

# APA Newsletters

NEWSLETTER ON PHILOSOPHY AND LAW

Volume 07, Number 2

Spring 2008

FROM THE EDITORS, STEVEN SCALET & CHRISTOPHER GRIFFIN

## ARTICLES

ISHTIYAQUE H. HAJI

“On Frankfurt-Type Examples”

MICHAEL McKENNA

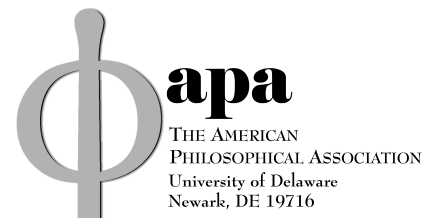
“The Loss of Innocence and the Things that Remain”

DEBORAH TOLLEFSEN

“Affectivity, Moral Agency, and Corporate-Human Relations”

PETER FRENCH

“Responsibility with No Alternatives, in Loss of Innocence,  
and Collective Affectivity: Some Thoughts on the  
Papers by Haji, McKenna, and Tollefsen”





---

## FROM THE EDITORS

---

### Edition in Tribute to Peter French

This edition honors the work and writings of Peter French and continues the analysis of topics central to his writings. Professor French is the Lincoln Chair in Ethics and Director of the Lincoln Center for Applied Ethics at Arizona State University. His writings and editorships have greatly influenced the field of applied ethics. In no small measure his work was a formative contribution during the time when applied ethics turned into a substantive area of specialty within the philosophy discipline. His writings on collective responsibility from over thirty years ago continue to shape topics in ethics, applied ethics, and legal theory, and his articles are widely reprinted in anthologies. He is the founder and senior editor of *Midwest Studies in Philosophy*, and, from 1988-2004, he was the editor of the *Journal of Social Philosophy*.

In this edition Professor Ishtiyaque Haji addresses an important concern within French's writings, whether moral responsibility requires that persons could have done otherwise. Professor McKenna examines French's account of the process of becoming a morally responsible adult from the prior state of moral innocence. Professor Tollefsen examines French's account of collective responsibility and considers whether his views can accommodate the central role of the emotions for establishing agency. Finally, Peter French responds to each of these essays. These exchanges both convey a sense of French's contributions historically, at least particular slices of these contributions, and they also offer new insights within current debates in applied ethics.

This edition is part of a series honoring and analyzing the writings of influential theorists in legal, social, and political philosophy. The format for each edition is to invite several commentaries and responses by a featured philosopher. The goal is to establish an engaging and lively exchange of ideas that contributes to the profession and is accessible to a broad audience, as befits the unique place of the *APA Newsletters*.

Steven Scalet  
Binghamton University (SUNY)  
Christopher Griffin  
Northern Arizona University

---

## ARTICLES

---

### *On Frankfurt-Type Examples*

Ishtiyaque H. Haji  
*University of Calgary*

I had the good fortune to participate in an NEH seminar on responsibility that Peter French conducted in 1995. During the course of the seminar, in addition to valuable discussion with my other colleagues on whether moral responsibility for various events—responsibility, for example, for both actions and omissions—requires freedom to do otherwise, French and I had a number of engaging exchanges on this topic. In large measure, we both agreed on the relevant views regarding responsibility and alternate possibilities that French summarizes in “Fate and Responsibility” (1992). In particular, we concurred that Frankfurt examples provide strong preliminary reasons for both compatibilists and libertarians to reject the principle of alternate possibilities: persons are morally responsible for what they have done only if they could have done otherwise. Drawing on Harry Frankfurt's work (1969), French advances the following Frankfurt example:

A person M [Mary] decides for reasons of her own to protest the treatment of the prisoners in the H-Blocks. She is then threatened by the IRA with horrible personal suffering if she does not protest. The threat is so horrible that any reasonable person would submit to it. M does protest. (1992, 51)

Reflecting on the example, French writes:

Is M morally responsible for protesting when she had no alternative to doing so? It will be suggested, of course, that M had the alternative of resisting the IRA threat, so the story can be modified to make M incapable of resisting the force that would make her protest. In other words, whatever that force is, M will protest, and she will do so either because she decided to do so or because she was forced to do so, but in no case will she fail to protest. The fact that she could not have avoided protesting is a sufficient condition of her having protested. However, that may play no role in the explanation of why she did protest. ... The point is that if our concern is the ascribing of moral responsibility, we should not place much weight on a fact that is irrelevant to explaining a person's behavior. Only the reasons a person did something in the circumstances should matter. Unavoidability does not explain Mary's behavior in the circumstances, so it is not relevant to the issues of her responsibility. (52-53)

---

If we think more deeply about the story, how, precisely, is it to be modified to make Mary incapable of resisting the force that would make her protest so that the modified story would be accepted by interested parties (such as libertarians) to constitute a real threat to the principle of alternate possibilities? We should not, for instance, initiate a change in the original tale that guarantees that Mary cannot but protest if this change begs important questions against the targeted audience. My tentative suggestion to French was that we could make headway if we worked with Frankfurt-type cases involving two features: first, overdetermination—one and the very same event, such as Mary's protesting, has two independent causal sources; and, second, one of these causal sources is deterministic. For example, although Mary protests on her own (this is one causal route or source to her protesting), it is also causally determined (via an independent causal route) that she protests when she does (and, thus, we may be assured that Mary could not do otherwise). Whereas French welcomed and strongly encouraged the idea of incorporating overdetermination into amended Frankfurt cases, he was rightly suspicious about exploiting determinism as the so-called "ensuring mechanism." The obvious concern with including this feature—an independent causally deterministic pathway leading, for instance, to Mary's protesting—in Frankfurt examples is that its inclusion in such examples would not be deemed proper by opponents of Frankfurt: various incompatibilists, for instance, would claim that if it is *causally determined* that Mary protests when she does, she could *not* have been responsible for protesting because determinism is incompatible with responsibility in the first place.

I believe, though, that this charge of question-begging may not be as strong as it might first appear. Prior to explaining why, some perspective will help to bring some of the salient features of the debate between "Frankfurt defenders" and "Frankfurt opposers" into relief.

Typical Frankfurt examples feature preemption. Embellishing French's original story confirms that they do so. In Stage 1, an agent, Mary, chooses (or decides) to do something, *X*, and intentionally *X*-s (she intentionally protests). We are to assume that whether you are a libertarian or compatibilist, on your account of free action and moral responsibility, Stage 1 Mary is morally responsible for choosing to *X* (and for *X*-ing). In Stage 2, the scenario is developed in a way in which something ensures that Mary (Stage 2 Mary) chooses to *X*—this thing supposedly precludes Mary from choosing to do other than *X*—without in any way interfering in Mary's choosing to *X*. We are meant to draw the conclusion that since Stage 1 Mary is morally responsible for choosing to *X*, and since Stage 2 Mary does not differ relevantly from Stage 1 Mary with respect to choosing to *X*, Stage 2 Mary is also morally responsible for choosing to *X* even though she could not have refrained from choosing to *X*. Individual Frankfurt-type examples may differ by way of what is offered in Stage 2 as the ensuring mechanism. In Frankfurt's original case (1969, 835-36), a "counterfactual intervener"—Black—who can manipulate the agent's mind is supposed to turn the trick. Stage 2 Mary chooses and does exactly what Black wants her to choose and do, and Black never intercedes. Had Stage 2 Mary, though, showed any involuntary sign of not choosing to *X*, Black would have intervened and forced Mary to choose to *X*.

Elaborating, suppose Mary believes that in her circumstances it is morally obligatory for her to protest. So she decides to protest (and proceeds to protest) partly on the basis that she ought to do so. It seems that she is deserving of praise for deciding to protest and for protesting. Unbeknownst to Mary, though, she could not have refrained from deciding to protest

due to the presence of an IRA operative, Black, who has the power to read and control Mary's mind. Black wields this power partly in virtue of possessing the following knowledge. Had Mary been about to refrain from deciding to protest, she would have displayed some involuntary sign—a neurological pattern, *N\**, in her brain—whereas if she had been about to decide to protest, she would have displayed a different neurological pattern, *N*. Had Black detected *N\**, he would have interceded in Mary's deliberations via direct stimulation of Mary's brain and would, in this way, have caused Mary to decide to protest. But Black detects *N*, the reliable sign for Black that he need not show his hand at all. Owing to Mary's deciding to protest on her own, in the absence of Black's intervention, it seems highly reasonable that Mary acts freely and is morally praiseworthy for deciding to protest (and, subsequently, for protesting) despite not having alternative possibilities with regard to this decision and action. It has, thus, been thought, as French notes, that Frankfurt cases provide strong *prima facie* reason to believe that alternative possibilities are *not* required for praiseworthiness or responsibility in general.

Perhaps the most potent objection against such examples—the "Dilemma Objection"—was initially suggested by Robert Kane (1985, 51; 1996, 142-44, 191-92) and then developed independently by Carl Ginet (1996) and David Widerker (1995, 247-61). The objection is in the form of a dilemma. If sign *N* is reliable, in the sense of being infallible, it can only be so because states of the agent (Mary) prior to the occurrence of the supposedly free choice (or action) are causally sufficient for this choice (and the sign indicates this). But if that is the case, then a *deterministic* relation obtains between the prior sign and Mary's subsequent choice, and this begs the question against incompatibilists who believe that determinism is incompatible with freedom or responsibility. On this first horn of the dilemma, the incompatibilist will insist that Mary is not responsible for her choice, for her choice was causally determined. If, on the other hand, sign *N* is not infallible and is only reliable in some weaker sense, then an agent (such as Mary) who acts freely in a Frankfurt example retains the ability to do otherwise when she acts on her own. On this second horn, the connection between the prior sign and subsequent choice is not deterministic. The presence (or absence) of the prior sign is, thus, consistent with the agent choosing or acting in a manner other than the manner in which she does. So, on this second horn, Mary could well be responsible for her choice; but as she could have chosen otherwise, the incompatibilist will claim that the principle of alternate possibilities remains unscathed.

In reply to the Dilemma Objection, Frankfurt defenders have responded in many different ways (see, for example, Fischer 1999; 2006; Hunt 2005; McKenna 2003; Mele and Robb, 1998; 2003; Pereboom 2000; 2001; 2003; Widerker 2006). Here, I propose a line of resistance to the first horn: I develop a Frankfurt example featuring overdetermination in which one of two causal routes to the decision (or action) in question *is* causally deterministic.

Consider an amended version of a Frankfurt-type scenario involving overdetermination that I have advanced elsewhere (Haji 2000). A British agent, Pemba, decides, at *t*<sub>0</sub>, on the basis of his own indeterministic deliberation, to squeeze the trigger at *t*<sub>1</sub>, and he does squeeze the trigger at *t*<sub>1</sub>, thereby bringing it about that Mary is killed by *t*<sub>2</sub>. His decision to squeeze the trigger is indeterministically caused in that there is a possible world, with the same laws of nature as the actual world, in which Pemba's own deliberative process occurs, but in which this process does not cause his decision, at *t*<sub>0</sub>, to kill Mary by *t*<sub>2</sub>. In this case, "Murder-1," a libertarian would presumably agree that, provided all other conditions of moral responsibility are

met, Pemba would be morally responsible for his decision and for the state of affairs *Mary's being killed by t2*.

Modifying Murder-1, assume that there is a device in Pemba's brain, the "mimic randomizer," that operates in the following fashion. When Pemba's decisions are indeterministically caused by desire/belief pairs of which he is conscious, the mimic randomizer is triggered. Once triggered, it initiates neural processes in Pemba's unconscious that mimics the actional sequence of events that Pemba initiates at the conscious level. So, for example, if Pemba's undetermined decision, *D*, to squeeze the trigger at the conscious level is caused by a certain desire/belief pair, *P*, the mimic randomizer, when triggered, initiates a sequence of events in Pemba's unconscious in which another desire/belief pair, *P\**, of which Pemba is acutely unconscious and which is type- or near type-identical to *P*, also leads, though deterministically, to the very same decision *D*. So there are two independent routes, one indeterministic (Pemba's reasoning at the conscious level) and the other deterministic (the sequence of events initiated by the mimic randomizer in Pemba's unconscious), each of which causally produces the very same event—Pemba's deciding at *t0* to squeeze the trigger. The world, then, in which events in this story transpire need not be deterministic; we need assume only that, in this sort of prior sign case, *one* causal pathway to Pemba's deadly decision involves deterministic causation. This is consistent with assuming that there is indeterminism elsewhere in Pemba's world. (As a *rough* analogy, imagine that, operating independently, two British agents, at *t1*, each initiates, at *t1*, a sequence of events, each sequence causally producing Mary's death at some later time, *t2*: each assassin fires a bullet into Mary. If one of the agents is "subtracted from the scene," poor Mary would still be killed by *t2* as a result of the activities of the other agent. Imagine, further, that the relevant sequence of events that Agent-1 initiates is not deterministic, whereas the pertinent sequence of events that Agent-2 initiates is deterministic.)

Should one not favor the mimic randomizer set-up, imagine that there is a mechanism, totally independent of Pemba's own conscious practical reasoning, which will deterministically cause Pemba to arrive at the very decision that he does to squeeze the trigger at the precise time *t1* when he indeterministically decides on his own to squeeze the trigger. One might wonder what happens if the two pathways diverge; specifically, what happens if Pemba's own reasoning favors the decision not to squeeze the trigger when the deterministic pathway favors the contrary decision? In this case, stipulate that the deterministic pathway overrides the indeterministic one and causally produces Pemba's deadly decision.

