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On corrupt institutions

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ABSTRACT

The literature on ‘institutional corruption’ has paradoxically missed what seems a central application of this expression, its application to institutions that are corrupt. In this article, I defend a view of what it is for an institution to be corrupt, in terms of the motivation of the institution’s rules. If an individual office-holder or role-occupant is corrupt when their actions are improperly motivated by private gain, then an institution is corrupt when the same can be said of its *rules*: the institution’s rules are improperly motivated by private gain. Or if we should prefer a narrower account of corrupt conduct by individuals, as necessarily involving transactions with third parties, a correspondingly narrower account of an institution’s corruptness can also be given. Under either of these versions of my view, an institution’s being corrupt is to be distinguished from something else that might be called ‘institutional corruption’, namely the corruption of institutions, in the sense of their being degraded or undermined. I argue that some of the literature’s best-known accounts of ‘institutional corruption’ are best interpreted as being about the degrading of institutions, rather than about what it is for an institution to be corrupt.

KEYWORDS Corruption; institutions; institutional properties; rules; collective subjects; motivation

The ethical appraisals we make of collective subjects, as distinguished from our appraisals of individual people, have often been a focus of philosophers’ interest. What is it, Plato’s Socrates asks in the *Republic* (2004, 368e), for a polity as a whole to be just? When, asked Karl Jaspers (1947), can guilt be attributed to an entire group? Is a racist organisation, it is often asked today, simply one whose members have racist attitudes, or can an organisation be racist in some other way? Another such question has received a good deal of attention in recent years, from researchers inside and outside philosophy: in what sense, or senses, is it proper to speak of ‘institutional corruption’? In this paper I contribute a new answer to this question.¹

One natural way of understanding the expression ‘institutional corruption’ is as referring to a characteristic that institutions can exhibit which

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is in some significant way analogous to the corruption of which individual people can be guilty. The account which I shall propose understands the expression in this way. Institutions can be, like individuals, abusive in a way which deserves to be called corrupt. This is not just a matter of some or many of the members or officers of an institution acting corruptly. Rather, the institution is itself corrupt; it is corrupt as an institution.

This is the case, I shall argue, when the *rules* by which the institution operates are abusive rules. My view, in brief, is that whereas an individual office-holder is corrupt when their actions are improperly motivated by private gain,² an institution is corrupt when the same can be said of its rules: the institution's rules – whether imposing requirements, giving permissions, or offering opportunities or incentives – are improperly motivated by private gain. In speaking here of what 'motivates' rules, I am referring to what explains them, what sustains them in force. In a corrupt institution, certain private interests sustain the rules; and this relationship is an improper one.

I aim to show that by comparison with this conception of institutional corruption, the conceptions developed by the main recent treatments, though they differ from each other in a variety of ways, are all of them less closely analogous to the corruption of individuals. Indeed, I will consider the possibility that some of them are better not thought of as kinds of corruption at all.

The term 'institution' can be understood in various ways. Like most of the other accounts I'll be examining, which discuss for example the US Congress, or police forces, I'm primarily concerned with institutions in the sense of *entities in which members or officers occupy roles* – though later on I'll also consider how my account can be applied to institutions in the wider sense of *practices*. Here, for the sake of illustration, are some types of entity that my proposal would count as corrupt.

- (A) a parliamentary remuneration committee whose formal rules are crafted in such a way as to enable members to ensure themselves exorbitant salaries;
- (B) a religious cult which requires postulants or junior members of the cult to perform personal services for senior members, ostensibly as a mode of spiritual advancement, or for the sake of their salvation;
- (C) an anti-corruption body whose rules of procedure serve, among other purposes, to protect its officials in corrupt dealings of their own;
- (D) a regulatory body whose own rules have been unduly shaped by considerations of gain to its officials.³

The idea of rules' 'motivation' is registered in these examples by terms such as 'crafted', 'purposes' and 'shaped': the correct answer to the question what

keeps those particular rules in place is that their being in place serves certain private interests. Being improperly motivated in this way renders the rules abusive, just as acts of individuals are rendered abusive by being similarly motivated.

I begin, in Section 1, by surveying various theoretical proposals that have been put forward over the past 30 years under the specific heading of 'institutional corruption'. Alongside these I shall also look at some other accounts which, while not so focused on advocating a particular interpretation for that expression, resemble them in ways that have been recognised in the literature, and are relevant for my argument.

The main argument occupies Section 2, which begins with some crucial preparatory clarification of the question I am addressing. Next, I advocate a particular view of what it is for an individual to act corruptly. This view is close to one widely accepted characterisation of corrupt conduct, but departs from it in a small though significant way. I then develop the analogous, rule-focused account of corrupt institutions. In Section 3, I compare my account with the alternative treatments surveyed in Section 1, so as to show how the property of institutions that I have specified is, by comparison with what those others pick out, more directly a counterpart of individual-level corruption, and thus more clearly merits the label 'institutional corruption'. I then consider, in Section 4, some comparisons with ideas of the institutional as applied to racism or sexism, which seem to combine persuasively with the view I am putting forward.

S1

Philosophical discussion of corruption and institutions in recent times was given its first large impetus by Dennis Thompson's (1995) book, *Ethics in Congress*. That work is organised around a contrast between individual and institutional corruption. The latter, says Thompson, is a more complex and less recognised form of corruption, and his chief aim in the book is to clarify its nature, largely by examining one species of it, legislative corruption, in the particular institutional setting of the U.S. Congress. He sets out the features of his institutional type by way of a careful comparison with the individual type, of which he favours a particular conception.

