corporate virtues, nor does it introduce a new Rawlsian principle. It specifies what must be true of background institutions if employment relations are to count as voluntary

in the sense presupposed by freedom of association. Where those institutions fail to secure meaningful exit, the failure is not one of corporate morality but of background justice.

Once background justice is secured through labour law, competition law, social insurance, and employment protections, exit ceases to be a fragile individual option and becomes an institutional achievement. This is precisely the point reinforced by Bhargava and Young's analysis of asymmetrical exit under employment-at-will. Formal symmetry of exit rights does not guarantee substantive freedom. Exit functions as a safeguard only when supported by complementary institutions that make leaving non-punitive and non-degrading. Responsibility for securing those conditions lies with the state, not with individual firms.

The implication is clear. Where employment relations systematically undermine meaningful exit, the appropriate response is not moral exhortation directed at corporate actors, nor the imposition of firm-level ethical duties. It is the reform of background institutions that structure labour markets and allocate the burdens of exit. Exit, understood as a requirement of associative freedom, is secured through exogenous safeguards justified at the legislative stage.

As such, exit is neither a discretionary benefit conferred by firms nor a self-executing feature of contracts. It is a condition of legitimacy for associative relations, realised through institutional design. Where exit fails, responsibility lies with the institutions that structure labour markets and allocate the costs of dissociation.

## **Conclusion**

This chapter has examined the role that exit is asked to play in justifying employment relations as voluntary associations. The dominant defence rests on a simple

claim. Because employees may leave, corporate authority lacks the coercive character that would bring it within the scope of political justice. Against this view, the chapter has argued that exit is not merely a formal option attached to contracts, but an integral condition of freedom of association itself. Where exit does not function meaningfully, association cannot plausibly be described as free, even if entry was formally consensual.

The analysis has shown why formal exit is insufficient to bear the justificatory weight placed upon it. Exit can be legally available while being substantively ineffective. It can be undermined by systemic and non-intentional forms of coercion, by structural dependency across labour markets, by asymmetries of vulnerability between employers and employees, and by the imposition of unfair material and immaterial burdens on those who seek to leave. In such cases, exit exists in name only. It does not secure the liberty it is meant to protect.

Crucially, this failure of exit does not rest on managerial wrongdoing or corporate vice. Nor does it depend on treating firms as part of the basic structure of society. The chapter has rejected both moves. Instead, the failure is institutional. It arises from background conditions that shape how employment relations operate and how the costs of dissociation are allocated. Where those conditions systematically frustrate exit, employment relations fail to meet conditions of legitimacy, even while remaining formally voluntary.

The Rawlsian framework is not rendered inert by this diagnosis. On the contrary, its resources are sufficient once properly situated. Rawls' theory is thin by design. It does not prescribe internal purposes for associations, nor does it regulate firm-level governance directly. But it does protect freedom of association as a basic liberty, and it does recognise that the legitimacy of associations depends on background justice secured at the level of social institutions. Within this framework, exit is best understood as a requirement of

associative freedom operating at the level of local justice. It is not a new principle of justice, and it is not a distributive demand. It is a condition that must be satisfied if associative relations are to count as genuinely voluntary.

Seen in this light, the significance of exit is clarified. Exit is not a discretionary benefit conferred by firms, nor a self-executing feature of contracts. It is a condition of legitimacy realised through institutional design. Where labour law, social insurance, competition policy, and employment protections fail to secure meaningful exit, the defect lies with background institutions, not with the moral character of firms or managers. Firm-level virtue is neither required nor sufficient to resolve the problem.

The chapter therefore closes on a limited but decisive claim. Exit is integral to freedom of association. Formal exit alone does not secure that freedom. Where exit systematically fails, legitimacy fails with it. Rawlsian justice, though thin and liberal, remains adequate to diagnose this failure and to locate responsibility where it belongs, in the design of the institutional framework that structures employment relations.

## Chapter Five

### Justifying Mandatory Corporate Social Responsibility: A Rawlsian

#### Approach

Corporate Social Responsibility (CSR) remains conceptually fragmented, with voluntarism continuing to dominate both academic and policy discourse. This chapter proceeds from the observation that empirical disagreement masks a deeper normative problem. Evidence can be marshalled both for and against mandatory CSR depending on institutional context, sectoral composition, and measurement choices. Even robust empirical results therefore underdetermine the central ethical question. That question is whether firms can be required, as a matter of justice, to contribute to social welfare through ethically mandated and legally enforced obligations. To address this issue, the chapter identifies what is termed the threshold problem of mandatory CSR. This problem consists of three recurrent objections, namely that mandatory CSR is discriminatory, that it imposes an excessive additional burden on firms, and that it introduces legal uncertainty by transforming responsibility into compulsion. These objections arise independently of empirical efficacy and must be answered at the level of normative justification.

CSR is an inescapable site of contestation across law, management, and public policy. Despite its prominence, there is little agreement on what CSR is or how it should be governed (Cominetti and Seele 2016; Waagstein 2011; Gatti et al. 2019b). The field is populated by overlapping and sometimes competing concepts, including stakeholder responsibility, corporate citizenship, and sustainability, each emphasising different normative dimensions (Garriga and Melé 2004; Matten and Moon 2008). A widely cited meta-analysis shows that most definitions of CSR cluster around five dimensions, social,

environmental, economic, stakeholder-oriented, and voluntariness, but that no consensus exists on how these dimensions should be balanced in practice (Dahlsrud 2008). Voluntarism, in particular, has become entrenched as the default assumption. CSR is commonly understood as an activity that is "beyond compliance," and therefore discretionary (Cominetti and Seele 2016; Dentchev et al. 2014; McWilliams and Siegel 2001).

This assumption is now under sustained pressure. States increasingly employ harder regulatory levers to govern corporate responsibility, including mandatory spending rules, reporting obligations, and hybrid "comply-or-explain" regimes (Cominetti and Seele 2016; Dentchev et al. 2014; Waagstein 2011). Jurisdictions occupy different positions along a soft-hard law continuum, ranging from purely voluntary initiatives such as the UN Global Compact, to hard-soft frameworks such as the Global Reporting Initiative, to regimes that mandate disclosure with limited sanctions, and finally to statutes that impose direct spending obligations backed by penalties (Cominetti and Seele 2016). These distinctions matter because wholly voluntary regimes have been criticised for credibility deficits, including selective disclosure, greenwashing, and pseudo-transparency, all of which have contributed to declining stakeholder trust (Gatti et al. 2019a; Lock and Seele 2016).

Against this backdrop, the question is not whether CSR should exist, but how its legitimacy should be justified. The empirical literature does not provide a decisive answer. Some studies argue that mandatory CSR crowds out strategic differentiation and weakens the relationship between CSR and financial performance (Rajgopal and Tantri 2023; Pathak et al. 2024). Others suggest that mandated frameworks can enhance transparency, reduce information asymmetry, and attract foreign institutional investment (Marshall et al. 2022; Yang and Hoa 2024). Persuasive as these findings may be within their respective domains,

they remain instrumental in character. They explain effects, not legitimacy and cannot justify CSR in principle.