It seems that Pemba (Pemba *qua* conscious reasoner) is morally responsible for his choice. Still, he could not have decided otherwise because of the parallel deterministic sequence of events that is an independent cause of this choice. Needless to say, a "dilemma defender" may be expected to rejoin that Pemba's case succumbs to the first horn: since Pemba's deadly decision, *D*, is co-caused by a *deterministic* sequence of events, Pemba is not responsible for this decision. But this rejoinder is a bit too quick. For, presumably, the libertarian (or an interested party not already predisposed to either accepting or rejecting the principle of alternate possibilities) would concede that if the deterministic sequence of events were "removed from the scenario," Pemba (given certain responsibility-friendly assumptions) would or may well be morally responsible for his deadly decision in this "one-sequence scenario." (It will be convenient to refer to this one-sequence scenario as "Pemba-1" and to the "two-sequence" original scenario in which Pemba's deadly decision is co-caused

as "Pemba-2.") "Addition" of the parallel deterministic sequence of events to Pemba-1 does not in any way influence how Pemba brings about his decision in Pemba-1: if Pemba is an ultimate originator of his decision in Pemba-1, he is so in Pemba-2 as well (see below for elucidation); if, in Pemba-1, Pemba makes his decision in light of the belief that in so doing he is doing moral wrong, his decision in Pemba-2 is based on this belief as well; if Pemba satisfies various agency requirements of responsibility in Pemba-1, he satisfies these very requirements in Pemba-2 as well; if he exercises self-control in making his decision in Pemba-1, he also does so in Pemba-2, and so forth. So one might then well wonder how the removal of alternative possibilities, accomplished by the addition of the deterministic sequence of events to Pemba-1, "transfers" a case of responsibility to one of nonresponsibility.

An advocate of the principle of alternate possibilities—the "Papist"—might claim that Pemba lacks a certain species of control in Pemba-2, the sort of *control* one can have in making a decision or in performing a nonmental action only if *one has (pertinent) alternative possibilities*. This is an interesting claim but, given the dialectical context, the Papist should tread carefully in her use of this claim to vindicate the proposal that alternative possibilities are required for responsibility-relevant control.

Developing this point, first distinguish, briefly, among different notions of control. *Active control* concerns the direct causal production of agent-involving events, such as the agent's having certain values, desires, and beliefs, his making a certain evaluative judgment, his forming a certain intention or arriving at a certain decision, his executing an intention, and his performing a nonmental action. Thus, as Randolph Clarke and Alfred Mele explicate, such control can be taken, first, to constitute wholly or partly different types of direct actional control. Any action is an exercise of some sort of direct control by the agent. An action's proximal causation consists in its being nondeviantly caused by appropriate desires, beliefs, intentions, and the like. When an agent exercises direct actional control in performing an action, this action's proximal causation is partly what constitutes the agent's having direct actional control in that instance. An agent would exert this sort of control, for example, in (nondeviantly and properly) forming an intention, something that qualifies as a mental action. Active control can also be a constituent of indirect actional control as when an agent exercises such indirect control over the occurrence of an event that is not an action, this control deriving from the agent's direct actional control over earlier actions. Active control may, second, also have a nonactional form. For example, an event that would be the making of an evaluative judgment by some agent would not be an action. An agent's control over such an event, the occurrence of which is not itself the result of having performed earlier actions over which the agent had direct actional control, would be a function of the way in which the agent's deliberative causal process produced that event. This sort of event would be under its agent's active control to the extent that the (nondeviant) causal processes that produced it were free of certain sorts of influences. These would be influences that either would, as Mele proposes, undermine the freedom of the subsequent action the event produced, such as compulsion, manipulation, and insanity, or, as Clarke suggests, involve certain sorts of inefficiency and irrationality that may not be so severe as to undermine the freedom of the agent's subsequent action, such as the coming to mind, while deliberating, of irrelevant considerations or akratic influences (Clarke 2000, 26-27; Mele 1995, 225).

*Ultimate control* is concerned with forging an intimate link between an agent's putatively free action and the agent herself

so that it is, minimally, plausible to maintain that the agent is the “final” source of her action. Assume that any free action is caused. Two conceptions of ultimate control that are relevant to our discussion may be distinguished, negative and positive. Both conceptions share the following. (i) The cause, or at least a causal antecedent, of the free action must be a component of the type of cause that plays a salient role in the production of action or free action (such as the having of a suitable belief or desire). (ii) This cause (or part of it) must, in some obvious sense, be internal to its agent. (iii) The cause must be at least partly constitutive of the agent in a way in which, in virtue of being so constitutive, it would be correct to say that the action (or the free action) “truly” issues *from the agent* or is the “agent’s own.” One type of compatibilist, for instance, who claims that free actions causally arise from first-order desires with which we identify—first-order desires appropriately associated with higher-order psychological elements of ours—may accept these three conditions as sufficient for ultimate control (Frankfurt 1971). But no libertarian would do so unless the causal relatum of the action that meets these three conditions satisfies some further condition. A libertarian who endorses the *negative* conception of ultimate control conceives of this cause as an event (or state) and adds to the trio of conditions that this cause *not* be causally determined if it deterministically gives rise to the action or free action, or if indeterministically produces the action or free action. For example, Mele claims that an agent has (negative) ultimate control over a decision only if at no time prior to the making of the decision is there any minimally causally sufficient condition, that includes no event or state internal to the agent, for the agent’s making that decision. Hence, agents could have ultimate control over their actions only if determinism is false (Mele 1995, 211).

The *positive* conception of ultimate control adds to (i), (ii), and (iii) the additional condition that the action (or free action) be agent-caused. Agent-causal accounts of free action typically maintain that the freedom moral responsibility requires depends on agents possessing causal powers to make choices or perform actions without being causally determined to do so. On these views, the variety of causation implicated in an agent’s making a free choice is not reducible to causation among ordinary events, including events involving states of the agent or the agent. Rather, the sort of causation is an instance of a substance or particular—the agent—directly causing a choice or a causal precursor of the choice, but not by way of any states or events. Proponents of agent-causal accounts of free action claim that when an agent agent-causes a free action, she herself is an uncaused cause of that action. In this way, she is the ultimate source and, consequently, an ultimate originator of her action (see, for e.g., Clarke 2003). Now let’s revert to the Papist’s concern that Pemba in Pemba-2 lacks freedom-relevant control or, if one wants, responsibility-grounding control, in deciding to squeeze the trigger owing to his not being able to decide otherwise. The control in question could not be *active* control. At bottom, active control is a species of causal control. The mere lack of alternatives (secured by inclusion of the deterministic pathway in Pemba-2) cannot augment or diminish whatever (active) causal control that Pemba exercised in deciding and acting as he did in Pemba-2 (see, for e.g., Haji 2003; 2006).

What about negative ultimate control? When Pemba decides on his own to squeeze the trigger, his decision is indeterministically caused in so deciding. Given overdetermination, it is, of course, also deterministically caused. Suppose we were to “subtract” from Pemba-2 the independent deterministic causal route to his decision. Then, presumably, we would agree that Pemba exercises negative ultimate control in making his decision. And let us simply suppose that such control suffices for freedom-relevant (responsibility-grounding) control.

Now “add,” again, to Pemba-2 the independent deterministic causal route. Addition of this causal route does not in *any way* interfere with Pemba’s bringing about his decision on his own (although it, too, brings about the decision). So it would be puzzling why, in the two-pathway overdetermination version of the story, Pemba is not responsible for his deadly decision.

It might be rejoined that what negative ultimate control gives you is freedom from control by the past. If your choices are causally determined, then there are factors over which you have no control of any kind and which are causally sufficient for your choices. To be responsible, though, for your choices, your choices must be “up to you” in that you must be responsible, at least partly, for anything that is a sufficient cause of, or motive for your choices (Kane 1996, 73-74; Fischer et al. 2007, 22). Furthermore, having negative ultimate control in making your choices is a necessary condition for your choices to be “up to you” in this libertarian fashion. This rejoinder, though, is suspect. For consider the very first free action of yours. Suppose that this action is a mental action—some decision that you make. As it is a mental *action*, this decision is caused by antecedents such as your having a desire or belief (or your being in an appropriate motivational state). Either these antecedents are free in the sense that you have the control, whatever it precisely is, that moral responsibility requires regarding these antecedents, or they are not free. The first option is not possible on the rejoinder that we are entertaining and on the hypothesis that your pertinent decision is your first free decision. This is because if these antecedents—your having of desires or beliefs—are free, they are *indirectly* free; they owe their freedom to the control that you have over (perhaps other) “basic actions,” again, whatever these are, regarding which you are directly free or have direct control. But these basic actions (assuming there are some) that supposedly give rise to the causal antecedents of your decision cannot be free if this decision is the *first* free action of yours. On the second option, your decision is free despite its causal antecedents not being free. But if this decision can be free even if your making it has proximal antecedents regarding none of which you have control, then you have given up on the proposal that lies at the heart of the rejoinder, that to be responsible for a choice, you must be partly responsible for anything that is a sufficient cause of, or motive for your choice. In addition, if you hold that your decision can be free even though you are not free with respect to its causal antecedents, then you might as well embrace compatibilism.

Lastly, as far as positive ultimate control is concerned, an agent is an ultimate originator of her free actions because she is an uncaused agent-cause of them. Clarke has developed an interesting “integrated agent-causal account” of free action according to which a free action is *both* agent-caused and indeterministically caused by prior apt agent-involving events (Clarke 1996; 2003). If an event can, in principle, be both agent-caused and indeterministically event-caused, as Clarke proposes, then it seems that it should also be the case that that event can, in principle, be both agent-caused and deterministically event-caused, as Clarke concedes. Revert, again, to this sort of thought experiment: First, modify Pemba-2 so that it is a one-path case in which Pemba agent-causes his deadly decision, and assume, this time around, that his agent-causing his decision suffices for this decision’s being free. Then we would agree that Pemba exercises positive ultimate control in deciding as he does. Now, reintroduce in Pemba-2 the independent deterministic causal route to Pemba’s deadly decision. This addition has no influence whatsoever on Pemba’s deciding on his own. Specifically, Pemba’s lacking pertinent alternatives on re-addition of the independent deterministic pathway does not in any way undermine Pemba’s being an uncaused agent-cause of his decision. So, once again, it would

seem implausible to suppose that Pemba is not responsible for his decision to kill Mary in the two-pathway overdetermination incarnation of the story.

We should, hence, conclude that the Papist's claim that in the two-path case (Pemba-2), Pemba lacks freedom-level control *because* he lacks pertinent alternatives ought to be taken with a grain of salt.

Finally, the Papist might dig in her heels and insist that one *cannot* be responsible without having the control that comes with having alternative possibilities. But this simply amounts to refusing to entertain seriously Frankfurt-type thought experiments, one primary objective of which is to question whether having alternatives is a requirement of enjoying responsibility-relevant control. This sort of refusal to engage debate with the Frankfurt defender is especially suspect if one is not already committed to the view that responsibility requires alternative possibilities, but is reflectively undecided over whether leeway is indeed essential to responsibility (Haji and McKenna 2004; 2006).

In conclusion, I agree with French that responsibility is compatible with lack of freedom to do otherwise because "we have good grounds for holding people responsible for some of the things they do even if they are unavoidable" (1992, 54).

## References

- Clarke, Randolph. 1996. "Agent Causation and Event Causation in the Production of Free Action." *Philosophical Topics* 24: 19-48.
- Clarke, Randolph. 2000. "Modest Libertarianism." *Philosophical Perspectives* 14: 21-45.
- Clarke, Randolph. 2003. *Libertarian Accounts of Free Will*. New York: Oxford University Press.
- Fischer, John M. 1999. "Recent Work on Moral Responsibility." *Ethics* 110: 93-139.
- Fischer, John M. 2006. "Free Will and Moral Responsibility." In *My Way: Essays on Moral Responsibility*. 182-216. New York: Oxford University Press.
- Fischer, J.M., Kane, R., Pereboom, D., Vargas, M. 2007. *Four Views on Free Will*. Oxford: Blackwell Publishing.
- Frankfurt, Harry. 1969. "Alternate Possibilities and Moral Responsibility." *Journal of Philosophy* 66: 829-39.
- Frankfurt, Harry. 1971. "Freedom of the Will and the Concept of a Person." *Journal of Philosophy* 68: 5-20.
- French, Peter. 1992. "Fate and Responsibility." In *Responsibility Matters*. 44-54. Lawrence, Kansas: University Press of Kansas.
- Ginet, Carl. 1990. *On Action*. Cambridge: Cambridge University Press.
- Ginet, Carl. 1996. "In Defense of the Principle of Alternative Possibilities: Why I Don't Find Frankfurt's Arguments Convincing." *Philosophical Perspectives* 10: 403-17.
- Goetz, Stewart. 1998. "A Noncausal Theory of Agency." *Philosophy and Phenomenological Research* 49: 303-16.
- Haji, Ishtiyaque. 2000. "Alternate Possibilities and Responsibility." *Journal of Social Philosophy* 31: 259-67.
- Haji, Ishtiyaque. 2003. "Alternative Possibilities, Luck, and Moral Responsibility." *The Journal of Ethics* 7: 253-75.
- Haji, Ishtiyaque. 2006. "The Principle of Alternate Possibilities and a Defeated Dilemma." *Philosophical Explorations* 9: 179-202.
- Haji, Ishtiyaque, and McKenna, Michael. 2004. "Dialectical Delicacies in the Debate about Freedom and Alternative Possibilities." *Journal of Philosophy* 101: 299-314.
- Haji, Ishtiyaque, and McKenna, Michael. 2006. "Defending Frankfurt's Argument in Deterministic Contexts: A Reply to Palmer." *Journal of Philosophy* 103: 363-72.
- Kane, Robert. 1985. *Free Will and Values*. Albany, NY: State University of New York Press.
- Hunt, David. 2005. "Moral Responsibility and Buffered Alternatives." *Midwest Studies in Philosophy* 29: 126-45.