Conceptions of individuals' corruption in the literature can be divided into two sorts, according to whether they reckon that, for a person's conduct to count as corrupt, it must involve some sort of coordination with another party – as where an official takes bribes from a company – or need not always do so. Thompson, like several of the foremost theorists on this issue, favours the first option. Under this narrower conception, embezzlement in office, for instance, because it need not involve any such transaction, should not,

strictly, be called corrupt.⁴ In wider public debates, by contrast, and in activist usage, there tends to be a preference for broader conceptions, which acknowledge that even an official's solitary activity can be corrupt, and which are most often formulated in terms of 'abuse' of a role or office.⁵

Thompson thinks, then, that individual corruption always involves an idea of exchange (Thompson, 1995, especially pp. 29–33).⁶ And so in a sense does institutional corruption, as he sees it. What the two types have in common, as corruption, is that (i) there is some sort of benefit or 'gain' to an official, (ii) there is a service to a private citizen, and (iii) the gain and the service are connected in some improper way. The differences between the two forms lie in the specifics of these gains and services, and of how they are linked. In entirely individual corruption, the gain is merely personal ('gifts, foreign trips, sexual favours'), the service provided is unmerited, and gain and service are connected in the mind of the official: the gain is a motive for performing the service.

Thompson illustrates fully institutional corruption, as he conceives it, by various sorts of excessively close association between two activities in themselves legitimate, of seeking campaign finance and of offering constituent service: these being too closely associated might be a matter of their being conducted by the same staff, or in the same office at the same time. Such overlaps can harm the institution. In terms of the three aspects, when corruption is of the purely institutional type (i) the gain is only 'political', as in the example of campaign finance, (ii) the service is not unmerited, and (iii) the improper connection has to do, Thompson says, with the 'institutional conditions' under which the services are provided and the benefits received: there is some relationship between these events, such as the habitual proximity just mentioned, which tends to undermine institutional purposes or damage institutional processes.

No corrupt motives figure within institutional corruption thus understood. This key feature is reproduced in Lawrence Lessig's account, in *Republic Lost* (2011) and elsewhere. His definition refers to 'systemic and strategic' influences that undermine an institution's effectiveness by diverting or weakening it (2013, p. 553). In the case of the U.S. Congress, the institution's performance is affected by the fact that its membership is in part decided by, and thus depends crucially upon the preferences of, a narrow range of rich donors to election campaigns. This dependence impairs Congress's achievement of its purposes, and that is the reason, according to Lessig, why it amounts to corruption.

In 2014, M. E. Newhouse put forward her 'fiduciary theory' of institutional corruption. This theory endorses Thompson's account as it applies to Congress, on the basis of a certain further test: in Newhouse's view, only institutions that have a purpose which is obligatory upon them are subject to institutional corruption (p. 562). The institutions which fulfil this

condition are those which have a fiduciary obligation to a principal or principals (p. 556). The US Congress has such a relationship to the American people. And various types of private sector actor, such as investment consultants or law firms, stand in fiduciary relationships with their clients, and can therefore be guilty of institutional corruption. But many of the institutions to which other writers had applied Lessig's criterion, or variants of it, have no such obligations; these accounts were thus applying the description too broadly.

Seumas Miller's account in his 2017 book *Institutional Corruption* has much in common with those of Thompson and Lessig: he gives a prominent place to the effects of corruption, and specifically to the undermining or damaging of institutional processes and purposes. In fact, his overall account is explicitly 'causal' in character. His formal definition (p. 82) is of *an act* of institutional corruption: this is an act that (to omit various qualifications) either 'despoils the moral character' of some occupant of an institutional role or undermines some institutional process or purpose. Miller counts both these sorts of effect as institutional corruption, because he opposes the institutional not to the individual but to the 'personal', which he confines to non-institutional contexts. The corruption of an individual *qua* occupant of an institutional role counts in his view as institutional corruption.

The approaches of Thompson, Lessig and Miller are all thoroughly examined in Emanuela Ceva and Maria Paola Ferretti's *Political Corruption* of 2021. The main concern of their discussion is to vindicate the 'continuity' of the institutional with the individual: in opposition to Lessig in particular, they contend that it's not possible for an institution to be corrupt without any of its members' conduct being corrupt (p. 59). They offer a subtle taxonomy of the different ways in which individual corruption can give rise to corrupt 'institutional practices'. The roots of such corrupt practices in the corrupt conduct of individuals are least clear to see, say Ceva and Ferretti, in what they call 'systemic' corruption, in which behavioural equilibria arise that are at odds with the *raison d'être* of the institution (p. 67ff.). But since 'there is no institution beyond the officeholders' interrelated actions' (p. 33), the continuity thesis holds even here.

Another author who has had much of interest to say regarding the corruption of institutions, specifically in democracies, is Mark Warren. He aims to show how the 'office-based', individualist conception of corruption is seriously inadequate: he observes, in particular, that it is 'a poor conceptual tool for identifying corrupt institutions and cultures, just because its normative leverage works by comparing individual conduct to duties of office' (Warren, 2015, p. 47). Corrupt institutions are instead to be identified by their effecting a 'corrosion of some feature that enables "democracy"'. In spelling out such features, Warren surveys not just the large-scale institutions of executive, judiciary and legislature, but the broader institutional domains

of the public sphere, civil society and the market, finding that corruption in each of these violates the democratic norm of 'inclusion'.

Among these prominent contributors to the discussion, then, there is disagreement about whether in institutional corruption some corrupt individual motivation may or must be present. Thompson and Lessig hold that this is never necessary, Ceva and Ferretti that it always is. Miller inclines to the latter view, while among Warren's various types of corrupt institution some but presumably not all involve corrupt motives. In the type of institutional corruption which I shall now delineate, corrupt motivation is present; Ceva and Ferretti's continuity thesis holds.