This chapter therefore treats the problem of mandatory CSR as a normative rather than econometric question. Its central claim is limited but substantive. Mandatory CSR is better justified on universal ethical grounds than on contingent empirical outcomes. Specifically, the chapter argues that a Rawlsian political conception of justice provides a principled framework for assessing the legitimacy of mandatory CSR. Empirical studies retain an important role in informing institutional design and implementation. However, they cannot settle questions grounded in public justification and fairness.

The argument unfolds in three stages. First, the chapter maps the principal empirical arguments for and against voluntary and mandatory CSR in order to show why they underdetermine normative justification. Second, it surfaces the threshold problem through a comparative examination of legal developments in India, Mauritius, and Indonesia. Third, it defends mandatory CSR as part of a just institutional scheme by appealing to Rawls's principles of justice, with particular emphasis on the Difference Principle.

This chapter should be read in light of the broader argument developed in the dissertation. Earlier chapters establish that business ethics is best understood as a problem of institutional legitimacy rather than individual moral conduct, and that Rawlsian social contract theory offers the most suitable framework for evaluating such questions. Building on that foundation, the present chapter treats CSR not as a matter of managerial discretion or corporate virtue, but as an institutional obligation whose legitimacy depends on whether it can be justified as a fair term of social cooperation, rather than as an instrument for maximising firm performance or policy efficiency.

## **The Case for Voluntary CSR: CSR as strategic investment and loss of signalling value**

Rajgopal and Tantri (2023) argue that mandatory CSR regulations are detrimental because they crowd out voluntary CSR spending. Their central thesis is that, prior to the mandate, some Indian firms voluntarily exceeded the 2% threshold of net profits, treating CSR as a strategic investment. In their view, voluntary CSR provided companies with a distinctive opportunity to signal product quality, virtue, and a commitment to wider social welfare (Kausar et al. 2016; Kotler and Lee 2005, 2008). It also allowed firms to differentiate themselves in the marketplace. CSR thus served as a heuristic for stakeholders to identify socially responsible firms. On this account, voluntary CSR created shareholder value and contributed positively to operational performance (see Benabou and Tirole 2010; Reinhardt et al. 2008 for a counter position on altruistic voluntary CSR). Crucially, this line of argument presupposes that the ethical value of CSR is to be assessed instrumentally, by reference to its effects on firm reputation, differentiation, or financial performance.

In contrast, once CSR was rendered mandatory, it became a matter of legal compliance rather than an exercise of corporate goodwill. The signalling value of CSR, derived from its discretionary character, was thereby diminished. Stakeholders no longer interpreted CSR spending as an indication of moral character. Nor was CSR spending seen as evidence of product quality, since all qualifying firms were compelled to contribute regardless of motive. The result was a standardisation of CSR efforts, reducing their perceived quality and impact in the eyes of consumers, investors, and employees (Khanna and Anton 2002; Kitzmueller and Shimshack 2012). Rajgopal and Tantri further show that firms which had previously deployed CSR strategically to distinguish themselves subsequently diverted expenditure into advertising budgets in order to preserve visibility and reputation (Kotler and Lee 2008).

While this reading captures an important strategic dimension of voluntary CSR, it remains narrowly firm-centred. It does not reflect the aggregate reality of CSR spending in India since the mandate came into effect. According to data published by the Ministry of Corporate Affairs (MCA), corporate CSR expenditure has risen steadily each year since 2019, both in terms of the number of projects undertaken and the total financial outlay. In 2019-20, Indian companies collectively spent just under INR 250 billion across more than thirty-five thousand projects. By 2020-21 this had risen to over INR 262 billion, and in 2021-22 to more than INR 271 billion. The figure climbed further in 2022-23 to over INR 309 billion, and in 2023-24 reached approximately INR 349 billion, with close to sixty thousand CSR projects recorded. This trajectory is one of expansion rather than contraction. It demonstrates that the mandate has secured historically unprecedented levels of corporate contributions to social initiatives.

The inference that CSR spending is in decline rests on a narrow, firm-centred perspective. It is true that some high-CSR firms reduced their proportional contributions once the 2% benchmark was introduced. However, the broader evidence indicates that this decline has been more than offset by the large number of companies now required to contribute. The relevant point is that CSR is not, and neither was intended to be, a mechanism for reputational signalling or shareholder value creation. Rather it is the responsibility of firms to contribute to the welfare of the societies in which they operate. Judged on these terms, the mandatory regime represents a significant strengthening of corporate responsibility by expanding the pool of resources available for social development. The loss of differentiation or signalling value identified by Rajgopal and Tantri does not constitute a normative weakness in the legislation. Rather, it underscores

that CSR should not be conflated with marketing or investor relations, and that its value lies in advancing public welfare.

Pathak et al. (2024) extend the critique of India's mandatory CSR regime by focusing on the relationship between CSR and firm performance. Situating their study within both the instrumental strand of stakeholder theory and the institutionalist tradition, they argue that the transition from voluntary to mandatory CSR has fundamentally altered the CSR-firm performance relationship. Pre-mandate studies in India had generally found a positive association between CSR and financial outcomes, interpreting CSR as a strategic tool to engage stakeholders and enhance firm value (Kapoor and Sandhu 2010; Mishra and Suar 2010). By contrast, Pathak et al. report a weakening of this positive relationship in the post-mandate period. They attribute this to the "bandwagon effect" (Pathak et al. 2024, 697, 700-701). Under this effect, firms emulate each other's CSR behaviour, leading to homogenisation and the erosion of the competitive distinctiveness that voluntary CSR had previously enabled (Guha 2020).

Pathak et al.'s findings echo Rajgopal and Tantri's concern that mandatory CSR diminishes the signalling value that once conveyed quality and virtue to stakeholders. Their analysis emphasises how mandatory CSR fosters convergence around the mandated 2% threshold and around government-preferred projects (Jumde and Du Plessis 2022; Wang et al. 2016). The result is expenditure that fulfils regulatory obligations but does little to improve either social impact or financial returns, a condition Blake (2017, 97) terms "liability" when CSR has widespread homogeneous adoption. Pathak et al. also highlight implementation failures and malpractices, including partnerships with related-party NGOs or the siphoning of funds, as further reasons why mandatory CSR weakens the instrumental benefits that CSR once appeared to provide.

However, this line of argument rests on a questionable premise, namely that CSR ought to be judged primarily by its effects on firm performance. This misconstrues the nature of CSR, which is the obligation of firms to contribute to the welfare of the societies in which they operate. CSR is not designed as a competitive strategy. That it may sometimes generate positive financial outcomes is best understood as incidental and contingent. Kotler and Lee (2005) note that CSR initiatives have produced varied outcomes. Some are neutral, others mixed, and still others favourable to performance. What the literature does not establish is a necessary and consistent linkage.