Kane, Robert. 1996. *The Significance of Free Will*. New York: Oxford University Press.

McKenna, Michael. 2003. "Robustness, Control, and the Demand for Morally Significant Alternatives: Frankfurt Examples with Oodles and Oodles of Alternatives." In *Freedom, Responsibility, and Agency: Essays on the Importance of Alternative Possibilities*, edited by Michael McKenna and David Widerker. 201-17. Aldershot, England: Ashgate.

Mele, Alfred. 1995. *Autonomous Agents: From Self-Control to Autonomy*. New York: Oxford University Press.

Mele, Alfred and Robb, David. 1998. "Rescuing Frankfurt-Style Cases." *Philosophical Review* 107: 97-112.

Mele, Alfred and Robb, David. 2003. "Bbs, Magnets and Seesaws: The Metaphysics of Frankfurt-Style Cases." In *Freedom, Responsibility, and Agency: Essays on the Importance of Alternative Possibilities*, edited by Michael McKenna and David Widerker. 127-38. Aldershot, England: Ashgate.

Pereboom, Derk. 2000. "Alternative Possibilities and Causal Histories." *Philosophical Perspectives* 24: 119-37.

Pereboom, Derk. 2001. *Living Without Free Will*. Cambridge: Cambridge University Press.

Pereboom, Derk. 2003. "Source Incompatibilism and Alternative Possibilities." In *Freedom, Responsibility, and Agency: Essays on the Importance of Alternative Possibilities*, edited by Michael McKenna and David Widerker. 185-99. Aldershot, England: Ashgate.

Widerker, David. 1995. "Libertarianism and Frankfurt's Attack on the Principle of Alternative Possibilities." *The Philosophical Review* 104: 247-61.

Widerker, David. 2006. "Libertarianism and the Philosophical Significance of Frankfurt Scenarios." *Journal of Philosophy* 103: 163-87.

---

## The Loss of Innocence and the Things that Remain<sup>1</sup>

Michael McKenna  
Florida State University

In "Losing Innocence for the Sake of Responsibility," Peter French begins by noting how little attention philosophers have given to the notion of moral innocence, and of its loss.<sup>2</sup> What French has in mind by innocence is not a matter of the relation a person might have with respect to an act or omission; it is, rather, with the moral status of those persons who, for whatever reasons, have not yet come to be morally responsible agents. The typical cases involve children, but the status of innocence need not be limited to children. Severely mentally retarded adult persons are innocents as well, and we could no doubt imagine other sorts of cases. In any event, I shall focus on normally functioning, healthy, mentally able children who have yet to enter fully (or sufficiently) the moral community as competent moral agents.

I have always admired French's essay, and it has often struck me that, indeed, so few philosophers working on issues in the theory of moral responsibility have tended to the eminently important moral status of innocence, as well as the importance of its loss. While I suppose it is a metaphysical possibility that a person could come pre-packed as a fully functioning moral adult, on this planet, that is not how things work. Thus, a theory that explains what it is to be a morally responsible agent should, one would think, have something to say about how one becomes a morally responsible agent. This lack of attention is especially unfortunate since the moral development of children is certainly a topic worthy of philosophical effort.

In this paper, I will begin by arguing in support of French's controversial thesis that we morally competent adults have an obligation to usher innocents from their moral condition, and

this involves opening children up to the possibility of evil. I will then attempt to build upon his proposal since, in my estimation, he leaves unanswered the sorts of questions that need to be answered if we are to take seriously the claim that we should facilitate the process whereby our young come to face evil.

1. In what, according to French, does the loss of innocence consist? French entertains Kierkegaard's thesis, as revealed in the story of Adam and Eve, that it involves the realization of the possibility of disobedience (32). But French correctly rejects this explanation since one could remain a moral child while coming to recognize the possibility of defiance, for instance, as children do when they see the power they possess in their ability to unsettle their parents. According to French, the loss of innocence involves both a loss and a gain. Furthermore, he contends, what is lost is intimately bound up with what is gained. What is gained, French proposes, involves learning how to redescribe things by the acquisition of a newfound conceptual understanding. With this discovery comes the realization that one had hitherto operated under the illusion of distorted, misinformed, and, in essence, childish descriptions of the moral world. So, in losing innocence by way of coming to grasp the deeper understanding of the moral world, French maintains, "one loses the option of seriously using the illusions of innocent description" (36).

As for what is gained, French argues that the conceptual understanding acquired must not only have a certain content, but also it must be acquired in a certain way. As for the content, French follows Aristotle's requirement for knowledge of the universal in morality.<sup>3</sup> What one comes to understand is not only good and evil, but of one's capacity to do it. Focusing on evil, French writes:

Experiencing evil in the loss of innocence is grasping for the first time the possibility that things might have gone differently, and so seeing what would have been good in the situation, and so seeing yourself as capable of evil. To do that one needs to know evil in the universal sense to which Aristotle alludes. Ignorance of the sense of evil (and therefore good) is just what characterizes innocents. (39)

This captures the content of what is learned, but not how. Making use of Bertrand Russell's distinction between knowledge by acquaintance and knowledge by description,<sup>4</sup> French maintains that the conceptual acquisition of evil, as well as one's ability either to do it or suffer it, cannot arise exclusively from description. To lose her innocence, one must have some experience in which she, so to speak, faces the moral reality of the world herself, and in doing so comes to have a deeper conceptual understanding of the moral topography of the world and her place in it. French writes,

...we should say that a condition for a person's knowing that such and such behavior is wrong or evil is that the person must already have had a private experience of evil. Learning the principles of morality by description—and that one is subject to them—takes one far beyond one's personal experience. That is what Russell calls "the chief importance of knowledge by description." The process of moral education, however, requires acquaintance in some manner or fashion. (41)

In my estimation, French overstates this last point. An innocent might be able to know at least some of the principles of morality, but yet not be able to apply them accurately or to appreciate her relationship to them. Nevertheless, the salient point here is that the loss of innocence involves an innocent's coming to face evil directly, to come to know it by acquaintance.

French makes two further points that lead to the controversial thesis that I mentioned above. The first is that the loss of innocence is a cultural artifact, not something naturally occurring (36). For a person to grow into the state of a morally responsible agent, she must, so to speak, come to acquire a relationship to her moral world that is created by social conditions and expectations that are not of her making, nor of nature's. As French notes, because of this, one measure of the quality of a culture or a society is the manner in which children's innocence is protected, and the manner in which their loss of it is facilitated. The second point is that, due to the first, mature members of a moral community have a moral obligation to aid in bringing about the loss of innocence for their youth, their adolescents (42). This is required, as French observes, for the straightforward Hobbesian sorts of reasons that absent competent moral agents, moral contracts cannot be relied upon as stable social arrangements for the well being of society (41). More generally, we want our children to grow up to be morally virtuous, and, hopefully, even morally heroic. They cannot do that and remain mere innocents. Hence, the obligation is upon us. But if it is, and certainly French is correct that it is, then the disturbing implication stares us in the face. If the loss of innocence requires direct acquaintance with evil, then our obligation to our children is, at least, to create the conditions in which they face it, and as French writes, "the problem here is that such a duty could be misconstrued as a license for child abuse. Matters here are delicate" (42).

2. Most certainly, matters here are delicate! But delicate though they be, French is largely correct in his treatment of innocence, the importance of its loss, and our moral obligations in light of that. Before proceeding, I pause to elaborate and perhaps refine several of the points French makes in his characterization of the loss of innocence itself. To begin, I think that French should acknowledge something that he does not, though I do not think anything he says is in conflict with the point: The loss of innocence is not, at least not clearly, a guarantor of entry into the class of morally responsible agents. This is because what is lost need not be accompanied by the conceptual gains that French finds necessary for becoming a moral agent. A young person might lose the option of seriously using the illusion of innocent description, and yet not be able to supplant it with a stable understanding of good and evil, of morality. The young child who is the victim of sexual molestation will forever lose the possibility of discovering his or her budding sexual life through the imaginative language of a wistful teenager, nervous and hopeful about the joys of love and lust. Such a child's sexual innocence has been stolen, and beyond the physical harm, this surely must be what constitutes the deepest and most contemptible aspect of the evil done to these children. Given this sort of harm, these children could hardly be expected to have acquired the sexual knowledge and maturity to understand relationships of intimacy in adult terms.

A related point has to do with something French mentions only briefly, which is the "illusion of innocent description." In my estimation, innocent description is crucial to understanding innocence, and French is exactly correct to call it an illusion, something that can readily be taken for real but is not. A caricature of innocents is that they have no understanding of morality at all, or that they are utterly ignorant of the parsing of people or actions into the categories of good and evil (at least good and bad). But that is not so. Through myth and fiction, with simple training, we encourage our children to be more like some and less like others, and so we instill a fairly simplistic moral order, one in which, for example, the superhero is always pure, strong, physically superior, handsome or beautiful, and the villain always tainted, physically enfeebled, ugly, and so on. (Have a look at the old Batman or Superman cartoons.) The

illusions of innocent description are largely the cultural artifacts of the simplified moral order we initially use to educate (or indoctrinate) children.

French remarks that we fear our loss of innocence and our moral maturity because this process can be an assault on our “confidence in the continuity of self” (37). As our childhood illusions are so intimately connected with our hopes, joys, fears, and so on, as one loses them, she can experience them, French speculates, as an attack on her very self. I do not dispute French’s claim that we might come to fear our loss of innocence for these reasons, but I think that there is, at least often, another very different basis for fearing this loss. Consider the following passage in the closing pages from J.D. Salinger’s *The Catcher in the Rye* when Holden’s own grip on his childhood illusions are melting away:

But while I was sitting down, I saw something that drove me crazy. Somebody’d written “Fuck you” on the wall. It drove me damn near crazy. I thought of how Phoebe and all the other kids would see it, and how they’d wonder what the hell it meant, and then finally some dirty kid would tell them—all cockeyed, naturally—what it meant, and how they’d *think* about it and maybe even *worry* about it for a couple of days. I kept wanting to kill whoever’d written it. I figured it was some pervert bum that’d sneaked in the school late at night to take a leak or something and then wrote it on the wall. I kept picturing myself catching him at it, and how I’d smash his head on the steps till he was good and goddamn dead and bloody. But I knew, too, I wouldn’t have the guts to do it. I knew that. That made me even more depressed. I hardly even had the guts to rub it off the wall with my *hand*, if you want to know the truth. I was afraid some teacher would catch me rubbing it off and think I’d written it.<sup>5</sup>

While Holden is coming of age and his own moral education is getting under way, while at least some of his childhood illusions are fading, he is furious at the thought of threats to the innocence of Phoebe, whom he loves. But notice that his own moral understanding is still certainly that of a confused and enraged young boy: It must be a pervert and a bum, one who pees on school property after hours, who could execute such a horrible moral transgression as to write these filthy words! And no doubt, the justice he deserves is to have his head bashed in for it. What the case of Holden illustrates, I think, is that we might also fear the loss of innocence since, once we have come to realize the bankruptcy of our earlier simplistic childhood moral illusions, we are uncertain how to replace them with a more stable understanding of the moral world, and so we are uncertain what to do, or how to live. We are left aware that we need a far more nuanced map of our moral surroundings, but how are we to acquire it?

I offer one more qualification about French’s view on the loss of innocence, which concerns his claims about knowledge of evil. Some might object that French is too cavalier in his presumption that we morally responsible agents, we competent adults, are adequately equipped to know evil. Isn’t the very notion of evil itself culturally constructed and open to sufficiently controversial interpretation that it is a stretch to claim that losing innocence requires the acquisition of conceptual knowledge of evil? If so, it might be objected, then the whole lot of us remain innocents. I think the objection is misplaced, though French might have said more to guard against it. He does note that innocence is a scaler notion, one that admits of degrees (41). This leaves it open that all of us remain limited in our moral understanding, fallible even where we have some grip on right and wrong, and at least open to new moral discoveries. But this

does not quite speak directly to the worry, for part of it is that there is no settled thing which is evil to demand that innocents come to understand that. Here, I believe, the proper reply is that the moral life, at least here on earth, does not work that way. Whatever noises about cultural relativism one might make, nowhere do we find cultural practices in which no domain of behavior is regarded as evil, or at least deeply morally wrong. What we ask of our children, as they emerge into adulthood, is to recognize for our time, for our place, where those limits are, as well as one’s (awesome) ability to violate those limits.