§2

In making the case that there is an important type of institutional corruption which these authors have missed, the essential first step is to register the difference between two senses of the term 'corruption'.⁷ In English there are at least two linguistic markers of this difference.

The first of these is a characteristic difference in prepositions: we speak both of corruption *in* politics, or *in* parliament, and the corruption, or the corrupting, *of* politics or *of* parliament. Likewise regarding corruption *in*, as contrasted with the corruption *of*, journalism, academic research, sport and many other practices or domains. Corruption *in* any of these, which is attributed to individuals or groups who have roles in the practice in question, is corrupt activity, some specific sort of abuse of such roles, or a disposition to engage in such abuse. By contrast, the corruption *of* politics, journalism, etc has to do with a degrading or undermining of those practices.⁸ The term 'corrosion' is sometimes used for this same sort of process, as for example by Miller (2017, p. 66). It's very plausible that a prime cause of such undermining is, precisely, corrupt activity; the two phenomena have close connections. Warren (2015, pp. 47–48) is not alone in speaking of the corruption *of* politics – the process, I am suggesting, of its degradation – as in one way or another criterial for what we should count as corruption *in* politics.⁹ But recognising the various close connections that there may be between the activity and the process evidently requires first recognising the distinction.¹⁰

Registering this distinction suggests that a locution such as 'political corruption' might be ambiguous, as between corrupt activity in politics and the degradation or corrosion of the sphere of politics. In practice, however, 'political corruption' no doubt usually has the first meaning. How about 'institutional corruption', though? Here I think either meaning can be quite naturally attributed: 'institutional corruption' can readily signify the prevalence of corrupt goings-on in an institution, but clearly it can also be a matter of an institution's becoming degraded.

There is in English a further, morphological difference which I would tentatively associate with the same distinction of senses. This is the difference between 'corrupt', the adjective, and the participle 'corrupted'. The adjective tends to be used exclusively with the meaning of abusiveness, generally in application to activities or their agents, whereas the participle can be used with either meaning. To illustrate: the London Olympics of 2012 were perhaps to some extent corrupted by systematic cheating – the author of the McLaren report certainly said so.¹¹ But that cheating did not make the Games corrupt.

This distinction of senses is fundamental to the argument that follows. I shall be claiming in Section 3 that the definitions proposed in the theories surveyed above are mostly best interpreted as definitions of something having to do with degrading or being degraded. By contrast, the type of institutional corruption I shall delineate is corruption in the sense of a specific kind of abusiveness.¹²

Since my account of institutional corruption represents it as closely analogous to the corruption of individuals, we should begin by considering that. I aim to show that the correspondence is a close one, whether individuals' corruption is thought of in the broader or the narrower of the two ways distinguished earlier. Although I think the broader construal preferable, I shall not argue for that judgment here. The present argument can be made out whichever construal is preferred.

'Abuse of public office for private gain' is a familiar definition of this broader kind, though the consensus for the 'public office' part has become less strong since the formula was first endorsed by the World Bank. Thus the definition used by Transparency International is 'abuse of entrusted power for private gain'. Now power achieved in a coup can hardly be called 'entrusted'. But I need not take a position here as to which characterisation of the position abused is to be preferred, and I shall at times refer simply to abuse of authority or of the powers of a role. Likewise, the choice of further specifications of what counts as 'private' or as 'gain' does not seem crucial for the present argument.¹³ Thus my account of institutional corruption should be understood as applying to any and all institutions whose officers or members can act corruptly.

However, I do depart from those familiar versions of the broad formula in one way. They are liable to suggest that in referring both to abuse and to the motive of private gain, they specify two distinct defects. But suppose a judge acquits a defendant because she has been bribed to do so, while actually the evidence, which she doesn't attend to at all thoroughly, would have called for the same verdict. The impropriety of her decision, its corrupt character, resides only in its 'why' and not also in its 'what'. The act is corrupt only because it has a certain improper motive. This singleness of ground is better reflected in a formula which characterises the act neutrally, and only the

motive evaluatively. Thus the small but important innovation in my definition of individual corruption: I'll say that for an act by an individual to be corrupt is for it to be, like the judge's, an exercise of the powers of a role that is *improperly motivated by private gain*. (The 'improperly' is of course essential: not all motivation by private gain is corrupt.)

The corresponding truth regarding institutions, I am claiming, is that an institution is corrupt if its rules – by which for the moment I mean its formal or official rules – are improperly motivated by private gain.¹⁴ Note that this proposition can easily be converted into one that is similarly related to a narrow definition of individual corruption, such as Thompson's. This would involve transactions between the corrupt institution and external parties. The phenomenon of 'regulatory capture' naturally comes to mind. A captured watchdog institution, for instance, would count as corrupt in the narrower sense if not just the application of its rules to cases but the rules themselves have been 'captured'. This would be a sub-type of our earlier example D, of the regulatory body, in which the improperly influential private gain to its officials is specifically gain furnished by the regulatees.¹⁵ This could of course include expectation of gain in the future: suppose for instance that regulations are relaxed so as to increase officials' chances of subsequent employment in the industry. My account of institutional corruption can thus be adapted to fit either a narrower account of individual corruption or the broader one that I tend to favour and will generally use: we can now say, according to the narrower version, that an institution should be judged corrupt when its rules' favouring of some third parties is improperly motivated by private gain to its officials.

Various questions quickly arise about this formula of rules' being motivated by private gain. First, what is meant by speaking of the motivation not of acts but of rules? As mentioned earlier, I mean the purpose or purposes which explain the rules' being in force. Motivations are specified in answer to the question what a given rule – whether it be a requirement, a permission, a provision of opportunities or of incentives – is truly for. An institution is corrupt, therefore, if private gain plays an improper role in sustaining its rules.