Accordingly, the claim that mandatory CSR strips firms of competitive advantage through a bandwagon effect is overstated. Characterising a legal obligation to fund social development as a loss of strategic distinctiveness treats CSR as if it were merely another marketing instrument. This is a category mistake. The law does not exist solely to preserve the reputational rents that voluntary CSR once afforded to certain firms. It also exists to ensure that corporate wealth reliably contributes to social priorities.

As such, the analysis shows that criticisms grounded in firm performance rest on a flawed premise. CSR is not merely a strategy to enhance profitability but an obligation to contribute to social welfare. At the same time, the empirical literature does not speak with one voice. Alongside these sceptical accounts, a growing body of research suggests that CSR can generate informational and financial benefits, particularly under mandatory regimes.

## **The Case for Mandatory CSR: Increased stock price informativeness and foreign institutional investment**

Much of the literature critical of mandatory CSR turns on a related objection. Namely, that regulation erodes the strategic distinctiveness that voluntary CSR once afforded, stripping it of its signalling power as an indicator of quality, virtue, and garnering market reputation. On this view, CSR loses value because it is standardised. Once all firms are compelled to participate, no single firm can use CSR as a marker of competitive advantage. However, this line of reasoning overlooks a growing body of evidence suggesting that CSR performance continues to generate meaningful benefits even in regulated environments. A counter-argument can therefore be made that mandatory frameworks may enhance, rather than undermine, the credibility and effectiveness of CSR.

Yang and Hoa (2024), in their study of 217 banks across 45 countries, demonstrate that higher CSR performance is positively associated with stock price informativeness (SPI). SPI refers to the extent to which stock prices incorporate firm-specific information that assists investors in making informed decisions (Elshandidy and Ahmed 2023; Fama 1970). Grounded in signalling theory (Morris 1987), Yang and Hoa argue that CSR performance communicates a firm's commitment to sustainability and ethical conduct, thereby reducing uncertainty and information asymmetry in capital markets (Lys et al. 2015). Investors are consequently able to incorporate a greater volume of firm-specific information into stock prices, which in turn improves market efficiency (Chen et al. 2021; Ng and Rezaee 2020). On this account, CSR continues to function as a credible signal insofar as it enhances the transparency and reliability of corporate behaviour, rather than merely differentiating one firm from another in reputational terms.

Crucially, Yang and Hoa also find that this effect is significantly stronger in jurisdictions where CSR is mandatory. Far from crowding out informational value, regulatory compulsion appears to amplify it. By ensuring a baseline of consistent reporting and performance, mandatory frameworks enhance the credibility of CSR signals and facilitate their incorporation into market valuations. This finding directly challenges the assumption, advanced by Rajgopal and Tantri and echoed by Pathak et al., that regulation diminishes the utility of CSR as a strategic or communicative tool. Instead, it suggests that legal mandates can institutionalise CSR in ways that increase both market transparency and the reliability of information available to investors. From this perspective, CSR's value is not exhausted by its capacity to generate reputational rents or competitive distinctiveness. It lies, at least in part, in establishing predictable and transparent patterns of corporate behaviour that strengthen informational efficiency and public trust. Such effects appear more pronounced under mandatory regimes.

Marshall et al. (2022) adopt a different empirical strategy to examine the effects of mandatory CSR by analysing changes in foreign institutional investment following the introduction of Section 135 of the Companies Act 2013 in India. Section 135 obliges qualifying firms to constitute a CSR committee, disclose a CSR policy, and spend at least 2% of average pre-tax profits on approved projects, a reform that has been treated as a quasi-natural experiment (Dharmapala and Khanna 2018; Gatti et al. 2019b). Marshall et al. show that, in the post-reform period, firms subject to Section 135 attracted significantly greater foreign ownership. On average, foreign institutional investor stakes rose between 7.5% and 8.5%, through both new investors and increased holdings by existing ones (Marshall et al. 2022). They interpret this pattern as evidence for the “CSR engagement attraction hypothesis”, according to which investors are drawn to firms with stronger CSR engagement (Marshall et al. 2022, 2-3).

This finding stands in tension with agency-theoretic accounts, which characterise CSR as a form of wasteful over-investment at shareholders' expense (Di Giuli and Kostovetsky 2014; Masulis and Reza 2015). By contrast, the good governance view maintains that CSR can strengthen firms over time. Empirical work supporting this position suggests that well-governed firms are better able to convert CSR into value creation (Ferrell et al. 2016), that stakeholder-oriented strategies reduce underinvestment in risk prevention (Magill et al. 2015), that CSR improves corporate reputation and employer attractiveness (Turban and Greening 1997), and that social performance is positively associated with financial performance (Waddock and Graves 1997). Marshall et al. further argue that in emerging markets, foreign institutional investors face greater information asymmetry than domestic investors (Tsang et al. 2019). Mandated CSR, by enforcing disclosure and transparency (Ioannou and Serafeim 2019), reduces this asymmetry, lowers monitoring costs, and generates forms of social capital that provide insurance against shocks (Albuquerque et al. 2019; Knack and Keefer 1997; Lins et al. 2017).

Taken together, the empirical literature divides into two competing narratives. On the one hand, scholars such as Rajgopal and Tantri and Pathak et al. contend that compulsion undermines CSR's value by eroding its signalling function and weakening the CSR-firm performance relationship. On the other hand, Yang and Hoa and Marshall et al. show how mandatory CSR can enhance transparency, strengthen informational signals, and attract international investment. Yet both accounts share a common limitation. Their conclusions are contingent on institutional context and framed in instrumental terms. Evidence can be found to support either position, depending on the metrics employed and the environment examined.

Even where empirical findings appear favourable to mandatory CSR, they do not, by themselves, justify coercion or establish the legitimacy of imposing such obligations on

firms. The variability of results instead underscores the need to move beyond empirical correlations and to ask what principled foundation should guide the role of CSR in society. The question becomes whether, as a matter of principle, firms can be required to contribute to social welfare and not whether mandatory CSR raises or lowers firm performance in contingent contexts.

### **The Threshold Problem**

Empirical debates concerning the efficacy of voluntary and mandatory CSR have often reinforced the impression that India represents a unique or exceptional experiment in mandating CSR as a financial obligation. Commentators frequently ascribe this to India's domestic context, portraying Section 135 as an anomaly justified by particular social and developmental challenges. This view is extremely overstated. India's adoption of mandatory CSR in 2013 was shaped in part by internal pressures following the limited success of earlier voluntary frameworks designed to encourage corporate engagement with social responsibility. India's geopolitical position and the wider optimism surrounding its economic trajectory, as reflected in recent IMF assessments (International Monetary Fund 2025), have also contributed to heightened attention to its regulatory choices. Crucially, India is not alone in legislating mandatory CSR spending. Other jurisdictions, including Mauritius and Indonesia, have adopted similar legal obligations. To assess the normative stakes of mandatory CSR, it is therefore necessary to situate India within a broader comparative legal landscape.