3. Now consider French’s disturbing contention that we competent moral adults have a moral obligation to expose innocents to the possibility of evil. To some, French’s proposal runs contrary to a fundamental tenet of parenting. A parent’s job is above all to shield his or her children from evil or any other kind of harm. However the young come to lose their innocence, it is not by our facilitating their exposure to evil. I think that this tenet is misguided, but to understand why French’s alternative to it is not, questions need to be answered. How are we to facilitate the process whereby the young face evil? Do we directly expose them to it? How do we equip them to come through it properly?

French notes that in primitive societies there are clear rights of passage orchestrated through ritual and meant to mark the point at which a young person can no longer claim moral exemption by virtue of his or her status as an innocent (42). He remarks that in our industrialized society, these rituals gave way to parental explanations of “the facts of life” (42). Here, I think French under-describes our own resources. There are, after all, such rituals as confirmation for Christians, or the bat or bar mitzvah for Jews. Even setting these sorts of examples aside, in our society we often have something similar to the rituals French has in mind: teenagers graduate and go off to college; a young person heads off to boot camp; an oldest son or daughter is brought into the family business, or expected to take on parenting duties for younger siblings or nursing duties for a sickly family member. In virtually all of these cases, the transitions involved provide the opportunity for exposure to the underbelly of the moral world: a college student can cheat, squander money, have uninhibited sex, and experiment with dangerous drugs, all without fear of the watchful eye of mom or dad; a soldier in boot camp is actually taught in exquisite detail the techniques for taking human life; a child brought into the family business might face for the first time the opportunity to exploit or cheat others for personal gain; and so on.

Of course, these observations merely report how we in fact often do facilitate the process of losing innocence. They do not tell us how we *should* do so. Some of the standard methods are obviously inadequate. One reason is that the sorts of experiences likely to arise through some of these processes are out of sync with the evils presented in our contemporary life. In Spartan culture, for instance, rites of passage were appropriately linked to the travails of Spartan life. The evils a Spartan might face informed the ways that the young would be introduced into adult moral life. Packing up and going off to college, by contrast, has become largely a way of deferring the experiences of adult life rather than learning to cope with them. Part of the difficulty, however, for our pluralistic society is precisely that we have no unified set of cultural values and goals, and so what should count as “appropriate innocence-ending experiences” (to use French’s words, 42) is hard to discern. Nevertheless, there are clearly strategies that fail. In my estimation, regrettably, the typical transition to college life is one that has become, by and large, a failure in this regard. (Though, naturally, there are exceptions.)



Given the above reflections, what does seem clear is that the moral obligation of adults is to foster innocence-ending experiences that are naturally suited for the moral life young adults are liable to face. Perhaps, then, the obligation is to create the possibility for multifarious moral experiences, ones in which the young are exposed to the travails of life on the economic edge, life in the interstices of racial conflict, life at the front of environmental destruction, life as an outsider or foreigner on the global scene, as well as, of course, the typical experiences any person must face while emerging into adulthood, such as learning to cope with one's sexual urges, or resist the temptation to act from anger or hatred. If so, this indicates that one common style of parenting in our time is especially ill-suited for helping our children become competent moral agents, and this is the style of the "helicopter parent." The helicopter parent is the one who embraces the tenet I mentioned above—the one holding that a parent's job is above all to shield his or her child from evil or any other harms. This parent pulls her child from a school because there is a slight increase in violence, or will not let his children run about the neighborhood because so many of the other children come from broken homes where lots of poor language is used and the mother entertains too many men. The helicopter parent is inclined to home schooling, and conceives of parenting as largely a matter of creating a protected environment complete with a set of prohibitions his or her child should follow so as to protect the child from the evils of an encroaching morally corrupt world.

Of course, French's proposal, and the one I have elaborated on, is not that our obligation is to directly do evil to our children or even, so to speak, throw them directly into it. Human nature and the contingencies of life will provide sufficient opportunities for encounter with evil. What we should do is provide chances to face these opportunities, more or less controlled environments for first encounters where others are on the scene to lend a hand, and hopefully even intervene when things go wrong. This, I take it, is what French means when he writes of "guiding children through the passage into adulthood" (42).

Even supposing that we do have some sense of how to facilitate the process of losing innocence, there is the further question of how we prepare our children for the transition. Of course, there are the obvious considerations. Intelligence, a solid education, health, and physical fortitude will all play a role. But in closing I will offer one further element, which brings me back to French's mention of the illusions of innocent description. Those illusions, I contend, must be of a certain sort. They must, I believe, contain the seeds of basic, true moral insights. In this way, our preparation for the loss of innocence begins with the moral myths we first give to our children, the ones they use to build their own childish, illusory sense of the moral order. If those myths we first give to our children—with the stories we read to them, the simple explanations that we give, and the like—are not grounded in some sound moral convictions, we will leave them with no anchor when the illusion is shattered. Indeed, most fables and fairytales offer the seeds of deeper moral understanding. Snow White, beautiful though she was, had no vanity, and Cinderella's charm had nothing to do with the rags she wore or her lot in life. The big bad wolf might at first appear no different than your loving grandmother, and so on. And when in Maurice Sendak's *Where the Wild Things Are*, Max made mischief and was sent off to bed without his super, he went on his wonderful adventure where he tamed terrible beasts (of course his own emotions) only to discover that he wanted "to be with someone who loved him most of all."<sup>6</sup>

In his analysis of morally responsible agency, Ishtiyaque Haji speaks of the initial instilment of an evaluative scheme in children, one that is a necessary condition for a young person's

coming to have an authentic set of values that are her own.<sup>7</sup> One requirement Haji identifies is the absence of attitudes that are authenticity-destructive, and he proposes that one sort that is destructive involves beliefs that are morally wrong (1998, 131). Haji also requires some subset of basic beliefs that are morally right. Though he does not identify any, one example might be the simple truth that a person's moral quality cannot be discerned based upon nothing more than her physical appearance or what part of the world she comes from. Haji's thesis is a straightforward endorsement of the point I am making here, that even in the illusions of innocent moral description, which we expect our children to outgrow, there must be the seeds of basic moral truth.

To the above considerations, I would also add another point Haji develops (126-35), and bases on Joel Feinberg's discussion of the moral emergence of children. Feinberg contends that the self we create for ourselves over time "will not be an authentic self unless the habit of critical self-revision was implanted in us early by parents, educators, peers, and strengthened by our own constant exercise of it."<sup>8</sup> As regards the illusions of innocent description that French has in mind, the salient point is that there are different ways that an innocent can stand in relation to her childish moral understanding. She can accept it uncritically, or she can adopt towards it a critical eye, a degree of scrutiny fostered by those charged with her moral development. The child who is left unequipped for the loss of innocence is the one who never thought to question the simple myths of her moral illusions, who was never encouraged to wonder why Snow White had to be so beautiful in order to tell the story, or why she had to be white, for that matter, or what was so terribly wrong with Max's rumpus in the jungle with the wild things.

French closes his essay by noting that all of us retain some of our illusions. Stripping away all of them, French remarks, would result in psychic annihilation (43). As regards aiding our young in losing their innocence, we need only hope to strip away as much as needed to help bring children into the moral community. I agree. I would add that the moral illusions we begin with as children, and the critical stance toward them we are encouraged to adopt even in our early youth will play a large role in the stability of the transition of losing innocence. Although concerned to make a very different point, in "When you gonna wake up?" Bob Dylan scolds his peers for living in moral blindness, and he tells them that they had best wake up and strengthen the things that remain. The loss of innocence, I think, is best encouraged with similar advice. While bringing innocents into the moral community, and so causing the loss of their innocence, what we want, after they lose the illusion of innocent moral description, is for them to come to the sort of mature moral understanding whereby they can strengthen the illusions that remain. Hopefully, then, they can still take joy in life, even as adults who know the moral world.

#### Endnotes

1. I would like to thank Christopher Griffin and Steven Scalet for inviting me to contribute to this volume on the work of Peter French. I also would like to thank John Fischer and Ish Haji for comments on this paper. Finally, and most importantly, I would like to thank Peter French for the opportunity to have studied with him in years past. Peter arranged an excellent NEH Summer Seminar in 1995 on the topic of moral responsibility. I continue to profit from the thoughtful supervision he offered me that summer, and I remain in his debt.
2. Peter French. "Losing Innocence for the Sake of Responsibility." In *Responsibility Matters* (Lawrence, Kansas: Kansas University Press, 1992), Chapter 3, 29-43.
3. Aristotle. *Nicomachean Ethics*, trans. D. Ross (Oxford, 1925), Book 3, p. 51.

4. Bertrand Russell. *The Problems of Philosophy* (Oxford, 1912), Chapter 5.
5. J.D. Salinger. *The Catcher in the Rye* (Little, Brown and Company, Inc., 1948), 201.
6. Maurice Sendak. *Where the Wild Things Are* (Harper and Row Publishers, 1963).
7. Ishtiyaque Haji. *Moral Appraisability* (New York: Oxford University Press, 1998), Chapter 7.
8. Joel Feinberg. *Harm to Self* (New York: Oxford University Press, 1986), 35.

---

## Affectivity, Moral Agency, and Corporate-Human Relations

Deborah Tollefsen  
*University of Memphis*

More than a quarter of a century ago Peter French published an article in which he argued that corporations are moral *persons* (1974). The concept of personhood is one that draws controversy in a number of philosophical, political, and legal arenas. It is no surprise that French's position garnered a good deal of criticism; much of it charging anthropomorphism. In his more recent work French has tempered his metaphysical claims (1995, 1996, and 2003). According to the more "moderate" French, corporations are not moral *persons* but moral *actors*. To be an actor is to exhibit the following functional capacities: (a.) the ability to act intentionally, (b.) the ability to make rational decisions, and (c.) the ability to respond to events and criticisms by altering intentions and behavior that is harmful to others or detrimental to their own interests (French 1995, 12). The decision-making structure of a corporation provides a way of synthesizing the actions and attitudes of individuals into the actions and intentions of the corporation. It also provides mechanisms for self-reflection required by (c.) and rational decision-making processes involved in (b.). French has conceded that corporations are not persons, but most would agree that personhood isn't necessary nor is it sufficient for moral agency. Young children are presumably persons but not moral actors. Corporations are not persons, according to French, but they are moral actors.

One of the most interesting aspects of French's recent work is his discussion of "corporate-human interactions (1995, 56)" and the asymmetries found in these relations. One of the major differences between human beings and corporations, according to French, is the fact that the former suffers from weakness of will. Corporations, according to French, have a structure which allows them to pursue their goals without being taken off course. Humans, because of their affectivity and desires, can be easily led astray and often become the prey of corporations. Advertising is one way in which the corporation takes advantage of our weakness of will.

Having conceded that corporations are not persons and having highlighted the asymmetries between human beings and corporations, French seems to have avoided much of the earlier criticisms of his work that focus on his extension of the term "person" to corporations. There is a line of criticism, however, that retains its force. Indeed, it is a criticism I have struggled with in my own attempt to defend corporate moral responsibility (2003). Rather than focus on the notion of personhood or on the concept of intentional agency, this criticism focuses on moral agency and identifies an aspect of moral agency that the corporation *prima facie* lacks; emotion or affectivity.

In this paper I begin with a discussion of two ways in which affectivity is thought to be constitutive of moral agency and the ways in which this causes problems for the idea of corporate moral agency and corporate moral responsibility. In section II, I consider several strategies for responding to this criticism and find them all inadequate. In section III, I turn to a discussion of, what I have called elsewhere, "collective emotion" (2006). Collective emotions are not had by corporations, they are emotions realized by human beings. But the conditions under which they are realized and the conditions under which they are deemed appropriate are uniquely collective. I think such emotions are the only way to make sense of corporate affect and thus the only way to salvage corporate moral agency. Admittedly I am not sure that this will allow one to maintain the view that the corporation *itself* is a moral actor. But I invite French to consider the criticism and my attempted response. Perhaps he has an easy response to what I have found to be a very difficult problem for corporate moral agency.

### I. Why emotion matters to moral agency

Here is the basic argument against corporate moral agency based on affectivity. Call it: the argument from affectivity.

1. Moral agency essentially involves affectivity.<sup>1</sup>
2. Corporations lack affectivity.
3. Therefore, corporations cannot engage in moral agency. That is, they cannot be moral agents (or, in French's terminology, moral actors).

This argument shares some affinity with earlier criticisms of French's work. In "Corporations and Morality" (1986, 59-95), for instance, Richard T. De George sites a lack of affectivity as a reason for excluding corporations from the realm of moral personhood. He writes:

The fourth reason for denying moral personhood to corporations is that corporations do not have emotive or affective capacities comparable to human beings and so are not comparable candidates for moral personhood. Human beings have emotions and can suffer pangs of conscience, accept and feel moral blame and shame, and empathize with others whom they affect by their actions. Corporations have human beings within in them; but to call the emotions of those human beings the emotions of the corporation stretches our normal use of language beyond recognition. (1986, 62)<sup>2</sup>

But this argument and others like it focus on the notion of *personhood* and its relation to emotion. Since French has conceded that corporations are not persons, this line of argument needs to be reformulated to emphasize the ways in which affectivity is constitutive of moral agency. The argument from affectivity also shares some similarities with those that emphasize consciousness as the distinguishing mark of intentional agency or personhood. On some theories of emotion, affective states essentially involve a form of phenomenal consciousness—a "what it's likeness." But since it isn't clear that phenomenal consciousness is essential to intentional agency, I've never found this line of criticism convincing. And the fact that consciousness may be required for personhood is of no consequence for French's mature view since he concedes that corporations are not persons.