I should underline the temporal qualification here. An institution is corrupt just for as long as its rules are abusively sustained. For this to be the case, it is not necessary that those rules were originally improperly motivated; it may be that they came to be so only with time, as when some particular executive discretion loses the innocent rationale it previously had, but is preserved because of the abuses it permits. An institution is corrupt when, but only when, its rules are being improperly sustained by private gain.

This becomes clearer when we turn to a second question, to whom or what the relevant private gain accrues. It isn't necessary that it accrue to every member or officer of the institution, as the previously mentioned case B, of the corrupt cult, confirms. There it is the benefits to those senior members

who receive personal services which explain the persistence of the rules, however they may have arisen. What is decisive is how much authority the individuals in question hold within the organisation, so as to be able to control the rules. Thus an organisation can be corrupt at a given time without being corrupt throughout its existence, and without the observance of its rules being beneficial to all its members.¹⁶

This account of institutional corruption, besides being intuitively plausible, is also recommended by its fitting into a persuasive picture of one way in which this species of corruption can develop. An institution's being itself corrupt can be the terminus of a particular sort of process, a process whose prior stages see corrupt practice becoming more and more routine.

For instance, a parliamentary remuneration commission of the kind I described above as case A could evolve in this way. Initially, its procedures and protocols are well designed for its declared purpose. In particular, some of the officials of the committee are required to be independents, appointed through a procedure designed to ensure the selection is not controlled by the members of parliament. Then some appointments are made without the procedure being properly followed, and this is due to the promise of support for more generous pay. Now suppose this practice becomes more and more usual, to the point of being predictable by those who are in the know. This could naturally be called a gradual institutionalising of corrupt activity in the committee.

The term 'institutionalising' is apt here in two different ways, corresponding to the difference between institutions as *organisations* and institutions as instituted *practices*.¹⁷ The corruption is being institutionalised, or becoming institutional, in the sense of being on the way to characterising not just the officials but the institution itself. But it is also being institutionalised in the different, and rather ironic, sense of becoming itself an institution. That is, just as we sometimes speak of practices such as punishment, or pancake racing, as 'institutions', corrupt individual behaviour too, where it is frequent and predictable, could similarly be accorded the status of 'an institution'. In this somewhat marginal sense, a place may be said to suffer from 'institutional corruption' when corruption itself is an institution there.

The terminus of the process is reached when the same motivation of increasing the pay of the deputies, or MPs, eventually results in a change in the formal rules for appointment to the previously independent positions on the committee. The selection of committee members who are not MPs is explicitly entrusted to the MPs. What does this change of rules, bringing them into line with the previously abusive practice, mean for the level of corruption? It seems natural to say it is increased, or at any rate not decreased.¹⁸ And the account of institutional corruption developed here will support that judgement. Corruption is being gradually institutionalised, as non-independent appointment increasingly 'is the rule', as we say,¹⁹ and the

terminus of the process is that *the rule is* that appointment is non-independent – at which stage the institution itself, according to my account, has become corrupt.

This picture of the institutionalising of corruption can be elaborated further. There are familiar possibilities that lie between the two stages we have distinguished – between, that is, the widespread abusing of office by individuals and, on the other hand, an institution's formal rules being abusive. An institution's performance can also be significantly shaped by implicit norms, or by a certain organisational culture, which may be abusive. Attitudes which in a corruption-free organisation attach to breach of the formal rules may attach instead to compliance with them: members may disapprove of, and expect disapproval of, strict adherence to the rules, and think it makes sense at times to contravene them.²⁰ When an institution harbours such an abusive internal culture, should we attribute actual corruption not just to individuals but to the institution itself? I would be open to construing this article's thesis in that capacious way, as being concerned with an institution's 'effective' rules and not just with its official ones. But if we do so, we should still acknowledge that there is a further level of the institutionalising of corruptness beyond that of the internal culture, namely the level of the formal rules themselves being abusive. That is what makes an institution thoroughly corrupt.

A further recommendation of the conception I'm advocating relates to what makes a given instance of motivation by private gain 'improper'. We can provide a uniform account of the criteria of impropriety in the case of an institution's rules *and* the criteria that apply to individual officials' conduct, in terms of the supposed purpose of a given institution, the good²¹ that it claims to do. To take rules first: these are abusive, or improperly motivated, when the pursuit of private gain gives them a shape that serves poorly the institution's ostensible purpose. This is obviously the situation in case C, the abusive anti-corruption commission that I sketched: the influence that the pursuit of private gain has upon the rules is improper because it subverts the whole declared point of the commission. Other cases will be less stark, particularly where an institution's claimed purpose is multiple, or disputed, or indefinite. In such cases, there will also be vagueness about what amounts to abuse.

In Section 2 we saw that several authors (Thompson, Lessig, Newhouse and Miller) explicitly incorporate into their definitions of institutional corruption a condition of undermining the institution's purposes. These are actual purposes, whereas the criterion I have just endorsed refers to ostensible purposes. Clearly, the actual purposes that lie behind abusive rules are what make them abusive, not what set the standard they breach. In the corrupt remunerations committee, while the real aim of the rules is to license exorbitant pay, the ostensible aim will be, say, appropriate remuneration, and that is the standard which determines that the committee is corrupt.

The ostensible purpose will naturally be something which many people in the institution's actual setting regard as genuinely good. In an earlier phase of academic discussion of corruption it was debated whether the standard that decides what conduct is 'abuse', and hence corrupt, is constituted by public opinion, or the formal rules of a public office, or damage to some public interest.²² In these terms, my account best fits the third option: the criterion by reference to which a motivation's being improper, and hence an institution's being corrupt, should be judged is some purpose or purpose which, perhaps within a certain constituency, is regarded as publicly beneficial.