Prior to 2013, India relied on a sequence of voluntary CSR initiatives, including the Ministry of Corporate Affairs' CSR Voluntary Guidelines 2009 and SEBI's 2012 Business Responsibility Reporting framework. These measures encouraged corporate social

engagement but proved largely ineffectual in practice (Dharmapala and Khanna 2018; Van Zile 2012). The Companies Act 2013 replaced the 1956 Act and introduced mandatory CSR through Section 135. Companies meeting specified thresholds of net worth, turnover, or profit are required to spend at least 2% of their average net profits from the preceding three years on approved CSR activities. Schedule VII specifies eligible expenditures, including poverty alleviation, education, gender equality, maternal and child health, environmental sustainability, and contributions to government relief and development funds. Although initially structured as a “comply or explain” regime (Jumde and Du Plessis 2022), the framework was strengthened by the Companies (Amendment) Act 2019, which introduced financial penalties and potential imprisonment for directors in cases of persistent non-compliance.

Mauritius adopted a different but comparably stringent model through the Finance (Miscellaneous Provisions) Act 2009. Section 50L requires all companies to allocate 2% of profits from the preceding year to a CSR Fund. Expenditure may be directed to company-run programmes, initiatives under the National Empowerment Foundation, or approved non-governmental organisations, subject to guidelines issued by a ministerial committee. Any shortfall between the mandated allocation and actual spending must be remitted to the tax authorities when the company files its income return. Unlike India, which limits CSR obligations to firms crossing specified financial thresholds, Mauritius applies a flat levy across all companies. This renders the Mauritian approach both broader in scope and simpler in institutional design.

Indonesia’s regime is more fragmented and rests on two statutes. Article 15 of the Investment Law of 2007 (Law No. 25/2007) imposes general duties on all investors, including the obligation to implement CSR. More significantly, Article 74 of the Limited Liability Company Law of 2007 (Law No. 40/2007) imposes a specific obligation on firms

operating in or connected with natural resource sectors. These firms are required to undertake “social and environmental responsibility” as a budgeted company expense, implemented in accordance with standards of appropriateness and fairness and subject to regulatory sanctions in cases of non-compliance.

Taken together, the Indian, Mauritian, and Indonesian frameworks demonstrate that mandatory CSR as a financial obligation is not unique to India but part of a broader regulatory trend. Each jurisdiction requires firms to allocate corporate resources directly to social purposes, though through different institutional mechanisms. India ties obligations to financial thresholds, Mauritius imposes a uniform levy, and Indonesia combines general investor duties with sector-specific mandates. The comparative picture shifts the focus away from the question of whether CSR should be mandatory and toward the question of how such mandates can be structured in ways that are effective and fair.

The Indonesian legislation is particularly instructive because it has been the subject of direct constitutional challenge. In 2009, the Indonesian Chamber of Commerce (KADIN) and several corporations brought a case before the Constitutional Court contesting the legality of Article 74 of the 2007 Company Law. The applicants argued that the provision violated the Constitution in three respects. They claimed, first, that it created discrimination; second, that it conflicted with principles of economic efficiency by imposing additional burdens; and third, that it introduced legal uncertainty by transforming CSR into a compulsory obligation (Waagstein 2011, 456).

The first objection concerned discrimination. Critics argued that Article 74 unfairly singled out corporations, particularly those operating in natural resource sectors, by imposing obligations not borne equally by all firms. This raised a broader normative concern about whether mandatory CSR creates unjust differentials between corporate

actors. Any universal defence of mandatory CSR must address this charge, since legal regimes that distribute burdens unevenly risk violating principles of fairness and equality.

Closely related was the objection of additional burden. By requiring corporations to allocate resources to social and environmental responsibilities, Article 74 was portrayed as an impediment to economic efficiency and national competitiveness. The claim was that CSR mandates divert resources away from core business activities, thereby inflating costs and eroding shareholder value. This concern resonates with broader scepticism about CSR as a source of inefficiency (Masulis and Reza 2015; Di Giuli and Kostovetsky 2014), even though proponents argue that such costs may be offset by reputational and governance benefits (Ferrell et al. 2016; Turban and Greening 1997).

The third objection concerned legal uncertainty. Critics contended that transforming CSR from a voluntary ethos into a legal obligation contradicts the very meaning of “responsibility” as something exercised at managerial discretion. This argument echoes objections raised in the Indian context by Rajgopal and Tantri (2023) and Pathak et al. (2024), who argue that mandatory CSR undermines CSR’s signalling function and voluntarist foundations. Yet, as other studies indicate, mandatory frameworks can also enhance transparency and attract investment (Yang and Hoa 2024; Marshall et al. 2022). The tension here does not concern empirical efficacy but whether legal compulsion is conceptually compatible with CSR.

These objections would arise even if mandatory CSR is shown to function well in empirical terms. Even where data suggest that mandatory CSR increases transparency, attracts investment, or expands aggregate social spending, the constitutional challenge in Indonesia demonstrates that such effects do not settle the question of legitimacy.

At this point, the debate must move beyond empirical performance to normative justification. Corporations today exercise substantial social and economic power, shaping

the distribution of opportunities, risks, and resources. Institutions that exercise such power cannot avoid questions of justification. Where corporate activity generates social costs or contributes to persistent inequalities, the terms on which that activity is permitted must be defensible to those affected by it. Within a Rawlsian framework, such justification turns on whether institutional arrangements are consistent with fair terms of social cooperation and whether departures from equality operate to the benefit of the least advantaged. Mandatory CSR represents one institutional mechanism through which these justificatory demands may be addressed by requiring firms with greater capacity and social impact to contribute directly to social welfare.

Taken together, the objections of discrimination, additional burden, and legal uncertainty constitute the core challenge facing mandatory CSR. They transform the debate from a question of whether CSR works to a question of whether it can be ethically justified. Any universal defence of mandatory CSR must therefore answer these objections directly. This is the threshold problem that the remainder of the chapter seeks to resolve.

### **The Rawlsian Turn**

The threshold objections of discrimination, additional burden, and legal uncertainty cannot be resolved by empirical studies alone. Evidence may indicate that mandatory CSR increases transparency, attracts investment, or expands aggregate social spending. Such findings, however, do not determine whether mandatory CSR is just. What is required is a normative standard capable of guiding the evaluation of CSR regimes independently of contingent outcomes. It is at this point that Rawls's theory of justice becomes relevant. By grounding institutional obligations in principles of fairness rather than performance, a

Rawlsian framework allows mandatory CSR to be assessed not as an economic strategy or political expedient, but as a question of legitimacy.