A substantive challenge to French's mature view requires a detailed discussion of the ways in which affectivity is constitutive of the moral realm. Such a discussion can be found in Mitch Haney's "Corporate Loss of Innocence for the Sake of Accountability" (2004). Haney argues that French's own theory of moral agency and responsibility excludes corporations from

being moral actors. Moral agency requires, according to French (1992), that agents lose their innocence regarding their own actions. They must be able to view themselves as capable of doing evil. In part, this involves coming to see that unintended actions can cause harm. It also requires that individuals accept responsibility for actions that cause harm but which they may not have intended. Haney links this capacity for recognizing our capacity for doing evil to our capacity to care about the moral quality of our actions. “For French, it appears that the experience (whether cataclysmic or incremental) of coming to be acquainted with the capacity to do evil permanently changes a person’s attitudes or about what or how much she cares, in the Frankfurtian sense, about the moral quality of her actions” (Haney 2004, 396). From there it is a small step to associating care with a capacity for self-reflective attitudes or emotions. Care is expressed in the emotional reaction we have to our own actions. Haney writes:

Self-reactive attitudes include such things as guilt, remorse, and regret (or such positive attitudes as pride, self-esteem, etc.). How we care and how much we care about our actions becomes amplified such that we find it of increased importance to who we are and what we do to engage in closer scrutiny of the moral value of our actions. (2004, 396-97)

Although Haney acknowledges that corporations might have the formal elements necessary for an acknowledgement of their actions as subject to moral assessment (the capacity for intentional agency and for reflective assessment of their actions), it is the informal loss of innocence involving *care* which the corporation seems to lack. Referencing an earlier criticism of French, Haney writes:

Danley (1980) detects how it is that individual persons differ from corporations. He identifies some attitudinal characteristics of humans, e.g., lust and malice. There are obviously many other attitudes humans can experience, but Danley is correct to notice that humans experience unique affective attitudinal states. And, human attitudes ultimately reflect what it is that individuals most deeply care about or embrace as important in their lives. And, we previously identified self-reactive attitudes as affective states essential to French’s view of the human loss of innocence. Thus, what distinguishes corporations in the moral community is that although they can be formally mature, they cannot be informally mature...there is nothing it is like for a corporation to be in a state of a self-reactive attitude; thus, nothing that it is like for a corporation to intrinsically care about the moral value of its actions. In short, humans really can care; corporations cannot. (Haney 2004, 401)

The strength of Haney’s criticism is that he uses French’s own view against him. Rather than simply citing the differences between corporations and humans, differences which French can acknowledge, Haney identifies an aspect of French’s view of moral agency which he believes is essentially tied to affectivity. If corporations lack affectivity then by French’s own lights they lack the capacity for a loss of innocence and so fall outside the realm of moral agency and moral responsibility.

In the next section I consider several ways that French might respond to Haney’s criticism, but before doing so I want to raise another problem that is linked to a corporation’s putative lack of affectivity. As I mentioned above I think one of the most interesting elements of French’s mature views is his discussion of corporate-human social relations and the ways in which they differ from human-human social interactions. French argues

that certain moral theories concerning human-human relations will be ill-suited for extension to corporate-human relations. But both types of social relations, according to French, are ethical. But ethical relations of any kind are built upon a more basic relation of trust. Ethical relations are those relationships governed by moral norms. When we hold someone to ethical norms we expect them to behave in certain ways. If we had no expectation that a person was able to meet the demands of morality, we would not hold her accountable. But we know there is always a chance that others will violate ethical standards and let us down.<sup>3</sup> To engage in ethical relations, then, involves a risk.<sup>4</sup> One must at some level trust others to do what they ought to do. When I lie or harm another person (physically or psychologically) I fail to meet her expectations. I violate her trust and undermine her ability to trust me in the future. I take advantage of her vulnerability. Repairing that relation involves essentially a repair of the relation of trust. But what is trust?

Recent literature suggests that it is more than mere reliance.<sup>5</sup> One relies on a computer to start up or a car to start on a cold morning. When these mechanisms fail we do not feel violated or betrayed. Rather, we feel inconvenienced or angry. It is the capacity for betrayal (to betray and be betrayed) that seems unique to the relation of trust. Can corporations betray us and can they be betrayed? This depends a great deal on the nature of trust.

In order to capture the distinction between trust and reliance philosophers have appealed to the notion of good will and the motivation to act out of it.<sup>6</sup> According to “will-based” accounts a trustee who is trustworthy will act out of good will toward the truster. In other words, in order for an agent to be trustworthy the agent must care about the truster, or care about what they are entrusted to do. Karen Jones (1996) develops this further by identifying two conditions the truster must meet in order to be said to trust another. The truster must have an attitude of optimism about the trustee’s good will and further she must have a confident expectation that the trustee will be moved by the thought that the truster is counting on her. The attitude of optimism is not, according to Jones, a mere belief, but an affective attitude. The introduction of an affective aspect to trust helps to explain why we often trust others in the face of evidence that suggests that they should not be trusted.

If ethical relations essentially involve trust and corporate-human relations are ethical relations then we need a way to make sense of how corporations trust and can be trusted. It is difficult to see, however, how a corporation could enter into a relation of trust on the dominant construal of trust and trustworthiness. If I were to fail to make my used car payment this month I do not think that my bank would feel violated or betrayed. And when I bring in my car to be repaired, I don’t have any confident expectation that the car company (or the repair company) is going to be moved by the thought that I am counting on them to fix it. I may have a confident expectation that the repair person at the dealership will be moved (though even that is debatable) by the thought that I am counting on her. I may even have a confident expectation that the repair company knows that I am counting on it in the sense that the right corporate informational channels have been activated. But I don’t think that *Firestone Car Care* will be “moved” by this information. And the point here isn’t just that I doubt that *Firestone Car Care* cares about me. Rather, I doubt it has the capacity to care at all about any being or any thing. I doubt it can be moved *in principle*, where the sense of “moving” here is cashed out in terms of affect of some sort. Nor can I make sense of the notion of good will at the level of corporations. To express good will is to care about the well being of another. Although as a mother of four I sometimes go through the routine of

caring for my children without affect (Is exhaustion an affective attitude?), my ongoing or standing emotional attachments to my children are, at least in part, what moves me to go through the behavioral routine. Though it may not be present in every token action, emotion seems definitive of care.

If trusting a corporation is merely relying on them the way that one relies on one's car then there is no reason to view such a relation as essentially ethical. There is no violating this sort of trust and so no reason to hold the corporation responsible. We can be upset that the corporation did not function correctly to bring about a desired state of affairs but holding a corporation morally responsible would be futile if it cannot be trusted in a more robust manner. The claim isn't that corporations can't be trusted because they are inveterate liars. They cannot be trusted because trust is something they cannot do given their nature. It is a conceptual claim. Trust is constitutive of the moral realm. If a being cannot, in principle, engage in relations of trust that being is not a moral actor.

To sum up: both trust and moral reflection (losing one's innocence) seem to require affectivity and both trust and moral reflection are constitutive of moral agency.<sup>7</sup> Corporations, *prima facie*, lack affectivity. Therefore, they cannot be moral agents.

## II. Some possible responses

There are at least three strategies one might take to respond to the argument from affectivity.

Strategy one: although trust and moral reflection are required for *human* moral agency, there is no reason to believe they are required for *corporate* moral agency. This move denies that trust and moral reflection are constitutive of moral agency, in general. In "Personal and Corporate Responsibility" (1986) Virginia Held argues that rather than trying to figure out if our conception of moral personhood can extend to corporations, we need to devise criteria appropriate for corporate moral responsibility: "...instead of accepting or rejecting the analogy between corporations and individual persons, we need to recognize the characteristic features of both" (1986, 169). Perhaps corporate moral responsibility doesn't require trust and moral reflection.

Although French's mature work has emphasized the asymmetries between corporations and human persons and how the moral theories governing human-human interactions are not easily extended to corporate-human relations, this is not a response to which he can avail himself. Moral reflection, the ability to respond to moral criticism and alter one's behavior in light of it, is constitutive of moral agency for French. Further, it is difficult to see how an agent that lacked the ability to enter into relations of trust could count as a moral agent. Trustworthiness seems definitive of moral agency, be it corporate or individual. To say that corporate morality does not involve trust risks putting the corporation outside the realm of the ethical all together.

Strategy two: one might reject premise one of the argument (affectivity is essential to moral agency). The arguments presented in this paper are in need of further development and it is open to French to reject Haney's emphasis on the informal aspect of a loss of innocence (the affective component involving care) and an affective theory of trust. There are other theories of trust that do not appeal to an affective component.<sup>8</sup> But the force of the argument from affectivity is simply this: Imagine an entity that lacked all affect, specifically the capacity for reactive attitudes; the emotions we have in response to the actions of others and to our own actions. This entity would not feel remorse or guilt in response to its own actions. It could not sympathize with others. It would have no capacity for moral indignation, no capacity to feel pride; a being unable to register an emotive response to the actions of others or itself.

To be clear I am not describing a "cold-hearted killer"; a person who lacks affective responses to her victims. Such people often exhibit reactive attitudes in other domains of action and often have positive reactive attitudes in response to their own actions—pride, for instance. I am describing a being that, in principle, lacks affect. It is difficult to see how such an entity could be a member of the moral community.

Strategy three: one might reject premise two of the argument from affectivity (corporations lack affect). One way to do this is to adopt a cognitive theory of emotion. French might argue that there is a way in which emotion can be understood purely in cognitive terms and need not involve a phenomenological "what it is likeness." If the phenomenology of emotion—its felt quality—is not necessary for a state to be an emotion then corporations could have emotions. More specifically, Haney's objection and my objection concerning self-reflection and trust rest on a phenomenological reading of care. Caring involves a special feel—a felt quality. To care is to be "moved" in a certain manner. Care ethicists have recently criticized this reading and have developed a notion of care along Kantian lines which downplays the role of affectivity (Miller 2005). If one subscribed to a purely cognitive theory of emotion (specifically, a more cognitive theory of trust and care) corporations might meet the functional requirements for affectivity.<sup>9</sup>

I have tried this line of response myself (2003) but for a variety of reasons I no longer find it appealing. Although one need not "feel" caring during every act of care, care without affect would be mere maintenance. Moral relationships are not those we merely "maintain." Further, I think it is clear that corporate-human relations are not purely cognitive. They involve emotion in significant ways. Humans take corporations as the target of reactive attitudes such as resentment and, putting aside the issue of whether a corporation itself can feel emotion, it seems clear that humans exhibit unique emotions *qua* corporate employees. That is, there are emotions expressed as members of corporations which are unique to these social relations. As an employee I express emotions which are judged to be appropriate to the employee/employer relation and to the employee/consumer relation. I'll say more about this in section three. In brief, I think this strategy ignores the fact that corporate-human relations are deeply emotional. Suggesting that corporations are, in effect, "zombies" risks eliminating this altogether. Regarding the issue of trust, if corporate-human relations are marked by a mere reliance rather than affective trust, this places corporations on par with computers and I think it is clear that we don't have moral relationships with computers. Again, eliminating affectivity from care and trust runs the risk of characterizing corporations in terms that would exclude them from the moral community.

## III. Collective emotion

I find the argument from affectivity quite convincing. Philosophical argumentation aside, our experience as moral agents suggests that emotion plays a significant role in our relationships with others. If corporations lack affectivity our relation with them will be more akin to interactions with objects rather than with moral actors. What one needs to do in order to salvage corporate moral agency from the argument from affectivity is to explain how corporations can be both the target of reactive attitudes and subject to reactive attitudes. The former, I think, is much more easily established than the latter.

In "Collective Responsibility and the Reactive Attitudes" (2003), I argued that our reactive attitudes are often directed at corporations. We resent them, feel pride for their achievements, embarrassed by their actions, we feel guilt and shame when they harm others. Because corporations are not ideas but

real entities in the world, these reactive attitudes cannot be understood in the way that some philosophers have understood our emotional reactions to fiction (Walton 1978)—as “make-believe.” Further, the emotional responses we have toward corporations exhibit behavioral responses indicative of “real” emotion in a way that our responses to fiction do not. What exactly *is* going on in these cases deserves a more careful discussion, one I cannot hope to provide here. But the fact that corporations are often the target of our reactive attitudes suggests, at the very least, that our interactions with them are more complex than those we have with mere objects. I don’t resent my laptop computer when it fails to start properly. I do resent corporate America for attempting to turn my children into consumers. The fittingness of such attitudes suggests that they have the capacity for moral address—to consider and respond to moral criticism.

But such a capacity is, according to Haney, tied to the ability of an agent to have self-reactive attitudes. The real issue for French (and for me), therefore, is whether corporations can be *subject to* reactive attitudes—both self-reactive and other regarding. Can a collective have an emotion? If emotions were mere judgments, as the cognitive theory of emotion has it, corporations could be subject to emotion. But as I said above I find this line of response inadequate. So here is my attempt to meet the objection head on. Corporations do have emotions. They are realized by corporate employees. Corporate employees are *conduits* for corporate emotion. Collective emotions can be understood as those emotions that are expressed *through* the members *qua* group members. When corporate employees express, for instance, regret over the actions of the corporation, they are expressing not their *personal* emotions (though they may personally feel something as well) but the regret of the corporation.