Given this conception of impropriety in the case of institutions, we can now see how the overall account of criteria of corruption can be a uniform one, namely if subverting an institution's claimed purpose is fundamental to corrupt individual conduct too. If this is the case, there will still be room to say that corrupt individual conduct, unlike the acts of a corrupt institution, normally does involve the breach of rules. An individual's act's being corrupt will the more surely mean breaking rules, indeed, the better adapted the rules are to the promotion of an institution's declared purpose. And when the purpose which the rules are efficiently designed to serve coincides with their declared purpose, the 'formal rules' criterion of impropriety will also hold good.

We can next ask about the behaviour of officials of corrupt institutions. Here again a persuasive parallelism emerges. In a corrupt institution as in a non-corrupt one, an official acts corruptly if their act is improperly motivated by private gain; this will generally involve compliance with the rules in the former case, and breach of them in the latter. And even in a corrupt institution, we can say that compliance with the rules can be innocent; the criterion of this would be whether the official would have complied even with non-abusive rules.²³ An institution's being corrupt does not implicate every official in improper motivation, and perhaps even those whose standing to gain by the rules is part of the reason why the institution counts as corrupt need not be motivated in their every decision by that prospect. They, and certainly non-implicated officials, may well comply with the rules just because they are the rules.

§3

The primary sense, I have proposed, in which an institution can be called corrupt is that its rules are improperly motivated by private gain to its members or officials, or at least to the more authoritative among them. I added that a narrower version of this proposal, adapted to the familiar narrower conception of individual corruption, would require that the gain which the rules facilitate be obtained through coordination with a third party, such as some actor within the industry that a given institution is supposed to

regulate. In the clearest case of such institutional corruption, the rules in question are formally articulated, but I suggested that an institution could also be reckoned corrupt on the strength of its informal 'effective rules', a matter of institutional culture, and of members' attitudes as well as their habits. The latter condition can hold to different degrees, and so I also suggested a further possibility, of corruption's being partially institutionalised. But that is a less distinctive aspect of my account. How distinctive, then, is the central idea of institutional corruption as residing in the abusiveness of effective rules, whether formal or informal? And how compatible is it with each of the accounts surveyed in §1?

Here I shall resort to the key distinction between corruption as abuse and as degradation. I shall maintain that the conditions specified by Thompson, and likewise those of Lessig, are most persuasive when interpreted as conditions of an institution's degradation. Under this interpretation, those two accounts are not directly at odds with mine, concerned as it is with corruption as abuse. I shall say the same of part of Miller's conception. But I turn first to two other authors, whose proposals have points in common with mine.

Among discussions in the recent scholarly literature, the one I'm closest to is Paul Gowder's, in his (2014) article 'Institutional Corruption and the Rule of Law'. Besides recognising two senses of the term 'corruption', he also reckons that both can have distinctively institutional applications. To that extent he and I agree. I would also go along with his characterising the two senses as a 'moralised' and a 'non-moralised' one: corruption as abuse fits the former description, corruption as degradation the latter. Beyond this, we differ. Gowder specifies his non-moralised type not in terms of degradation or damage but in primarily metaphorical terms, as 'pollution', or 'tainting'. And, unlike me, he takes it to be applicable to persons too; the reliance on metaphor perhaps makes that easier.

As for the moralised sense, whether applied to individuals or to institutions, Gowder expresses it in terms of 'disloyalty', rather than more generically of 'abuse', because his basic conception is of the narrower, three-party form. In institutions, corruption in the moralised sense is in his view a matter of their allowing officials to transact disloyally (2014, pp. 94, 98). This may seem not far from the narrower version of my account. Gowder also speaks of 'existing *de iure* or *de facto* norms' permitting such disloyalty (p. 96). Now this differs from my account in at least one way, by not including any condition regarding *why* it is that norms do this. I would maintain that when such permissiveness is not motivated by private gain but is a consequence of, say, negligence, or disorder, it does not amount to corruption. A further difference emerges on inspection: in the sorts of case he has in mind, Gowder attributes disloyalty to individuals – judges, police officers, lawmakers –, but attributes the corruption not to their specific institutions but to the state, on the grounds of its permitting

this. I take the different view that the corrupt character belongs to the specific institutions, when the 'disloyalty' is a feature of their own rules of procedure, and has a particular kind of explanation.

Another conception of institutional corruption with which my own has a partial overlap is developed by Daniel M. Weinstock. Speaking of 'the values and norms on the basis of which an institution is designed', he says that '[o]ne way in which corruption can take hold in an institution is when rules are intentionally introduced into the functioning of an institution that foreseeably divert it from those values and norms' (Weinstock, 2018, p. 228). Weinstock does not acknowledge any distinction of senses of the kind I have specified, but while the conception just referred to does seem best interpreted as a conception of institutions' abusiveness, he puts forward in addition two other types which can hardly be construed in that way (pp. 229, 231).

By comparison with these two treatments of the topic, those of Thompson and Lessig are rather remote from mine. I shall now make the case for seeing Thompson's as an analysis of institutional degradation, and hence not closely analogous to any property of individuals; if this is correct, much of it will apply to Lessig's conception too.

Thompson's earlier discussions were of institutional corruption in the US Congress, but clearly meant to be extensible to other public bodies at least. His three-part condition was that some non-personal gain to a member or officer be related to a service to some external actor in a way that tended to undermine institutional purposes or damage institutional processes, and a prime example of such a relation was proximity, for instance being routed through the same office.

We should first note that what Thompson is describing is a tendency to contribute to a *process*. He counts the damaging sorts of overlap or proximity between gain and benefit as corruption in as much as they are corrupting: their tendency is to corrupt. But to corrupt what, and in what sense of 'corrupt'? Here it appears that Thompson has two things in mind.