Social contract theory addresses a different justificatory question from the approaches considered earlier in the dissertation. Rather than asking which actions maximise welfare, which duties bind individual agents, or which virtues characterise good decision-making, it asks which rules free and equal persons could reasonably accept as governing the terms of their social cooperation. Justice, on this view, concerns the fairness of institutional arrangements rather than the moral excellence of individual actors. John Rawls offers the most systematic articulation of this approach through his conception of justice as fairness.

Rawls's central concern is the evaluation of what he terms the basic structure of society, understood as the major political, social, and economic institutions that together shape social cooperation over time (Rawls 1999, 6; 2001, 8-9; 2005, 11, 40-41, 66-67). Because individuals are born into this structure rather than choosing it, its rules must be justifiable to all those subject to them. The justificatory burden is therefore public and institutional rather than personal or discretionary. Rawls frames justice as a freestanding political conception, grounded not in any comprehensive moral doctrine but in ideas implicit in a society's public political culture, such as equal citizenship, reciprocity, and fair terms of cooperation (Rawls 2005, 8, 10, 12, 14). Legitimacy, on this account, depends on whether principles governing institutions can be publicly justified to reasonable citizens under conditions of pluralism, a requirement Rawls captures through the publicity condition (Rawls 2005, 66-67).

The principles that satisfy this requirement are identified through the device of the original position. In this hypothetical situation, free and equal moral agents choose principles to regulate the basic structure from behind a veil of ignorance that excludes

knowledge of their social position, class, gender, talents, or conception of the good life (Rawls 1999, 118-123). The parties are rational, in that they can form and pursue their own plans of life, and reasonable, in that they are willing to propose and abide by fair terms of cooperation provided others do the same (Rawls 2001, 18; 2005, pp. 50-54). The veil of ignorance ensures that principles chosen are impartial and acceptable from any social standpoint. Rawls emphasises that this is not a historical contract but a justificatory device representing fairness.

From the original position, Rawls argues that rational and reasonable agents would agree to two principles of justice. The first is the Liberty Principle, which secures for each person an equal claim to a fully adequate scheme of basic liberties, lexically prior to considerations of economic advantage (Rawls 1999, 53-54; 2001, pp. 42-43). The second principle governs social and economic inequalities. It requires, first, that positions and offices be open to all under conditions of fair equality of opportunity, and second, that inequalities be arranged so that they are to the greatest benefit of the least advantaged members of society, the Difference Principle (Rawls 1999, 53-54; 2001, pp. 42-43). Together, these principles express reciprocity. Departures from equality are permissible only where they improve the prospects of those who are worst off (Rawls 2001, 123).

Two clarifications are necessary before applying this framework to mandatory CSR. First, the claim advanced here is not that CSR spending is the uniquely correct or optimal institutional mechanism for realising distributive justice. It is simply that mandatory CSR constitutes one justifiable institutional specification among others. Rawlsian justice does not require a single policy instrument, only that institutional arrangements satisfy conditions of fairness and public justification. Second, when CSR is described as an obligation, this is a normative claim about legitimacy rather than a semantic redefinition of

CSR. The issue is not how CSR is conventionally defined in the literature, but whether, once institutionalised, CSR obligations can be justified as fair terms of social cooperation.

With these clarifications in place, the relevance of Rawls's framework becomes clear. Corporations today exercise significant social and economic power. Their decisions shape the distribution of opportunities, risks, and resources, and their activities often generate social and environmental externalities. Institutions that exercise such power cannot avoid questions of justification. Under a Rawlsian account, institutional arrangements that permit inequalities or impose differentiated obligations must be defensible to those affected by them, particularly to those who are least advantaged. The Difference Principle provides the standard for this defence. Where corporate activity contributes to inequality or imposes social costs, requiring firms with greater capacity and impact to contribute to social welfare can be understood as a condition of fair cooperation. Mandatory CSR functions as one mechanism through which such justificatory demands may be met.

It is against this background that the three threshold objections identified earlier must be assessed. The claim is not that mandatory CSR performs well empirically, nor that it should replace other instruments such as taxation or regulation. The claim is narrower and more precise. Applied to mandatory CSR as a financial obligation, the Difference Principle offers a framework capable of answering the objections of discrimination, additional burden, and legal uncertainty by situating CSR within the logic of institutional fairness rather than managerial discretion or instrumental advantage.

*Against discrimination*

The first threshold objection concerns discrimination. A central claim raised in the Indonesian Constitutional Court case was that mandatory CSR under Article 74 discriminated against particular corporations by singling out those engaged in activities related to natural resources. The Court rejected this claim, holding that the law was not discriminatory because the differential burden was tied to the potential risks posed by corporate behaviour to natural resources (Waagstein 2011, 456). Article 74 is not discriminatory because the differential duty tracks differential social risk. Firms whose activities pose distinctive hazards to natural resources can be held to stricter duties. This is not a case of like cases treated unlike, but of materially unlike cases treated differently for a public reason.

From a Rawlsian standpoint, such differentiation can be justified under the Difference Principle, which permits unequal burdens when they are arranged so as to benefit the least advantaged members of society. A CSR levy or duty that applies uniformly to all members of a defined class, namely corporations engaged in activities related to natural resources, and that is intended to improve the position of those worst affected by such activities through the channelling of resources to social development, satisfies this requirement. Analogously, a progressive tax is not discriminatory against higher earners. It is a justified differential that supports fair terms of social cooperation.

This reasoning is further reinforced by the Polluter-Pays Principle articulated by the OECD. The principle requires that those whose activities generate environmental risks bear the initial costs of prevention and control, even if such costs are ultimately passed on through prices (OECD 1975). It is not concerned with compensation after harm, but with ensuring that decision-makers internalise social costs when setting their strategies. Applied

to CSR, this means that firms whose activities are most likely to generate adverse social or environmental effects may fairly be required to shoulder greater obligations, both to prevent harm and to fund remedial measures.

Before proceeding, two clarifications are necessary. First, the claim advanced here is not that CSR spending is the uniquely correct or optimal institutional mechanism for realising distributive justice. It is that mandatory CSR constitutes one permissible institutional specification among others. Rawlsian justice does not privilege a single policy instrument, but requires that institutional arrangements satisfy conditions of fairness and public justification. Second, when CSR is described as an obligation, this is a normative claim about legitimacy rather than a semantic redefinition of CSR. The issue is not how CSR is conventionally defined in the literature, but whether, once institutionalised, CSR duties can be justified as fair terms of social cooperation.

At this point, it is useful to make explicit the justificatory chain that underlies the Rawlsian response to the discrimination objection. Corporations exercise structurally significant social and economic power. That power shapes life chances by influencing access to employment, environmental conditions, public health, and economic opportunity. Institutions that shape life chances cannot avoid the demand for public justification. Under a Rawlsian framework, such justification turns on whether institutional arrangements, including differentiated obligations, operate to the benefit of the least advantaged. Mandatory CSR represents one mechanism through which this requirement can be met, by requiring firms whose activities generate greater risks or confer greater advantages to contribute proportionately to social welfare.