This approach has some merit because there is a legitimate sense in which we can feel emotions *for* others. Watching my husband slip and land in a ridiculous position gives rise to feelings of embarrassment. I might even feel the burning sensation one often feels when embarrassed. But I am embarrassed *for* him. It is not a case of my being embarrassed because my husband’s lack of grace reflects poorly on me. I don’t care whether his appearance reflects badly on me. I am genuinely embarrassed *for* him. If we can, in some sense, have emotions for others, why not emotions for a corporation? Collective emotion, then, is a form of vicarious emotion.

Collective reactive attitudes are differentiated on this approach from individual reactive attitudes in terms of the norms governing the relevant reactions. Certain emotional responses are fitting for an individual only because of her status as an employee of the corporation. Other emotional responses will be inappropriate because they are fitting only for her status as a “personal” citizen. Public apologies may be one expression of collective guilt. Collective reactive attitudes would also be differentiated in terms of their motivational upshot. The “pangs” of remorse you feel *qua* employee may lead you to do actions that you would not do *qua* individual. Employees who feel guilt over the action of their corporation will be motivated to rethink the corporate decision-making structure or the corporate mechanisms that led to such an action.

Although this approach does not have the corporation *itself* feeling the emotion, it does identify a way in which emotions can be corporate; they are individuated from individual emotions in terms of the employee’s role in the corporation, they are judged fitting by appeal to the norms of corporate behavior, and they lead to changes in corporate policy and action and not necessarily changes in employees’ “personal” lives. It also makes sense of the very real phenomenon of feeling guilt or

regret for the actions of one’s group, a feeling we experience even though we may not have causally contributed to the action which caused harm.

How will collective emotion (or specifically corporate emotion) allow us to address Haney’s criticism and the problem of how corporations can enter into relations of trust? Here is Haney’s description of the informal loss of innocence:

In losing innocence a basic care we have for avoiding the doing of evil—which we once innocently believed to be an easy task—becomes amplified as we become acquainted with the myriad of ways in which we can unintentionally harm or wrong others. Our care is amplified because once we become acquainted with our full capacity to do evil we are motivated to reorganize how we conceive of ourselves as responsible persons, as well as how we act in relation to others in our world. Although French does not argue the following, it may be said that the amplification of our cares is evidenced by whether or not we begin to have, what P.F. Strawson calls, “self-reactive attitudes.” (2004, 397)

If a corporation has mechanisms for evaluating its own policies and procedures, for morally assessing its actions, employees can come to realize that they are participating in a joint action which produced evil. Employees come to care in a new way for what they can do together. Individual employees then come to care about the unplanned actions of the corporation of which they are a part. I think the phenomenon of feeling shame and guilt in response to the actions of one’s group is evidence that people *qua* employees have come to care about the corporation’s actions in a new way. To the extent that employees recognize their collective capacity to do evil, the corporation can be said to have lost its innocence in an informal way.

Does collective emotion help us to understand the ways in which corporations can trust and be trusted? Does it, in particular, provide the affective element needed for relations of trust? Relations of trust with corporations will be built via their employees who can exhibit both good will towards another human being and risk being betrayed by others. Although I do not think my bank, itself, will feel betrayed if I default on my loan, an employee who has continually facilitated payments by appealing to corporate mechanisms for forgiving debt and with whom I have interacted on several occasions may feel betrayal or moral indignation on behalf of the company. Though admittedly the employee’s emotions may be mixed, including both feelings of *personal* betrayal and collective betrayal. Relations of trust between corporations and humans highlight the fact that trust is a three place relation: X trusts Y in context (or with respect to) C. The corporate context is unique and the conditions under which we trust an employee differ from the conditions under which we might trust that same person outside of the corporate setting.

Admittedly things become difficult here. Perhaps I have, as De George suggests, stretched our ordinary sense of emotion beyond recognition. A lot rests on what our ordinary sense of emotion involves. The fact that corporations are the target of reactive attitudes and the fact that sometimes employees exhibit emotions in response to actions that are directed at the corporation of which they are a member suggests that our emotional lives are a lot more complicated than De George’s comment suggests.

But critics will likely point to the fact that the corporation, itself, does not “feel” as the sticking point. To this, I have no reply. Perhaps French does. The fact that corporate affect is vicarious and “felt” by individuals suggests, perhaps, that

although there is corporate agency (a form of agency engaged in by employees) there is no corporate actor. I'd like to resist this conclusion precisely because I have always found French's arguments very convincing.

Regardless of one's view of corporate moral agency, French's work must be acknowledged as foundational. His work reveals the myriad ways our lives have been altered by our interactions with corporate "invaders" (1995) and he has forced philosophers and legal scholars to think more deeply about the nature of intentional agency, moral responsibility, and personhood. I hope my comments here will force French and others to think more deeply about our emotional lives and the ways in which they may be collective.

## References

- Baier, A. 1986. "Trust and Antitrust." *Ethics* 96: 231-60.
- Danley, J. 1980. "Corporate Moral Agency: The Case for Anthropological Bigotry." In *Action and Responsibility: Bowling Green Studies in Applied Philosophy*, edited by Michael Bradie and Miles Brand. Vol. 2, 172-79. Bowling Green, OH: Bowling Green State University.
- De George, R. 1986. "Corporations and Morality." In *Shame, Responsibility, and the Corporation*, edited by Hugh Curtler. 59-75. Haven Publications.
- French, P. 1979. "The Corporation as a Moral Person." *American Philosophical Quarterly* 16: 207-15.
- French, P. 1992. "Losing Innocence for the Sake of Responsibility." In *Responsibility Matters*. 29-43. Lawrence, KS: University of Kansas Press.
- French, P. 1995. *Corporate Ethics*. Fort Worth, TX: Harcourt Brace College Publishers.
- French, P. 1996. "Integrity, Intentions, and Corporations." *American Business Law Journal* 34.
- French, P. 2003. "Inference Gaps in Moral Assessment and the Moral Agency of Health Care Organizations." In *Institutional Integrity in Health Care*, edited by Ana Smith. Kluwer.
- Govier, T. 1997. *Social Trust and Human Communities*. Montreal and Kingston: McGill-Queen's University Press.
- Haney, M. 2004. "Corporate Loss of Innocence for the Sake of Accountability." *The Journal of Social Philosophy* 35: 391-412.
- Hardin, R. 1996. "Trustworthiness." *Ethics* 107: 26-42.
- Hardin, R. 2002. *Trust and Trustworthiness*. New York, NY: Russell Sage Foundation.
- Held, V. 1986. "Corporations, Persons, and Responsibility." In *Shame, Responsibility, and the Corporation*, edited by Hugh Curtler. 161-81. Haven Publications.
- Holton, R. 1994. "Deciding to Trust, Coming to Believe." *Australasian Journal of Philosophy* 72: 63-76.
- Huebner, B. 2008. "A Defense of Collective Emotion." Unpublished.
- Jones, K. 1996. "Trust as an Affective Attitude." *Ethics* 107: 4-25.
- McLeod, C. 2002. *Self-Trust and Reproductive Autonomy*. Cambridge, MA: MIT Press.
- Miller, S. 2005. "A Kantian Ethic of Care?" In *Feminist Interventions in Ethics and Politics*, edited by Barbara S. Andrew, Jean Keller, and Lisa H. Schwartzman. 111-27. Lanham, MD: Rowman & Littlefield Publishers.
- Strawson, P.F. 1974. "Freedom and Resentment." In *Freedom and Resentment and Other Essays*. 1-25. London: Methuen & Co., Ltd.
- Tollefsen, D. 2003. "Participant Reactive Attitudes and Collective Responsibility." *Philosophical Explorations* 6: 218-34.
- Tollefsen, D. 2006. "The Rationality of Collective Guilt." *Midwest Studies in Philosophy* 30: 222-39.
- Walton, K. 1978. "Fearing Fictions." *The Journal of Philosophy* 75: 5-27.

## Endnotes

1. By moral agency I mean the capacity to engage in intentional action for which one can be held morally responsible.
2. In the last section of the paper I suggest that it is not such a stretch of our normal use of language to call the emotions

expressed by corporate employees *qua* employees, corporate emotions. See also Donaldson (1986) for the view that because corporations are "heartless" and lack the ability to sympathize with others, they are not persons.

3. This applies equally well to the self. We know that we often fail to do what we ought to do. Holding ourselves to ethical standards is risky business. We must trust ourselves and when we fail to meet the expectations that we set for ourselves we must learn to trust ourselves again.
4. One might worry that because corporations, according to French, are not subject to a weakness of will risk is eliminated and so trusting a corporation would be unnecessary (perhaps impossible). If a corporation were set up in a way that it produced good outcomes and continued to functioned properly, it would not be swayed off course by a weakness of will and so there would be no need for trust.
5. For a reliance view see Hardin 1996.
6. See Baier 1986 for the will based account on which much of the current literature is based.
7. I should note here that the argument from affectivity might also be developed in terms of the notion of shame and its role in French's work on corporate responsibility. De George (1986) offers this version. He writes:  
  
The extent that shame enters into the picture at all is the extent to which those who work for the corporation or are share holders might feel shame. If they do not feel shame, then the corporation does not feel shame. The corporation has no feelings of its own because it is not a living entity with feelings. (1986, 73)
8. There is, for instance, a theory of trust which says that when I trust someone I presume he is committed to certain moral norms and that he has moral integrity (McLeod 2002, Holton 1994). Perhaps French's theory of corporate moral integrity (1996) can be used to understand the ways in which we can enter into relations of trust with corporations. This would allow French to reply to the trust worry by denying that trust (at least as it involves corporations) involves an affective element. Because the affective trust view has been developed specifically with interpersonal relations in mind, it wouldn't be such a bad move to say that there must be some other notions of trust available for relations involving corporations and other social groups. Both Govier (1997) and Hardin (2002) discuss "institutional trust." There is certainly room for French to argue that "institutional trust" does not involve an affective element, though it would still, it seems, need to be more than mere reliance. Assuming a non-affective theory of institutional trust works and my response to Haney works, there may be room for optimism. I did not have the space here to discuss the trust issue fully. I am currently working on a paper that explores several theories of trust and the ways in which they can and cannot be extended to groups such as corporations.
9. See Huebner (2008, unpublished) for a defense of collective emotion on the grounds that emotions need not be conscious and so collectives could have emotions even though they lack consciousness.

---

## **Responsibility with No Alternatives, in Loss of Innocence, and Collective Affectivity: Some Thoughts on the Papers by Haji, McKenna, and Tollefsen**

**Peter A. French**  
*Arizona State University*

I am honored by having been selected by the editors of the *APA Newsletter on Philosophy and Law* as the featured philosopher for this edition. I am especially honored that three exceptional

philosophers have written papers based on my work. Their papers are important additions to the literature on responsibility to which I have been attempting to make useful contributions for over forty years. It is noteworthy that the papers of mine that provoked their insightful work here were collected in *Responsibility Matters* and were not papers from that volume that has received the most notice over the years. They are, however, favorites of mine and it is gratifying to discover that they still warrant some attention among philosophers.

I will offer my thoughts prompted by each of the contributions of my commentators.

# I

Professor Ishtiyaque Haji rightly notes that in my paper on “Fate and Responsibility” I was, in part, trying to show that Frankfurt-type examples provide persuasive reasons for both compatibilists and libertarians to reject the Principle of Alternate Possibilities (PAP). My point in doing so was not to add another nail to the incompatibilist’s coffin, but to offer a plausible explanation for some remarks made to me by a middle-aged Irish woman in the west country of Ireland at the height of the “Troubles” in Ulster. I was intrigued by her claim that she was both a fatalist and that she believed firmly that people are morally responsible for many of their actions. I was tempted to tell her that to make her point, she could be agnostic about fatalism and just embrace an anti-PAPist position. Noting the Celtic cross hung on a chain around her neck and seeing her fondling rosary beads that suggestion did not seem to be a felicitous way to continue our conversation. After a few minutes of talking with her, I dismissed the notion that she was confused about what she believed. She had a solid philosophical understanding of what fatalism involved and gave me a precise, if somewhat colloquial, account, that could have been written by Richard Taylor or Steven Cahn, of the logical basis for fatalism in the concept of truth and the law of the excluded middle. For good measure, she tossed in a fatalist’s defense of petitionary prayers that something not have happened in cases when one is ignorant of the particulars of past events, in her case, whether a relative in the IRA had been killed by British troops in a raid on a farmhouse on the Antrim Road the day before we met.

I considered attacking her fatalism with the standard arguments that date back to Aristotle and the sea battle tomorrow, but I was far more interested in her defense of holding people morally responsible when they could not have done other than what they did. It is at this point in that paper that Professor Haji engages with me and expands upon my argument in compelling ways.