First, there is indeed some tendency to foster abuse of office; these connections or excessive closenesses are liable to make corrupt behaviour on the part of individuals more likely. Thompson speaks of gains being accepted and services provided 'under institutional conditions that tend to cause such services to be provided in exchange for gains' (Thompson, 1995, p. 31, and compare p. 103). When actual exchange comes into play, there is individual corruption. When only the potentially damaging conditions obtain, a type of fault is still imputable to the official or officials in question, but this fault is negligence or irresponsibility rather than corruption. Officials have some influence over these tendencies, and some responsibility for the healthy functioning of the institution. They therefore have some obligation to counteract the tendencies.

This is all clear enough, but does not by itself offer any rationale for calling this tendency to foster corrupt behaviour 'institutional'. Secondly, therefore, and much more conspicuously in Thompson's account, these overlaps and juxtapositions of a congressperson's activities are liable to corrupt the institution, in the other sense of contributing to the degrading or undermining of it, and making it less fit for purpose. It appears to be this latter feature which makes the label '*institutional* corruption' appropriate.²⁴

The pathology which Thompson picks out is of course real and worthy of civic concern, and indeed calling it 'institutional corruption' is permissible. Nevertheless, in so far as it can appropriately be called institutional, this is clearly corruption in the second sense.

It might be objected to this reading of Thompson's argument that his individual corruption is also damaging to institutions; so that tendency cannot be regarded by him as what differentiates institutional corruption. But as I read Thompson, 'institutional' is actually shorthand for 'merely institutional': in the absence of actual abuse, the effects of certain practices upon the institution come to the fore. There is institutional corruption, by Thompson's account, when, without being abusive themselves, officials reprehensibly do things, or permit things, of a kind that is liable to degrade the institution.

None of this, therefore, appears to be at odds with what I have been arguing in this paper. Indeed, for all that Thompson's important work shows, it might have been that the difference in sense of the term 'corruption' simply aligned with the difference in bearers: individuals can be corrupt in the sense of 'abusive', and institutions can be corrupted in the sense of 'undermined' but not corrupt. I have maintained, by contrast, that not only can individuals be corrupt but so also, in their own right, can institutions. Still, once the difference in sense is recognised, it is evident that my account and Thompson's are compatible. Mine is concerned with the corrupt, his with the reprehensibly damaging.

By comparison with Thompson's version of institutional corruption, Lessig's 'improper dependence' can more straightforwardly be attributed to Congress as a whole, and not just to features of members' conduct. This property too is better understood in terms of degradation than of abuse: the condition of dependence is a way of being somewhat degraded, of being less than fit for purpose.²⁵ In at least one place, in fact, Lessig appears to acknowledge the difference of sense I've been drawing attention to: he says that the corruption that consists of dependence is something quite other than the corruption of bribe-taking and so forth.²⁶

Miller's definition was, we saw, disjunctive in form: an act of institutional corruption is one that either despoils the moral character of some occupant of an institutional role or undermines some institutional process or purpose. We can now see that each of our two senses of 'corruption' is employed in

one of the disjuncts: under Miller's causal theory, acts of corruption are such as may either render some role-occupant abusive or effect some sort of degradation in an institution. Miller in fact develops the latter condition in a way that is close to Thompson's theory, which could indeed be called a causal theory too. That condition of Miller's is thus compatible with my account in the same way, namely by being about something else. It is less clear whether there is any tension with his first, character-related condition, since, like the other authors considered, I have not offered any analysis of Miller's preferred locution, 'act of institutional corruption'. But at any rate, Miller's theory appears not to entertain the question what it is for an institution to be corrupt in the sense of abusive.

Newhouse presents her fiduciary institutional corruption model as 'a generalisation of Thompson's original theory' (p. 584). It is not clear, however, that it is like Thompson's in respect of its relation to my own proposals. Newhouse gives a crucial role in her model to fiduciaries' 'incentives', as causing 'improperly weakened effectiveness at achieving the purposes of a principal'. Now if those incentives' influence extends to shaping informal rules which weaken effectiveness, it is an instance of institutional corruption as I have described it; if they only affect performance, it is better seen as a pattern of individual corruption.

The former alternative, of the shaping of informal rules, is well represented by the public procurement cases which Ceva and Ferretti describe, as illustrating the category of 'systemic corruption' in institutional practices: in those cases, submission of an unrealistically low bid is implicitly 'the ruling practice' (p. 69). This category of theirs thus counts as institutional corruption by my reckoning too.²⁷ Warren similarly offers some examples, such as corruptly modified rules of competition (Warren, 2015, p. 53), which fit my account well, among many others which are readily interpreted as individual corruption, more or less widespread.

Certain elements, therefore, in some well-known treatments of the subject show clear resemblances to the present account. But the earliest and most distinctive theories under the heading of 'institutional corruption' make best sense, I have argued, when read as dealing with the degrading or dysfunction of institutions. Should they in fact be explicitly repackaged in those terms? I have been arguing so far only for a comparative claim, that my conception of institutional corruption is more clearly deserving of the description in that it is more closely analogous to corruption in individuals. And undoubtedly the use of 'corruption' to refer to degradation and so forth is idiomatic, as when we speak of the corruption of politics or of sport. On the other hand, a pragmatic case might be made for avoiding applying the word to the conditions that Thompson or Lessig focus on, as helping to avert the misunderstanding Lessig refers to, of thinking these conditions must involve some abuses by individuals. It might even be suggested that in current

linguistic usage, unlike older usage, institutional degradation is only called corruption when it is thought some corruption-as-abuse plays a part in it: we wouldn't speak of the corruption of a country's judiciary unless we thought there was corruption *in* the judiciary there. But not being in a position to confirm either the pragmatic or the linguistic claim, I shall leave this question open.