Mandatory CSR can therefore be understood as a form of hypothecated taxation internalised at the firm level. Its ethical question is not whether coercion is permissible in principle, but whether the allocation of burdens and benefits is fair. When viewed in this

way, differentiated CSR duties imposed on risk-intensive sectors are not discriminatory penalties. They are a legitimate allocation of social responsibility grounded in publicly justifiable reasons.

Taken together, the Constitutional Court's reasoning, the Rawlsian Difference Principle, and the Polluter-Pays Principle converge on the same conclusion. Mandatory CSR provisions that impose differentiated duties on sectors generating distinctive social or environmental risks are not discriminatory. They are a justified and proportionate expression of fair terms of social cooperation.

#### *Against additional burdens*

The second threshold objection holds that mandatory CSR imposes an undue financial burden on firms, thereby undermining competitiveness and legitimate profit-making activity. This concern was raised explicitly in relation to Indonesia's Article 74 and recurs more generally in sceptical accounts of CSR mandates. The core claim is that compulsory social expenditure diverts resources away from productive activity and distorts business incentives. However, as Waagstein observes, this line of reasoning is not decisive (Waagstein 2011, 463). From a normative standpoint, compliance costs are an ordinary and expected consequence of legal regulation. Firms routinely bear obligations under competition law, labour standards, environmental protection, and product safety regimes, even where such obligations constrain immediate profit maximisation. The mere presence of cost does not in itself establish injustice.

Moreover, where profits depend upon activities that generate significant social or environmental harm, it is not the costs of compliance that are ethically suspect, but the underlying activities themselves. In such cases, CSR expenditure is more plausibly

understood as a condition of legitimacy rather than as an extraneous burden. As Waagstein notes, CSR obligations can be viewed as an investment in long-term legitimacy and sustainability rather than as an impermissible imposition on corporate autonomy (Waagstein 2011, 463).

The Rawlsian framework sharpens this point. Under the Difference Principle, inequalities in wealth or obligation are permissible only insofar as they improve the position of the least advantaged. Mandatory CSR requirements that direct a portion of corporate resources toward social goods such as education, health, or environmental protection satisfy this condition when they operate to enhance the life prospects of those who are otherwise marginalised. Profit cannot enjoy absolute priority where reallocating a portion of corporate surplus contributes to fair terms of social cooperation. The ethical question is not whether firms retain maximum discretionary control over earnings, but whether institutional arrangements governing profit allocation are justifiable to all affected parties.

Empirical findings reinforce, but do not ground, this conclusion. Rajgopal and Tantri (2023, 416) note that firms qualifying under India's Section 135 are "forced" to allocate 2% of average net profits to CSR projects. While this constitutes a formal reduction in disposable earnings, subsequent research indicates that such obligations have not crippled investment and may, in some cases, enhance informational transparency and attract foreign institutional investors (Marshall et al. 2022; Yang and Hoa 2024). Even on contingent grounds, the magnitude of the burden is often overstated. More importantly, empirical impact is not what determines legitimacy under a Rawlsian account.

The objection also fails to account for the structural power of corporations. As Phillips and Margolis argue, organisations shape both internal conduct and external social outcomes, influencing flows of capital, labour, and political decision-making (Phillips and Margolis 1999, 620). Corporations are not merely market actors pursuing private ends.

They are powerful social institutions whose decisions structure opportunities and risks across society. As Berlin (1969, 1992) and Nagel (1979) observe, institutions that structure trade-offs among competing goods inevitably raise questions of justification. Where corporate activity reaches deeply into domains such as employment, health, education, and environmental sustainability, the obligation to contribute to the public good follows from the scope of that influence.

Properly understood, then, the “additional burden” objection mistakes a justified redistribution of resources for an impermissible penalty. Mandatory CSR does not impose arbitrary costs. It embeds corporations within fair terms of social cooperation that require those with greater capacity and impact to contribute proportionately to the improvement of the least advantaged.

#### *Against uncertainty*

The third threshold objection is that mandatory CSR introduces uncertainty, both in its effects on corporate behaviour and in its implications for competitiveness. Waagstein notes the concern that legal compulsion, particularly when backed by sanctions, may lead firms to adopt a defensive posture. Corporations may satisfy only the minimum statutory requirement, rather than engaging in sustained or innovative forms of social responsibility (Waagstein 2011, 462). A similar concern appears in Rajgopal and Tantri’s study, where firms that had previously exceeded the mandated threshold reduced discretionary CSR spending and redirected resources toward advertising, suggesting that compulsion crowded out some voluntary initiatives (Rajgopal and Tantri 2023, 442, 444).

The empirical record does not support the claim that mandatory CSR generates systemic retreat. Data from the Ministry of Corporate Affairs show that aggregate CSR

spending in India has increased consistently since the introduction of Section 135, both in total financial outlay and in the number of projects undertaken. This pattern indicates sustained expansion rather than decline. Further studies suggest that mandatory CSR can generate informational and financial benefits. Yang and Hoa (2024) find that CSR performance enhances stock price informativeness, particularly in jurisdictions with legal mandates. Marshall et al. (2022) show that India's CSR regime attracted greater foreign institutional investment following its introduction. These findings undermine the claim that legal obligation necessarily produces uncertainty or inefficiency.

Concerns about competitive disadvantage also overstate the case. Waagstein notes that disadvantage arises primarily under two conditions, when profit is conceived in purely financial terms and when obligations are unevenly imposed (Waagstein 2011, 463-64). Both assumptions are contestable. From a Rawlsian perspective, profit must be understood within the framework of fair cooperation. Economic returns are legitimate only insofar as they are consistent with just institutional arrangements. Moreover, where CSR obligations apply uniformly across comparable firms, as in India and Mauritius, competitive distortion does not arise, since costs are internalised across the sector. Even in Indonesia, where Article 74 applies specifically to natural-resource firms, the Constitutional Court justified the differential burden by reference to sector-specific risks (Waagstein 2011, 456).

Ultimately, the uncertainty objection turns less on principle than on institutional design. Rawls's publicity condition requires that rules governing the basic structure be clear, general, and publicly justifiable. India's Section 135 and Mauritius's Section 50L satisfy this requirement by specifying clear thresholds and fixed obligations. The Indonesian experience demonstrates that ambiguity can arise, but also that such ambiguity is amenable to judicial interpretation. Once obligations are determinate and appropriately general, uncertainty is not an intrinsic flaw of mandatory CSR.

Viewed through the lens of Rawls's Difference Principle, mandatory CSR emerges as a fair mechanism for allocating the burdens of social cooperation. It requires those institutions with greater power and capacity to contribute to social goods in ways that benefit the least advantaged. The objection from uncertainty therefore fails to undermine the legitimacy of mandatory CSR. It reflects concerns about implementation rather than defects in principle.