As Professor Haji points out, I constructed something like a Frankfurt-type case based on a story the Irish woman told me, that purports to show that someone can be held morally responsible even if that person could not have done otherwise, that there were no possible alternative courses of action open to the agent in the circumstances. Whatever happened had to happen, as the Irish woman said. In brief, the story is that a woman (I called her Mary after Mary Nellis who in the 1970s organized the “blanket protest” that brought about the end of the cruel treatment of Irish prisoners by the British in the infamous H-Block) decides for her own reasons to protest the treatment of the prisoners though she was the target of a credible threat by the IRA that they will make her protest should she decide not to do so. She protests, and our intuitions tell us that she is morally responsible for doing so, that she deserves moral credit and praise for doing so. In effect, whatever the IRA would have done to close off all of her other action options actually plays no role in her choosing to organize the protest. I should point out, though Professor Haji kindly does not, that I exaggerated

the power of what I designate as the overdetermination factor in my story for the dramatic effect of making it consistent with some IRA tactics of the time. Mine is not really a full-fledged Frankfurt-type case. For a genuine match to a Frankfurt-type case I need something far more determined than IRA threats to the agent or her kin. Such duress may well eliminate options for rational actors, but it does not overdetermine Mary’s action choice. For a Frankfurt-type case, I need a reliable brain-scanner and unavoidable choice-implanter, so that, when operated by an IRA member, if it detects the brain events that signal that Mary will decide not to protest, it will kick in the choice-implanter and Mary will have to choose to protest and will act accordingly. In any event, the test case situation we want is that had Mary decided not to protest, she still would have protested. The story needs to be that she could not have done other than protest but she protested because that is what she chose to do. Consequently we hold her morally responsible (praiseworthy) for doing so. The IRA intervener who can remove any alternate possible courses of action other than protesting for Mary, aptly described by Professor Haji as “an IRA operative who has the power to read and control Mary’s mind,” of course, never intervenes and this provides a strong *prima facie* reason to believe that the only thing that matters to holding people morally responsible for what they do is the explanation of why they did it. Of note, the Irish woman’s fatalism only holds that whatever happens had to happen, it does not tell us why it happens. That it was unavoidable, that it had to happen, may not enter at all into that explanation, as it doesn’t in Mary’s case, so unavoidability in her case is irrelevant to the determination of the justifiability of an ascription of moral responsibility. She deserves moral praise. If fatalism includes or entails the view that we cannot avoid doing what we do, as the Irish woman maintained, fatalism is not incompatible with moral responsibility.

Professor Haji points out that Frankfurt-type cases have met with an avalanche of objections in the philosophical literature since Frankfurt first unleashed them in his landmark paper, “Alternate Possibilities and Moral Responsibility,” in 1969.<sup>1</sup> Professor Haji attacks one of the popular anti-Frankfurt responses, the Dilemma Objection, by offering what I believe is an original way of resisting the first horn of the dilemma identified in the Objection. That horn maintains that if there is an infallible sign that can be identified by the intervener that Mary will protest, so the intervener does not have to intervene, “it can only be so because states of the agent (Mary) prior to the occurrence of the supposedly free choice (or action) are causally sufficient for this choice (and the sign indicates this).” But that would mean that a deterministic relation obtains between the sign and Mary’s choice and that will beg the question against the incompatibilist’s position. To respond to this objection, Professor Haji develops an elaborate Frankfurt-type case that involves two causal routes to the agent’s action, one of which is causally deterministic. To get his point, we should imagine that Mary indeterministically decides to protest and also that there is a deterministic mechanism functioning in her that will cause her to arrive at the same decision at the same time. If the two causal routes to her action were to diverge, the deterministic one will override the indeterministic one, so she will decide to protest and she will protest no matter what. Our intuitions, however, should tell us that if they do not diverge and she protests, that she should be morally praised for doing so. She is morally responsible for her choice even though she could not have chosen otherwise. The reason we would morally praise her is because were the second, the deterministic, causal sequence to be totally absent, we would praise her and its presence plays no role in her deciding to protest.

Professor Haji, after persuasively beating back various incompatibilist challenges to his position, agrees with my view

that the Irish woman was not holding incompatible beliefs. People can be held morally responsible for some of the things they do even if we are convinced that they can never avoid doing what they do and that whatever happened had to have happened.

Would an anti-fatalist agree that the notion of doing something for one's own reasons, even though one could not do otherwise, is consistent with a fatalist's conception of the way things are? What appears to be necessary for moral responsibility in the Frankfurt-type cases is that the agent must have ultimate control over the decision to act, and ultimate control may be understood, depending on whether one is a compatibilist or an incompatibilist in one way rather than another. On my account Mary has such control because the cause of her protesting is internal to her and issues from her. That she has no alternatives in the circumstances (because an IRA operative is monitoring her brain) does not diminish her responsibility-grounding control. But is the cause of her protesting agent-causal? As Professor Haji points out, that is not a relevant condition for moral responsibility. However, the anti-fatalist may argue that on the fatalist's account Mary's choices could not be otherwise than they are, and worry that Mary does not have the sort of control of her choices that would make them responsibility grounding, that they are causally determined themselves. Professor Haji, it seems to me, provides a persuasive rejoinder to this objection. Importantly, he reminds us that one does not have to be partly responsible for everything that is a sufficient cause of one's choices for those choices to be responsibility grounding. Of course, what the Irish woman needs to secure her contention that her fatalism is compatible with her sometimes holding people morally responsible for what they do is an account of what we should mean when we say that the cause of what someone did was her decision to do it. Convinced, as I am, that not being able to do otherwise is no barrier to moral responsibility, I still need a plausible account of a decision being mine (in the sense relevant to moral responsibility grounding) even if I were fated to make it, that is, if all of its causally sufficient antecedents (including those internal to me and issuing from me) could not have been otherwise. I am inclined to hold a position, noted by Professor Haji as Frankfurt's account, that maintains that what is needed for ownership of actions in the responsibility grounding sense is that one's first-order desires align with one's second order desires or second order volitions.<sup>2</sup> In other words, that the choice or action is appropriately identified as one's will regardless of whether or not one could have done otherwise.

## II

Professor Michael McKenna takes up what he calls my "controversial thesis that we morally competent adults have an obligation to usher innocents from their moral condition, and this involves opening children up to the possibility of evil." He remarks that he admires my paper on "Losing Innocence for the Sake of Responsibility" but there are questions that need to be addressed in order to take seriously the crux of the thesis: that we should facilitate the loss of innocence process in children. I should note that though Professor McKenna gives me considerable credit for exploring the issue of loss of innocence, I learned a great deal, as I note in that paper, from the earlier work on the subject by Herbert Morris.<sup>3</sup>

I maintain, as Professor McKenna rightly summarizes, that loss of innocence must include learning to redescribe actions and events in ways that were not previously possible for a person; that it crucially involves acquiring a certain kind of conceptual understanding. I talk about the conceptual shift from innocence to moral maturity in terms of the loss of seriously using childhood illusions to describe actions and events. But

I also argue that central to the loss of innocence is gaining a certain kind of knowledge: knowledge of one's capacity to do and be done evil, and that this must be learned by acquaintance and not solely by description. It is the latter claim that suggests to some that I am walking a very fine line between ushering a child into adulthood and child abuse. After all, knowing evil by acquaintance can be a very unpleasant, extremely hurtful, and sometimes identity shattering experience. Still, my point is that it is not enough to expose children to literature, fictional or nonfictional, or take them to "coming of age" films. Though most people probably will learn more about evil by description than by acquaintance and that, of course, is a good thing, members of the moral community must grasp their own potential to be the subject and object of evil by personal confrontation or it will only be an "academic" matter for them, using that term in its pejorative sense. Like Morris, I was interested in the Biblical account of the Fall. I decided, after rejecting a number of alternative accounts of what Eve may have learned from her ingesting the fruit of the Tree of Knowledge of Good and Evil, that all Eve needed to taste in that first bite was an immediate acquaintance with her capacity to do and be done evil, all the rest could occur incrementally and much of it through knowledge by description.

Professor McKenna makes an important point challenging my claim that loss of innocence is always accompanied by the sort of gain required for full membership in the moral community. He points out that a child who has been sexually molested may well lose his or her innocence while not gaining the knowledge that he or she can also do evil. I agree that being a victim, understanding that you are a victim, does not necessarily lead one to the realization that you are also capable of being a victimizer. And this must be especially true in cases of greatly disproportionate power situations. It is also unlikely that sexually abused children gain from those horrific experiences an understanding of intimacy in mature moral terms, as Professor McKenna notes. However, some may experience the reactive attitude of resentment and that may be an incremental step towards their gaining knowledge of evil in the requisite sense for moral maturity. It is difficult for me not to imagine that a sexually molested child would not experience resentment, and some may, sadly, experience shame. Those reactive attitudes, as Strawson famously maintained, rest on a set of expectations of respect, good will, and the protection of personal dignity that have "common roots in our human nature."<sup>4</sup>

Though the set of expectations may reside in human nature, the reactive attitudes that give rise to our moral assessments of ourselves and others typically need to be cultivated. A molested child may have certain feelings with respect to the molester, but be confused as to what those feelings are or unable to sort out conflicting feelings that the episode triggered, a point, I noted in the original paper, Seneca made persuasively.<sup>5</sup> In some of the widely publicized cases involving the Roman Catholic clergy, the child may believe or be led to believe by the molester and the institutional accoutrements of the situation in which the abuse occurs that what the priest is doing to him or her is a loving or caring act, even a sacred one, and will not grasp its true moral significance for some time, often years, when the appropriate negative reactive attitudes then take hold. No matter how painful psychologically, moral maturity with respect to that part of the person's life then emerges.

I certainly am not claiming that there might be some good in child abuse. In fact, the trauma of an abuse situation may block or greatly delay the abused child's gaining moral knowledge. In some cases it may numb the victim or regress the victim as a way of coping with the experienced horror. In such a case, the victim cannot face the moral reality of his or



her experience and so cannot be expected to gain a deeper conceptual understanding of mature moral description. The language of rape, assault, molestation, and the like finds no foothold when the dominate image in the child's mind is that it was an experience that gave pleasure to an authority figure, a stepfather, a priest, a favorite teacher. In any event, we should not overlook the fact that most children experience evil and their ability to do it without extreme trauma and typically incrementally.

One of the central themes of my paper that Professor McKenna profitably explores is that gaining mature membership in the moral community involves losing the "illusions of innocent description." Those illusions are cultural artifacts, as is the whole idea of loss of innocence and achieving moral maturity. Humans could biologically mature, carry on their lives, reproduce, and die and never invoke moral conceptual descriptions of their actions and the events in which they are involved. Humans would then be in something not unlike Hobbes' state of nature or in the Garden of Eden with Adam and Eve before the Fall. They would not be moral agents and their relations with each other would not be, as Hobbes rightly believed, stable. Social arrangements would be virtually impossible to sustain. I imagine such pre-moral humans in somewhat the way Kierkegaard describes the life of the aesthete. He writes, "when a man lives aesthetically his mood is always eccentric because he has his center in the periphery."<sup>6</sup> Like a child at play, and Kierkegaard uses reference to childish behavior in his characterization of living aesthetically,<sup>7</sup> the interest of premoral humans in one thing or one activity or one person or group of persons soon wanes and they look for something new and different. Perhaps Eve was curious about the fruit of the forbidden tree not so much because it was forbidden as because it was different. Alasdair MacIntyre provides a description of people of this sort. He writes that they are "those who see in the social world nothing but a meeting place for individual wills, each with its own set of attitudes and preferences and who understand the world solely as an arena for the achievement of their own satisfaction, who interpret reality as a series of opportunities for their enjoyment and for whom the last enemy is boredom."<sup>8</sup>

I think there is much to be learned from Professor McKenna's account of the "illusions of innocent description" as the cultural artifacts of a simplistic moral order used to begin the indoctrination of children into morality. He has elaborated on an important step in the loss of innocence that I only mentioned in passing. He notes that I was especially concerned with the way that losses of innocence often assault a person's confidence in the continuity of one's self. My examples of that phenomenon were taken from two nineteenth-century British novels, *Pride and Prejudice* and *Wuthering Heights*, but I failed to explore the fact that fearing loss of innocence may not be because one fears loss of one's sense of self, as is the case with Catherine Earnshaw in *Wuthering Heights*. It probably more often is the internal discovery by those moving into maturity that they do not really know how to replace the comfortable illusions of childhood that have shaped their world and given it meaning with mature moral ones that lack the magic, charm, simplicity, finality, and joy that were embedded in the illusions of innocent description. Professor McKenna writes about this sense of loss: "We are uncertain what to do, or how to live. We are left aware that we need a far more nuanced map of our moral surroundings, but how are we to acquire it?" He provides a passage from *Catcher in the Rye* to illustrate his well-taken point.

The closing section of Professor McKenna's paper moves the discussion into an issue that few philosophers have examined. It revolves around the question, suggested by my

"controversial thesis": How should adults parent their children? Parenting is an especially morally significant human activity. We all know that it can be done well or poorly, but on what criteria, what grounds, what benchmarks, should it be judged? Certainly how the child "turns out" must be considered, but that often-used phrase is ambiguous and lacking in anything more than the mere suggestion of criteria. Eliminating career and financial measures and concentrating on moral maturity as a primary goal of parenting, we can ask what innocence-ending experiences are morally appropriate.

Professor McKenna stresses that the "should" question that needs to be answered is not should we usher our children out of innocence into moral maturity, but how should we do so. I had not credited our culture with having rituals designed to facilitate a child's exposure to evil and the risks humans run in interpersonal encounters, but Professor McKenna corrects me with reminders of some of the transitional experiences children endure, or are forced to endure, in which they get "to explore the underbelly of the moral world." His examples, though not rituals in the sense I had in mind, admittedly have a certain ritualistic character to them, such as teenagers going off to college or boot camp or taken into the family business.