§4

Corruption is by no means the only activity or attribute of individuals which is spoken of as also potentially 'institutional'. Similar things could be said of various sorts of virtue, such as generosity or resilience, but also and perhaps most familiarly of negative attributes such as racism and sexism. Let's consider, at least in outline, how the proposals I've defended regarding corruption in institutions compare with views commonly expressed under the heading of 'institutional racism', or being 'institutionally racist'.

The Macpherson report on the murder in London in 1993 of teenager Stephen Lawrence characterises institutional racism as 'the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin' (Macpherson, 1999, 6.34).²⁸ Taken by itself, this could be understood to cover two rather different possibilities: the failure could be a reflection of the organisation's policies, or it could be a result rather of the way they are carried out in particular cases. On the one hand, policies might be overtly expressive of racist beliefs and attitudes, as in South Africa under apartheid; on the other, it might be that racist beliefs or attitudes of individual officials lead to flawed application of what are broadly acceptable policies. The continuation of the same passage of the Macpherson report focuses just on the latter case, noting that some failings of individuals that might be thought more venial can have the same collective significance: institutional racism 'can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness or racist stereotyping which disadvantage minority ethnic people' (6.34).

This distinction between types of 'institutional racism' can also be expressed in the terms proposed in Section 2 above: just as we can speak of corrupt activity's being somewhat institutionalised when it is prevalent in an organisation, and contrast this with the organisation's being itself corrupt when its formal or informal rules are abusive, so likewise for racism. One form of institutional racism is where racist dispositions in an institution's officers, their effects augmented perhaps by the kinds of permissive attitude towards codes of conduct that go to make up an organisational culture, regularly lead to discriminatory action. Racism is to a degree institutionalised. Another, graver form is

where actually discriminatory rules render the institution itself racist in character.²⁹ Similarly, sexism might be a tendency observable in the application of rules that are not intrinsically defective in that way, or it might be – and of course often it is – that an institution's rules are of themselves discriminatory, in such a way as to make the institution itself a sexist institution.³⁰

In the domain of corruption, and arguably also in those of racism and sexism, important differences of degree underlie the binary initial classification proposed here. Corrupt practice can be more or less institutionalised, as was noted in Section 2, and similarly an institution's array of rules or policies also may be of mixed character, some of them being abusive and others unimpeachable. In practice, there will be quite broad grey areas. Nevertheless, if we recognise that an institution can be corrupt in its own right, there may be important implications regarding methods of combatting corrupt activity. Not all that is corrupt is in breach of positive rules or laws of any sort. When an institution's rules or policies are improperly motivated by private gain, much of the compliant execution of these, however regular, should be judged corrupt. In such cases, reform is evidently a more radical task than where it need only pursue compliance.

An institution is corrupt, then, when its rules are improperly motivated by private gain to its members or officials. In this article, I've not gone into great detail about the criteria of such impropriety, but it is clear enough that my account will extend the verdict of corruption not only of institutions but even of individual conduct somewhat more widely than do accounts that interpret the abusiveness of corrupt conduct as always involving some breach of existing rules. Still, I would suggest that in many circumstances this will prove to be a smaller extension than that of 'institutional corruption' under the proposals of either Thompson or Lessig.

I should repeat in conclusion, however, that this article's view of what it is for an institution to be corrupt is not necessarily at odds with counting the conditions specified by Thompson, or those specified by Lessig, as amounting to 'institutional corruption'. If this is interpreted as a sort of institutional corrosion or degradation for which officials can have a certain moral responsibility, the way is clear to acknowledging the claims of one or other of these authors as well as mine. All the same, it is institutions' being corrupt, in the way delineated in this article, which is more strongly analogous to individual corruption. In the sense in which individual office-holders can be corrupt, institutions can be too. And it may sometimes be institutional corruption of this kind that should be the primary institutional concern of anti-corruption strategy.

Notes

1. I also favour a particular answer to the question just mentioned about racism. See §4 below.
2. This formulation is close to one that is familiar in the literature, but differs from it slightly, as further explained below.
3. The rules mentioned in these examples are the formal or explicit rules that govern the respective institutions' operation. Later on, I shall extend the account to apply also to norms of a more implicit kind, such as go to make up an organisational 'culture'.
4. See for instance Gambetta (2004, pp. 5–13); Philp (2015, p. 22); Della Porta and Vannucci (2012, p. 4).
5. This is true both of the World Bank's usual definition and of Transparency International's. See also Johnston (2014, p. 9) and Rose-Ackerman and Palifka (2016, pp. 9–10).
6. In a more recent article (2018), he modifies some details of the account, but in a way which doesn't affect the present argument.
7. The distinction between these two senses has some partial affinity with the distinction postulated by Buchan and Hill (2014, pp. 7–8) between two historically durable conceptions of corruption which they label the 'public office' and the 'degenerative' conceptions.
8. When used to denote a process, 'corruption' can have, besides the active sense just indicated (as in 'money's corruption of politics'), a passive sense of being undermined or degraded ('politics' corruption by money') and an intransitive sense of becoming degraded etc ('the corruption of politics as a result of money's influence'). That latter phrase can also refer to a state or condition, of a greater or lesser degree of corruptedness. When a British political commentator, Peter Kellner, in the July 2015 issue of the magazine *Prospect*, called that year's hastily devised referendum in Greece on a potential bailing out by the EU 'a corruption of democracy', he no doubt had in mind (rightly or wrongly) a sort of degradation, and his words could be taken to mean either a degrading of democracy or a degraded form of democracy – or even, as I believe is often the case with 'corruption'-language, both.
9. Another influential figure to do so is Mark Philp, in his Philp (2018) and elsewhere.
10. Compare a remark of Scott's in his lucid discussion (Scott, 1972, p. 4).
11. Richard McLaren, at a news conference marking the publication of the first part of his report for the World Anti-Doping Agency, said '[t]he Russian Olympic team corrupted the London games on an unprecedented scale'. See e.g. Ziegler (2016).
12. The labels 'individual corruption' and 'institutional corruption' are also deployed in an article by Debra Satz (2013, p. 995), along with a third, namely 'intrinsic corruption', which she characterises with the help of a quote from Michael Sandel regarding how friendship can be corrupted. I would understand Satz's intrinsic type, like her institutional, in terms of degrading or undermining; this is what can happen to a friendship when certain sorts of commercial consideration intrude. At any rate, I shall not be suggesting that institutions can be corrupted in any third way besides the two I have distinguished.