#### *Objections to a Rawlsian application*

Any attempt to ground the defence of mandatory CSR in Rawlsian thought must confront a familiar set of objections. These challenges are not specific to CSR but arise more generally whenever Rawls's theory is applied to economic institutions. Addressing them directly is necessary to establish the coherence and limits of a Rawlsian justification.

The scope objection: A common objection holds that Rawls's principles apply only to the basic structure of society understood narrowly as institutions exercising direct coercive authority (Singer 2015, 75, 79). Since individual firms fall outside Rawls's remit because participation in markets is, at least formally, voluntary. Employees may exit employment, and consumers may exercise freedom of association by switching products. By analogy to religious institutions, which Rawls excluded from the basic structure on similar grounds, businesses would appear to lie beyond the scope of justice as fairness.

This objection overlooks the layered structure of Rawls's account. As Blanc (2016) argues, while individual firms may not themselves constitute the basic structure, the system of corporations does. Rawls distinguishes between local, domestic, and global levels of justice (Rawls 2001, 11). Firms operate at the level of local justice but are governed by institutional frameworks shaped by domestic principles of justice. Rawls's two principles

therefore apply indirectly, not to firms as isolated actors, but to the legal and institutional arrangements that regulate them. Mandatory CSR regimes enacted through law are precisely such arrangements, and as such are legitimate objects of Rawlsian evaluation.

The hypothetical contract objection: A second objection targets the hypothetical nature of Rawls's social contract. Because no one has actually physically consented to it, the principles chosen in the original position may appear to lack binding force, particularly for corporate managers whose obligations arise from real contractual relationships with shareholders. This objection mischaracterises Rawls's argument. Rawls does not claim that duties flow from historical consent. The original position is a device of representation, designed to model fair conditions of choice among free and equal citizens. Its justificatory force derives from reasonable acceptability under conditions of fairness, not from actual agreement.

This does not undermine contractual obligations within firms. Rather, it situates them within a justificatory hierarchy. Shareholder claims, managerial duties, and contractual rights are valid only against the background of institutions that are themselves justifiable. Rawls's framework supplies this background. It establishes the normative baseline against which economic roles and obligations must be assessed, rather than competing with or displacing them.

The second contract objection: Some scholars, most notably Freeman (1994), have attempted to apply Rawls directly at the firm level by positing a "second contract," behind which stakeholders would agree on principles governing corporate relations. This approach has been criticised for weakening the binding force of contract (Hartman 2001; Moriarty 2005; Phillips and Margolis 1999) and for generating indeterminacy where external parties are affected (Child and Marcoux 1999; Cohen 2010).

This debate is largely unnecessary. Stakeholder entitlements such as fair wages, safe working conditions, or protection from environmental harm do not require a second veil of ignorance. Rawls's two principles already provide the relevant normative resources. The Liberty Principle secures basic civil and political rights. The Difference Principle justifies institutional arrangements that allocate resources in ways that benefit the least advantaged. These include labour protections, environmental safeguards, and redistributive mechanisms realised through public regulation rather than firm-level hypothetical agreements (Cohen 2010, 566–567). As such, the second contract is redundant. Rawls's framework already grounds CSR obligations as part of the institutional regulation of economic cooperation.

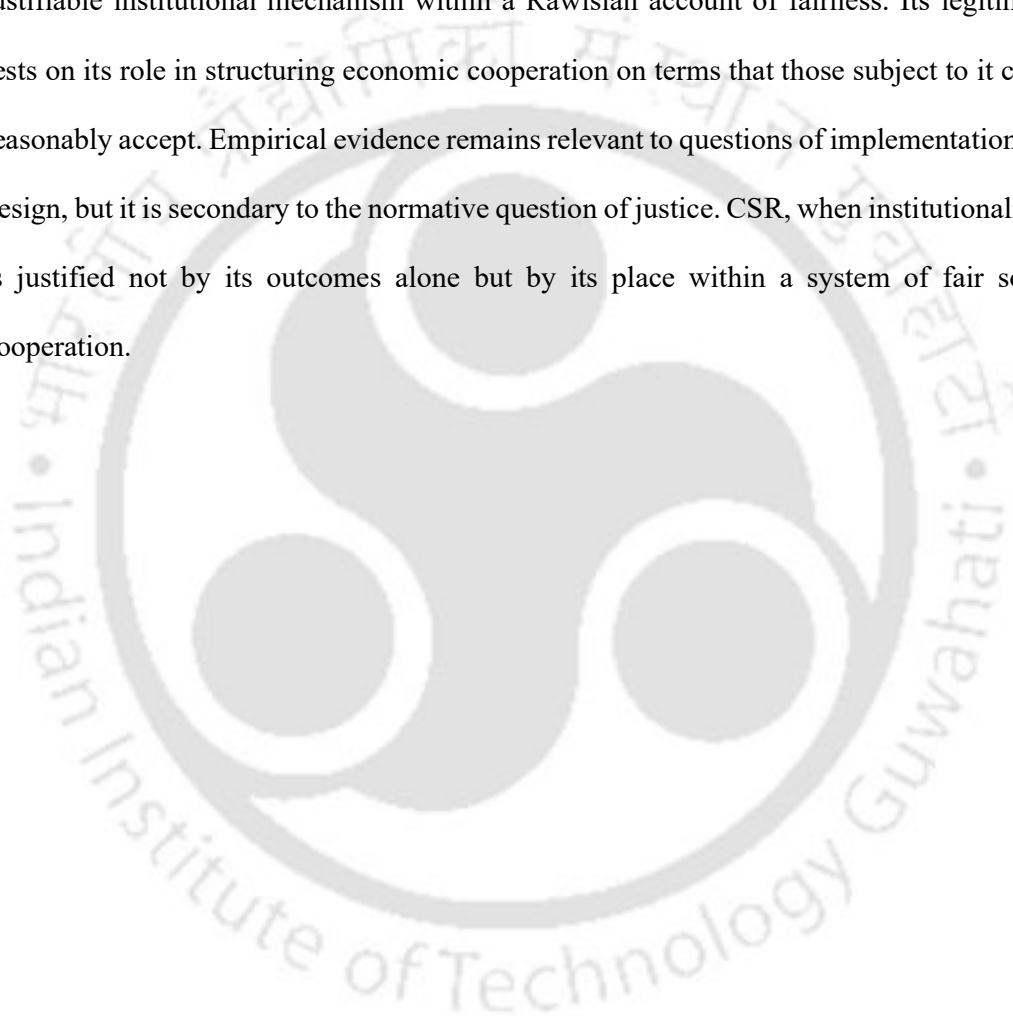
### **Conclusion**

This chapter began from an apparent stalemate in the empirical literature on CSR. Some studies argue that mandatory CSR erodes signalling value and weakens the relationship between CSR and firm performance (Rajgopal and Tantri 2023; Pathak et al. 2024). Others suggest that legal mandates enhance transparency and attract foreign investment (Marshall et al. 2022; Yang and Hoa 2024). While empirically informative, these findings remain contingent and context-sensitive. They cannot, by themselves, determine whether CSR obligations are legitimate.