I am most impressed with Professor McKenna's attention to the appropriate use by parents of the illusions of childhood that will be discarded upon moral maturity. He maintains that proper parenting requires that the illusions that are "fed" a child must "contain the seeds of basic, true moral insights." The idea is that the myths we teach to the young on which they build their childish illusory conceptions of the moral order in which they function remain moral anchors during the shattering experience of loss of innocence when the magic is replaced with the mundane. He offers one example, but it is very persuasive. It is that embedded in the illusions of childhood there morally ought to be the lesson that a person's moral worth and merit cannot be discerned solely from her physical appearance. The idea is that having anchored that notion in the child's repertoire, it will serve as a foundational concept as the child outgrows or is torn away from the magic of fairy godmothers, good witches, elves, dwarfs, wolves dressed up as grandmothers, prince charmings, and all the rest and must deal in mixed motives and principles of utility and questions of integrity in morally complex and conflicted encounters with others. One way in which the parent may prepare the way for the transition is for the parent to encourage, in Feinberg's terms as quoted by Professor McKenna, "the habit of critical self-revision." What this comes to in parenting is fostering a critical stance in the child towards those childish illusions of the moral order. "Why," Professor McKenna hopes the child will question, "did Snow White have to be so beautiful or so white?" What a marvelous question. I recall that when my daughter was a child of ten or so she told me that she hated *Alice in Wonderland*, but loved *The Wizard of Oz*. When I expressed dismay because I favored the Lewis Carroll for its philosophical aspects, she told me that Alice is alone in a frightening world, but Dorothy, though also in a frightening world, makes honest and loyal friends who, despite their individual deficiencies, with courage, love, and intelligence face the evils with her. Such virtues morally matter in the transition from innocence to moral maturity.

### III

The core problem raised by Professor Deborah Tollefsen's paper launches from the same paper of mine that engaged Professor McKenna. She is concerned with the affectivity that my account of loss of innocence requires in the members of the moral community. She points out that in the 1970s I wrote a paper published in the *American Philosophical Quarterly* that fostered something of a "cottage industry" of responses from

philosophers because it propounded the theory that being a moral person was to exhibit a certain set of functional capacities and that some corporations satisfied that criteria. Professor Tollefsen rightly points out something that has not been noted by a number of philosophers who still cite that paper: that I modified my position two decades later in what I regard as two crucial ways. First, I no longer referred to corporations as moral persons, substituting “moral actors,” though I continue to hold a functionalist account of what it is to be a moral actor. In fact, I am happy to reserve the term “person” for humans, but maintain that the basic requirement for admission into the moral community is to satisfy the functional capacities of a moral actor. My second alteration was to move my account of one of those functional capacities, the ability to act intentionally, from the traditional desire/belief model to a planning model of intention that follows the work of Michael Bratman on that subject.<sup>9</sup>

Professor Tollefsen is willing to grant me these moves away from the original paper, but she points out that I need still to respond to the criticism that moral agency essentially involves affectivity and corporations lack that capacity. She notes a paper by Mitch Haney<sup>10</sup> that uses my account of loss of innocence as a way to argue that I must exclude corporations from the moral community because a corporation does not have the ability *qua* corporation to recognize its capacity to do evil and that should be understood as its lacking the functional capacity to care about the moral quality of its actions. The capacity for caring in this way is linked to the capacity for affectivity and that is what, it has been alleged, I cannot make sense of in the case of corporations. So, corporations, on this account, remain in an innocent state from which they can never escape. Apparently, when we talk of the responsibility of a corporation for pollution or inflated prices or moving its production plants overseas and putting its American employees out of work, we are either talking nonsense or some sort of code or shorthand, not really meaning what we seem to be saying.

Professor Tollefsen points out that losing one's innocence and acquiring mature moral self-reflectiveness (as well as trust) requires affectivity. She offers me three possible strategies for responding to the attack (in part provoked by my own work, as noted above) that corporations cannot be moral actors because they lack the requisite affectivity. The first strategy is to differentiate human moral agency from corporate moral agency, each having its own conditions and the corporation's conditions not including affectivity. She rightly points out that I cannot use the first strategy because to do so I would have to jettison a central element of my general account of moral responsibility: that the ability to appropriately respond to moral criticism is constitutive of moral agency.

I might, she suggests, give up the affective component and maintain that to be a moral agent one does not need to have the capacity for reactive attitudes with respect to the behavior of others and oneself. Such an entity would have no sense of indignation (or sympathy) upon learning or witnessing an injustice visited upon another or resentment when it is the target of undeserved harm or shame or regret or remorse when it reflects upon its improper or immoral behavior. I agree with Professor Tollefsen that the second strategy is unacceptable and for reasons that mirror the rejection of the first strategy. Professor Tollefsen maintains that my best strategy is to deny that corporations necessarily lack affectivity. The expression of moral emotions must be a part of the picture and, indeed, we certainly express them in our dealings with corporations, whether or not it is easy to identify that corporations have them, in any sense, as well. So, to salvage my position on corporate moral agency from the argument from affectivity, I need to produce a convincing account of how corporations can be

subject to reactive attitudes, granted that they are indisputably the target of such attitudes held and expressed by human moral agents.

I note that Professor Tollefsen rejects any account of our reactive attitudes towards the behavior of corporations that associates them with our reactions to fictions. I think she has made a double-barreled point because it not only addresses the problem at hand, it also dismisses the old Fiction Theory that has been one of the dominant conceptions of corporations in legal history and in some of the work of philosophers. Though she categorizes the general response of philosophers to the obvious fact that we are often moved by fiction, following Walton, as just make-believe, there have been other philosophical responses to the so-called Radford Paradox that cover the spectrum from the position that our reactions to fictions are simply irrational and an indicator of an inherent irrational element in our nature to elaborate accounts of the biochemistry of our brains responding to certain stimuli or memes. In any event, our moral reactions to corporate behavior are not ersatz or irrational. They are genuine and appropriate expressions of resentment when we are their victims and indignation when we learn of what they have done to others, even other corporations. This strongly suggests, as Professor Tollefsen says, that corporations are morally addressable, assessable, and that entails that they are presumed to have the ability to consider our criticism and respond in a morally appropriate fashion. But, the naysayers maintain, that cannot be the case, as they cannot have self-reactive attitudes or emotions.

At this point I might want to take back the argument for knowledge by acquaintance and the emotion element I made regarding loss of innocence to become a mature member of the moral community and adopt a purely cognitive account that associates having an emotion with the making of a judgment or having a belief. Corporations, my critics such as Haney will allow, can do that. But I am not prepared, nor is Professor Tollefsen, to take that escape route. I am willing to join with Professor Tollefsen in trying to defend the view that corporations can and do have reactive attitudes. She has developed a vicarious emotion theory in which corporate employees are “conduits for corporate emotions.” What she has in mind is that when a corporate employee in her role *qua* corporate employee tells me on the phone that she is sorry that they double billed me for a purchase on my credit card account, she is not expressing her personal regret for the double billing, she is expressing corporate regret. She is the vicarious moral emotion expresser for the corporation. Professor Tollefsen associates her account with the fact that humans can have vicarious reactive attitudes for others even if those others do not (cannot?) have the same attitudes about themselves. We can be ashamed for others, particularly those with whom we have a relationship, and such shame is not being ashamed for ourselves because we have done nothing to be ashamed of. This calls to mind a scene in *Pride and Prejudice* in which Elizabeth witnesses the inappropriate and oafish behavior of members of her family at a ball and feels ashamed for them, though they were not ashamed of themselves or they would have ceased acting like country bumpkins. Professor Tollefsen goes on to propose that collective emotion (and presumably that includes corporate emotion) is a form of this sort of vicarious emotion. What we have is not corporations feeling emotions, but emotions being corporatized. (Elizabeth Bennet's shame might be thought of as an emotion that is familized.) Professor Tollefsen worries that this may not satisfy critics of allowing corporations into the moral community and she hopes I might take on the problem.

I think the problem is manageable. It may be recalled that on my account of corporate intentionality I maintained that all

intentionality, and consequently corporate intentionality, is a matter of redescription. My point was that an act is corporate if at some level of true description it is the action(s) of a person(s) in a corporate role(s) and it is redescribable, as licensed by the rules of the corporation's internal decision structure, as an act of the corporation. It is then appropriate to refer to it as intended by the corporation. In effect, I argued that corporate intentional acts are typically human bodily movements under a corporate description. Human physical movements and actions usually are necessary for corporations to act on corporate reasons and interests. Corporate decision structures subordinate and synthesize the intentions and actions of various human persons (and often the running of machines) into a corporate action. They provide epistemically transparent bases for the redescriptive transformation of bodily movements, actions, and events, usually seen under another aspect as the acts or the mere behavior of humans (those who occupy various stations or roles on the organizational chart), into corporate acts. The corporate actor makes its appearance on the moral stage at the level of redescription that those corporate structures, including their organizational and policy/procedural rules, make possible. When an action performed by someone in the employ of a corporation filling a specific role in the corporate structure is an implementation of its corporate policy, then it is proper to describe the act as done for corporate reasons or for corporate purposes and so as an action of the corporation. Corporate reasons and purposes might differ from those that motivate the human persons who occupy corporate positions and whose bodily movements are necessary for the corporation to act.

My suggestion, though I am afraid that is all it is at this time, is that the same redescriptive account might be applied to reveal something that will pass as corporate affectivity. What I need to allow is that a corporation's decision structure may contain conversion rules for descriptions of certain types of utterances by appropriate employees into descriptions of corporate reactive attitudes. When a corporate employee says, "We are sorry that we double billed your credit card account," I do not think the employee with whom I am speaking personally regrets the corporate act. I understand that I am receiving an apology from the corporation and that it is as sincere as apologies go. By the same token, when the President of the United States apologizes to native Hawaiians for past actions taken by the United States military on the Hawaiian Islands, the regret being expressed is that of the collective and it is so identifiable because of the redescriptive licenses that are a part of the decision structure of the collective the President represents or for whom the President speaks. The expressions of reactive attitudes are, generally, performative, ritualistic, conventional. They may be regarded as insincerely made if they are not "backed" by a certain sort of feeling, for example, an apology without the feeling of sorrow, but they are not void.

The idea of collective emotions, including regret, *prima facie* does not lack sense and is a topic of much current discussion in the literature. Though I am somewhat uncomfortable with Margaret Gilbert's plural subject account of group emotions,<sup>11</sup> what I like about her account is the idea that a group can become jointly committed to feeling an emotion as a group. She says that joint commitment is "a function of the understandings, expressive actions, and common knowledge of the parties."<sup>12</sup> I am inclined

to the idea that something like her idea of a joint commitment in a corporate setting can be functionally engineered by the inclusion of certain rules and policies in a corporation's internal decision structure. Such an account, of course, would not claim that the corporation feels or has "pangs" of regret or remorse or sorrow when it expresses affectivity, though members or employees may suffer such feelings (what Gilbert calls "membership remorse") because of their association with the corporate wrongdoer. I do not, however, think that employee feelings are essential to the truth of the claim that the corporation regrets what it did *qua* corporation, just as I do not think that we can say that a human does not regret doing something even though she does not experience the typical or expected "pangs" or emotions. I would not, however, say that a corporate employee expressing corporate regret for double billing my credit card account is necessarily vicariously feeling regret for the corporation. She is performing her corporate duty of expressing the corporation's regret, though she may have, incidentally, membership regret when learning how her corporation treated me. In effect, I think that with appropriately constructed and largely transparent internal decision structures, corporations are normatively competent.

What this probably suggests, as prompted by Professor Tollefsen's paper, is that a more robust theory of corporate moral agency than I have previously offered is needed to understand why corporations are not illegitimate aliens in the moral community. I think there is a sufficient basis in the general structure of my original work on the subject to admit corporate affectivity by way of the redescription of human behavior within the corporate structure, though there may be some wrinkles that will require ironing out.

#### Endnotes

1. Harry Frankfurt. "Alternate Possibilities and Moral Responsibility." In *The Importance of What We Care About* (Cambridge: Cambridge University Press, 1988), Chapter 1.
2. See Harry Frankfurt, "Freedom of the Will and the Concept of a Person," in *The Importance of What We Care About*, Chapter 2.
3. Herbert Morris. "Loss of Innocence." In *On Guilt and Innocence* (Berkeley: University of California Press, 1976), 139-61.
4. Peter Strawson. *Freedom and Resentment and Other Essays* (London: Methuen & Co., 1974), 16.
5. See Seneca, *Letters of a Stoic* (Baltimore: Johns Hopkins University Press, 1969), Letter XC.
6. Soren Kierkegaard. *Either/Or*, volume 2, trans. by Walter Lowrie (Garden City: Doubleday, 1959 edition), 235.
7. *Ibid.*, 192.
8. Alasdair MacIntyre. *After Virtue* (Notre Dame: University of Notre Dame Press, 1981), 24.
9. See Michael Bratman, *Intention, Plans, and Practical Reason* (Cambridge, MA: Harvard University Press, 1987).
10. Mitchell Haney. "Corporate Loss of Innocence for the Sake of Accountability." *The Journal of Social Philosophy* 35 (2004): 391-412.
11. Margaret Gilbert. *Sociality and Responsibility* (Lanham, MD: Rowman & Littlefield, 2000), Chapter 7.
12. *Ibid.*, 135.