13. For instance, someone persuaded by Adrian Blau's forceful case in favour of sometimes including politically partisan motives within the 'private' could understand my formula for institutional corruption similarly in relevant cases, such as my earlier A, C and D (Blau, 2018).
14. If the preceding paragraph's innovation is rejected, the argument to follow can still be made, but with a more cumbersome formulation of the thesis: an institution is corrupt if, from motives of private gain, its rules are abusive.
15. Arguably a private-sector organisation such as an auditing firm can be institutionally corrupt in a similar way (compare Warren (2004), p. 331).
16. Must the corrupting private gain be gain to individuals? Someone might suggest it would make for an equally strong analogy if this gain were some improper gain to the institution. That is to say, while corruption on the part of an individual is realised in acts that are improperly motivated by private gain to the same individual, corruption in an institution would be a matter of its rules delivering improper gain to the institution. But although an analogy might in this way perhaps be preserved, I am inclined to reject the idea. More exactly, even supposing there can be such a thing as rules' improperly benefiting an institution, I would say that this signifies corruption, rather than some other sort of defect, only when it involves improper gains to individual office-holders within that institution. In saying this, I am endorsing Ceva and Ferretti's 'continuity thesis', described earlier, concerning the relation between properties of institutions and of individuals.
17. Both ways of speaking are covered by Francesco Guala's characterisation of institutions as 'rules in equilibrium' (Guala, 2016). If we can expand that formula to say that for a particular institution to exist at a given time is for some system of rules to be followed by some people at that time, and for this situation to have a particular sort of resilience, then we can see this specification as applicable under both the senses I mentioned. Thus an organisation, or more broadly an entity in which members or officials have roles, exists in as much as these individuals follow, fairly reliably, rules that govern their roles; and similarly an instituted practice exists in as much as participants regularly guide their conduct by what they take the practice to call for from them.
18. My verdict on this point is in line with the overt recognition of 'legal corruption', by for example Kaufmann and Vicente (2011) or Dincer and Johnston (2020). But other accounts would seem bound to say the corruption decreases. If one thinks that the 'abuse' of an institutional role which constitutes corrupt conduct must necessarily involve breaking the institution's rules, it is difficult not to see an adjustment of the rules so that they align with formerly abusive practice as a corruption-reducing move.
19. Compare H.L.A. Hart on what is done 'as a rule' (1961/1994, pp.9, 55).
20. Compare Doron Navot's formulation (Navot, 2014, p. 16): '... abuse of power for private gain can become the norm, not the deviation ...'.
21. Regarding what sort of 'good' this would need to be, there are large issues which this article cannot engage properly with. We may note, however, that it is unlikely the result will be that corruptness can be correctly attributed only to public sector bodies. In particular, it looks pretty clear that there could be such a thing as a corrupt non-profit organisation, such as in my case B.
22. See for instance Gardiner (2002), p.29ff.

23. And correspondingly, one would think, for institutional acts: not all acts of or by corrupt institutions need be corrupt acts.
24. Thompson mentions two other points as favouring the label 'institutional', understood as contrasting with 'individual'. The gains and services involved in this type of corruption (campaign finance, constituent service, etc) are themselves proper to the institutional role of a democratic legislator, and the conduct in question 'violates principles that promote the distinctive purposes of the institution' (Thompson, 1995, p. 7; compare p.195, note 35). The former, however, is surely no strong ground, and the latter would appear to be equally true of individual corruption.
25. Lessig's is a non-moralised definition. The implications of this point are explored in a commentary by Philp and Dávid-Barrett (2015, p. 390).
26. See Lessig (2014), pp. 6–7: '... [T]he sense of "corruption" to which I refer ... isn't properly described as a "broader" sense of corruption than the modern sense. It's simply a different sense.'
27. Indeed, in the other sense of 'institution' noticed earlier, the practice of the low bid might be described as an informal institution in its context.
28. This characterisation has remained influential. It was endorsed, for instance, in the Baroness Casey Review (Casey, 2023, pp. 331–332).
29. This is an answer to one of the questions about collectivities mentioned in the first paragraph of this article.
30. We might speculate for a moment as to what conception of institutional racism would most correspond to how Thompson or Lessig characterise institutional corruption. I would tentatively suggest that it would see institutional racism as residing in practices that produce unjust racial disadvantage, but produce it in ways that don't involve racist attitudes at any point. If that is on the right lines, it may serve as another way of bringing out how corrupt institutions as I conceive them have much more in common with individual corruption than does institutional corruption on either of these other models. The difference will be like that between saying institutional racism involves racist attitudes, whether proximately or remotely, and whether manifestly or covertly, and saying (compare Zack (Ed.) Zack (2017), p. 305) that there's a kind of institutional racism that doesn't involve racist attitudes at all. But no doubt this is too conjectural a line of thought to put weight on.

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