The chapter therefore reframed the debate by identifying the threshold problem. Even if mandatory CSR performs well empirically, it faces objections grounded in discrimination, additional burden, and legal uncertainty. Left unanswered, these objections would confine CSR to instrumental justification. The Rawlsian framework provides a response. The publicity condition explains why uncertainty is a matter of institutional design rather than principle. The Difference Principle shows that differentiated obligations

are not discriminatory when arranged to benefit the least advantaged. Costs imposed on firms are justified where they form part of fair terms of social cooperation in light of corporate power.

The result is a limited but precise claim. Mandatory CSR is not defended as the optimal policy instrument, nor as a substitute for taxation or regulation. It is defended as a justifiable institutional mechanism within a Rawlsian account of fairness. Its legitimacy rests on its role in structuring economic cooperation on terms that those subject to it could reasonably accept. Empirical evidence remains relevant to questions of implementation and design, but it is secondary to the normative question of justice. CSR, when institutionalised, is justified not by its outcomes alone but by its place within a system of fair social cooperation.



## Dissertation Conclusion

This dissertation set out to address a persistent problem in business ethics. Despite its prominence as a field, business ethics remains conceptually unstable and normatively fragmented. Debates oscillate between appeals to managerial virtue, stakeholder balancing, market outcomes, and corporate discretion, without a shared standard for assessing legitimacy. The central claim advanced throughout this dissertation is that this instability arises from a category error. Business ethics is too often framed as a matter of optional moral beneficence or individual ethical conduct, when it is more properly understood as a question of institutional justice. Once this reframing is adopted, the justificatory task becomes clearer and the available normative resources more sharply defined.

Chapter One established the conceptual groundwork for this reframing. It examined two foundational debates that structure contemporary business ethics. The first concerned whether ethical evaluation should focus on individual decision-makers or on the institutional environments in which decisions are made. The second concerned whether the stockholder or stakeholder theory better captures the normative expectations placed on firms. The chapter argued that moral-manager approaches are normatively inadequate because they depend on discretionary virtue and fail to address the coercive and coordinating features of markets. It further argued that stakeholder theory offers a more accurate account of contemporary business practice but lacks a coherent justificatory foundation. The chapter concluded that business ethics is best understood as a problem of institutional legitimacy rather than individual moral conduct, and that markets, rather than managers, constitute the appropriate object of ethical evaluation.

Chapter Two addressed the justificatory deficit identified in the first chapter. It asked whether any dominant ethical theory is capable of grounding a public standard for evaluating market institutions under conditions of pluralism. Consequentialism, deontology, and virtue ethics were each examined and rejected for structural reasons. Consequentialism fails to assign responsibility in complex and interdependent market systems. Deontological approaches identify duties but lack a public method for resolving conflicts between them. Virtue ethics relocates ethical authority to individual character and organisational culture, thereby reintroducing the moral-manager model and leaving institutional legitimacy unaddressed. These theories were not rejected as ethically incoherent, but as structurally underdetermined for the task at hand. By a process of elimination, social contract theory, understood in a Rawlsian sense, was identified as the most suitable framework for evaluating business ethics as part of a system of fair social cooperation.

The subsequent chapters applied this framework to three contested domains in business ethics. Each case was selected to test the adequacy of Rawlsian principles in addressing issues commonly thought to resist institutional analysis. Together, they demonstrate how the Liberty Principle and the Difference Principle can be deployed without extending Rawls beyond his intended scope or collapsing into firm-level moralisation.

Chapter Three examined the ethical inadequacy of the Choice Argument in the context of sweatshop labour. Defences of non-interference typically rely on appeals to worker choice, voluntariness, and the harmful consequences of regulation. The chapter argued that such appeals fail once liberty is treated as non-negotiable. Choices made under conditions of severe deprivation, systemic coercion, and institutional constraint do not satisfy the Liberty Principle. Voluntariness alone cannot ground legitimacy. Where freedom

of association, liberty of the person, or the rule of law are violated, state intervention is not paternalistic. It is required by justice. The chapter thus removed a justificatory barrier that has often been used to resist the enforcement of basic liberties in global labour markets.

Chapter Four turned to employment relations in advanced economies and examined exit as an instantiation of freedom of association. It challenged the assumption that formal exit rights suffice to render employment relations voluntary and non-coercive. Drawing on analyses of systemic and non-intentional coercion, asymmetrical exit costs, and unfair material and immaterial burdens, the chapter showed that exit may be formally available while being substantively ineffective. The central claim was not that firms are part of the basic structure, nor that Rawls' principles apply directly to corporate governance. Rather, it was that freedom of association entails an Exit Requirement of Associative Freedom operating at the level of local justice. Where background institutions fail to secure meaningful exit, employment relations fail to meet conditions of legitimacy, even while remaining formally consensual. Responsibility for this failure lies with institutional design, not with corporate virtue.

Chapter Five addressed the application of the difference principle in business ethics via the justification of mandatory corporate social responsibility. The chapter showed that empirical debates concerning the effects of voluntary and mandatory CSR systematically underdetermine the normative question. Evidence can be marshalled on both sides depending on context, sector, and measurement. The chapter identified a threshold problem consisting of three objections to mandatory CSR, discrimination, additional burden, and legal uncertainty, and argued that these objections arise independently of empirical performance. By situating CSR within Rawls' Difference Principle, the chapter defended mandatory CSR as a fair institutional obligation rather than discretionary corporate benevolence. Mandatory CSR was not presented as an optimal policy instrument or a

substitute for taxation, but as one justifiable mechanism among others for structuring economic cooperation on fair terms.

Taken together, the chapters advance a unified dissertation. Business ethics is best understood as a matter of institutional justice rather than optional moral beneficence. Once firms are situated within a Rawlsian framework of fairness, reciprocity, and public justification, familiar debates in business ethics are reframed. Questions about voluntariness, responsibility, and obligation become questions about whether the institutional conditions governing economic activity can be justified to free and equal citizens under conditions of reasonable pluralism.

The contribution of this dissertation is therefore limited but substantive. It does not offer a comprehensive theory of corporate governance, nor does it prescribe detailed policy reforms. Its aim has been justificatory rather than programmatic. It merely attempted to show that Rawlsian political liberalism, though thin by design, is sufficient to evaluate key issues in business ethics without appealing to comprehensive moral doctrines, managerial virtue, or contingent empirical outcomes. When economic institutions fail to secure basic liberties or fair terms of cooperation, legitimacy fails. When they succeed, further moral ambition is not required.

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